

**CHARTER**  
OF THE  
**CITY OF PORTLAND**  
**AS AMENDED**

**Including Amendments Providing for a  
Commission Form of Government  
Drafted by the Charter Committee  
Appointed in Pursuance of a  
Resolution Adopted by  
the Council Feb. 13,  
1913.**

**Amendments Providing for Commission  
Form of Government to be voted upon**

**May 3, 1913**

**Compiled and arranged by A. L. Barbur  
Auditor of the City of Portland, Oregon**

**and**

**Published by Order of the Council**

MEMBERS  
of  
Charter Commission  
of the  
City of Portland

A. G. RUSHLIGHT, Mayor—Chairman  
\*GEO. L. BAKER  
R. W. MONTAGUE  
P. L. WILLIS  
W. F. WOODWARD  
T. M. HURLBURT  
W. C. BENBOW  
S. GRUTZE, Secretary  
W. B. AYER  
FRANK S. GRANT

\*President of the Council, Acting Chairman in the absence of the Mayor.

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The following Sections of the Charter of 1903 shall be repealed if the amendments to said Charter providing for a Commission form of government are approved May 3, 1913.

10, 11, 18, 19, 20, 21, 22, 28 29, 30, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 48, 49, 50, 51, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 73½, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 89, 90, 91, 92, 94, 95, 96, 97, 98, 99, 101, 104, 105, 106, 107, 108, 109, 110, 111, 112, both sections 114½, 120, 121, 123, 124, 125, 126, 127, 129, 136, 141, 143, 144, 145, 146, 148, 149, 150, 154, 155, 156, 157, 159, 160, 161, 163, 165, 166, 286, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361.

# 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

*Be it enacted by the Legislative Assembly of the State of Oregon:*  
*Be it enacted by the People of the State of Oregon:*

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## Organization and Boundaries.

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### Corporate Powers, Rights and Liabilities.

Section 1. The act above named, with all amendments thereto prior to this date, are hereinafter referred to as "the Charter of 1903," and said acts as amended by this measure are hereinafter referred to as "the Charter" or "this Charter."

All powers conferred and duties devolved by the sections of the Charter of 1903, not repealed by this Charter, upon the Executive Board, the Water Board and other Boards and Commissions abolished by this Charter shall, from and after the adoption of this Charter be exercised and performed by the Council.

### Existence of the City of Portland Continued—Corporate Powers.

Section 2. 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 and by that name shall have perpetual succession and may sue and be sued, plead and be impleaded in all courts of justice and in all actions, suits or proceedings whatever; may have and use a common seal, and may alter the same at pleasure; may purchase, or acquire by the exercise of the right of eminent domain, receive and hold property, both real and personal, within or without said city for municipal purposes, and shall have the right of possession and control of all public parks and levees, buildings and property and of all tracts of land belonging to said city and other property which has been or may be here-

after dedicated or in any manner whatsoever obtained for public purposes of said city; and may lease, sell or dispose of the same for the benefit of the city; may receive bequests, gifts and donations of all kinds of property in fee simple, in trust or otherwise, for charitable or other purposes, and may do all acts necessary to carry out the purposes of said gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or trust, or absolutely, in case such gift, bequest or trust be unconditional.

### **Grant of General Government Powers.**

Section 3. The City of Portland shall be invested within its limits with authority to perform all public and private services, including those of an educational or recreative character as well as others, and 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 to acquire by purchase or otherwise property without its limits.

### **Property Rights of the City.**

Section 4. The City of Portland shall continue, under this Charter to have, hold and enjoy all property, rights of property and rights of action of every nature and description of the municipality now existing and known as The City of Portland, and is hereby declared to be the successor of the same.

### **Suits, Actions and Proceedings.**

Section 5. Suits, actions and proceedings may be brought in the name of The City of Portland for the recovery of any property, money or thing belonging thereto, in law or in equity, or dedicated to public use therein, or for the enforcement of any rights of or contracts with said city, whether made or arising or accruing before or after the adoption of this Charter. All existing suits, actions and proceedings in the courts or elsewhere, to which said city is a party, shall continue to be carried on by or against the said city.

### **Not Bound by Contract Unless In Writing.**

Section 6. 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 thereunto by the Council. But an ordinance may authorize any board, body, officer or agent, to bind the city without a contract in writing for the

payment of any sum not exceeding two hundred and fifty dollars (\$250.00).

### **Liability Under Previous Contracts.**

Section 7. All contracts of every description heretofore duly and legally made and entered into by the said City of Portland shall remain valid and be binding upon this municipality to the extent only that they are now valid and binding upon said City of Portland.

### **No Liability for Defective Condition of Sidewalks, Etc.**

Section 8. 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, 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, 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, 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, street or public highway, or in the sewer, and also the officer or officers through whose official negligence such defect remains unrepaired shall be jointly and severally liable to the party injured for the damage sustained.

### **Time of Presentation of Claims for Damages—Actions Thereon.**

Section 9. Every claim for damages against the city must be presented to the council and filed with the Auditor within six months from the taking effect of this Charter or within six months after the time when such claim for damages accrues, 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.

## City Boundaries.

“Section 12. Commencing at the southeast corner of the City of Sellwood as it existed in the year 1890, and running thence north along the east line of said City of Sellwood to the south line of Section 23, Township 1, south of Range 1, east of the Willamette Meridian; thence east along the south line of Sections 23 and 24, in said Township and Range, and along the south line of Section 19, in Township 1, south of Range 2, east, to a point 30 feet east of the east line of the Jacob Wills Donation Land Claim, if produced south; thence north 30 feet east of and parallel to the east line of said Jacob Wills Donation Land Claim, and a southerly extension thereof, to the south line of Section 18, Township 1, south of Range 2, east; thence east to the northeast corner of Section 20, Township 1 south, Range 2 east; thence north along the east line of Sections 17, 8 and 5, township and range aforesaid, to the south line of the B. F. Starr Donation Land Claim; thence east along said south line of said Starr Donation Land Claim to the center line of Section 4, in Township 1, south of range 2, east of the Willamette Meridian; thence north along the center line of said Section 4, in Township 1 south, Range 2 east, and Sections 33 and 28, in Township 1, north of Range 2, east of the Willamette Meridian, to the northeast corner of the northwest quarter of said Section 28; thence west along the north line of said Section 28 to the northwest corner of Section 28; thence north to the one-quarter corner between Sections 20 and 21, Township 1, north of Range 2 east, Willamette Meridian; thence west one mile to the quarter-section corner between Sections 19 and 20, of Township 1, north of Range 2 east, Willamette Meridian; thence south one-half mile to the southwest corner of Section 20, Township and Range aforesaid; thence west one mile along the south line of Section 19 to the southwest corner of said Section 19, Township 1, north of Range 2 east, Willamette Meridian; thence north along the east line of Sections 24 and 13 in Township 1, north of Range 1, east of the Willamette Meridian, to a point 150 feet north of the north line of the county road known as the Columbia Slough Road; thence westerly parallel with and 150 feet northerly from said north line of said county road to a point which is intersected by a northeasterly extension in a straight course of the westerly side line of Ida Street, as located on the map of Northern Hill Acres, said westerly side line of Ida Street being the easterly side line of a tract of land known as the Brazee Tract; thence southwesterly along said extension and said side line to its intersection with the southerly side line of Willamette Boulevard; thence southeasterly along the last named line to the west line of McKenna Avenue; thence southwesterly along the west line of McKenna Avenue south of Willamette Boulevard, as laid out in Portsmouth, and an exten-

sion thereof, to the center of the main channel of the Willamette River; thence southerly following the center of the main channel of said river and the center of the channel thereof west of Swan Island, to the west line of Section 20, Township 1, north of Range 1 east; thence south along the east line of Sections 19, 30 and 31, to the southeast corner of said Section 31, of Township 1, north of Range 1, east; thence east one-half mile to quarter-section corner on north line of Section 5, Township 1 south, Range 1, east, Willamette Meridian; thence south two miles to quarter-section corner between Sections 8 and 17, Township 1, south of Range 1 east, Willamette Meridian; thence east one mile to quarter-section corner between Sections 9 and 16, Township and Range aforesaid; thence south two miles to quarter-section corner in south line of Section 21, Township 1, south of Range 1 east, Willamette Meridian; thence east to the center of the main channel of the Willamette River; thence southerly following the center of the main channel of said river to point in a westerly prolongation of the south line of said City of Sellwood; thence easterly along the south line of said City of Sellwood, and the prolongation thereof, to the place of beginning."

As amended June 5, 1905; June 3, 1907; Nov. 3, 1908; Nov. 8, 1910.

### **Power to Annex Territory.**

Section 13. The City of Portland may annex additional territory contiguous to and adjoining the limits of said city in the following manner, and such territory and the inhabitants thereof when so annexed shall become a part of said city and subject to the jurisdiction thereof:

### **Petition to Council for Annexation.**

Section 14. Whenever a petition shall be filed in the office of the Auditor of said city describing any such territory and defining the boundaries thereof, signed by the qualified voters of such territory in number equal to fifteen (15) per cent. of the qualified voters of such territory voting at the last preceding general election, expressing the desire of said petitioners for the annexation of such territory, the council of said city shall consider and determine whether the annexation of such territory, or any part thereof, shall be submitted to the qualified voters thereof.

### **Submission of Question for Annexation.**

Section 15. The Council may by a four-fifths vote thereof pass an ordinance providing for the submission of the question of the annexation of such territory, or any part thereof,

either alone or together with any other territory designated in said ordinance, to the qualified voters residing in the territory so designated at the next general election held therein; provided, such ordinance shall be passed at least thirty days before said general election. Whenever the territory so to be annexed shall include a part but not the whole of any voting precinct, the County Clerk of Multnomah County shall furnish a sufficient number of ballots to supply the voters of such precinct who reside within the territory so to be annexed, upon which shall be printed the question of the annexation of such territory, and shall supply for the voters of such precinct who do not reside within said territory ballots upon which such question shall not appear.

It shall be the duty of the Auditor to furnish previous to the time of the election to the judges of election of each of such precincts a plat and description of the territory so to be annexed showing the part thereof within the limits of such precinct. Said judges shall ascertain the residence of each voter applying for a ballot at such election and shall furnish the ballot having printed thereon the question of the annexation of such territory to voters residing within such territory and to none others.

#### **Property Rights, Liabilities Affected by Annexation.**

Section 16. In case of a majority of the qualified voters residing in such territory and voting on said question vote in favor of such annexation, such territory shall on the first day of July next following said election be and become a part of the City of Portland. All rights and property, both real and personal, then vested in or belonging to any therein existing local municipal corporation or corporations, excepting school districts, or in or to the public of said territory, including all parks, public grounds, buildings and improvements, and all rights or property in public streets or highways (including within the meaning of the word streets any way mentioned in any definition or explanation of said word contained in this Charter) and also including all other rights and property vested in or belonging to said corporation or in or to the public of said territory, of every nature whatever whether of the same or similar general nature as those above, expressly mentioned or differing therefrom in kind, nature, degree or otherwise, shall thereupon become and be rights and property of the City of Portland, but all county roads lying within the limits of such annexed territory which have not been laid out or accepted as streets, such as above referred to, by such local municipal corporation or corporations shall remain and be county roads until they are laid out or accepted as such streets by said city, and be under the jurisdiction of the County Court of Multnomah County, Oregon, and shall



be worked, maintained, and improved as county roads outside the limits of said city are worked, maintained and improved. And all debts, liabilities and obligations of such local municipal corporation or corporations shall thereupon become and be liabilities of the City of Portland, and the City of Portland shall thereupon assume, become liable for, pay, satisfy or discharge all the debts, liabilities and obligations of such local municipal corporation or corporations, and the inhabitants of such annexed territory shall become subject in all respects to the jurisdiction of the authorities of said city, and the jurisdiction of any public authority exercised theretofore in such annexed territory shall, so far as it is in conflict with the corporate authority of said city thereupon cease and determine.

### **Council to Amend Boundaries.**

Section 17. The Council shall thereupon, by resolution so alter and amend section twelve (12) of this Charter, and the boundaries of said city as therein prescribed and set out as to include such annexed territory within the boundaries of said city and said section twelve (12) as so amended shall be a part of this Charter and be in full force and effect.

### **Annexed Territory Liable for Cost of Improvements.**

Section 17a. Such annexed territory or any portion thereof shall be liable to such part as the Council may apportion upon it, of the costs of any public improvement made by the Council which shall benefit the same.

## **GOVERNMENT**

### **Commisison, Its Number, Term and Powers.**

Section 18. The power and authority given to the Municipal Corporation of the City of Portland is hereby vested in a Council consisting of a Mayor and four Commissioners, 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 and ordinances enacted in pursuance thereof.

Section 18a. There shall be no elective officers of the City of Portland other than the Mayor, four Commissioners and the Auditor.

Section 18b. 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 provided in Sections 18 and 41 (18l and 22) of this Charter.

Section 18c. The Mayor and every Commissioner 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 for a period of not less than three years immediately preceding the beginning of his term. If any Mayor or Commissioner shall be chosen without such qualifications or shall cease to have the same, the office shall immediately become vacant.

Section 18d. The Mayor and every Commissioner 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 of any Mayor or Commissioner 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.

Section 18e. No person appointed or elected to the office of Mayor or Commissioner shall be directly or indirectly pecuniarily interested in any public service corporation engaged in business within the City of Portland or in or with any person or corporation having contracts with the City of Portland.

Section 18f. Any person so interested shall be disqualified to hold the office of Mayor or Commissioner. If any such officer shall voluntarily become so interested while in office, his office shall at once become vacant.

If he shall become so interested otherwise than voluntarily he shall within ninety days divest himself of such interest, and failing to do so his office shall become vacant upon the expiration of the said period of ninety days.

Section 18g. Any contract with the City of Portland, in which any Mayor or Commissioner is directly or indirectly

pecuniarily interested, shall be wholly void and incapable of ratification, and no recovery shall be had thereon directly or indirectly, or upon quantum meruit, without respect to whether labor, services or material or other thing of value have been received and retained by the City of Portland by virtue of any such contract.

Section 18h. No Mayor or Commissioner 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. He shall devote his entire time to the duties of his office.

Section 18i. Every Mayor and Commissioner before entering upon the performance of his duties shall take an oath or affirmation that he will support the Constitution of the United States and of the State of Oregon, and will faithfully and honestly discharge his duties; that he is not directly or indirectly pecuniarily interested in any public service corporation engaged in business in the City of Portland or in or with any person or corporation having contracts with the City of Portland; 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 Commissioner.

Section 18j. The Mayor shall receive an annual salary of \$6000.00, and each Commissioner shall receive an annual salary of \$5000.00, which salaries shall be audited and paid monthly.

Section 18k. A vacancy shall exist when the Mayor or a Commissioner fails to qualify by taking the oath and filing the bond on or before July 1 following his election or within ten days after notice of appointment to fill a vacancy, dies, resigns, is removed from office, is convicted of a felony, is judicially declared a lunatic, or is judicially convicted of corruption, malfeasance or delinquency in office. A vacancy shall also occur when the Mayor or a Commissioner absents himself from his duties or from the City of Portland without the consent of the Council expressed by ordinance for more than thirty days in any one year. The pay of the Mayor or any Commissioner shall cease after thirty (30) days' absence from the city, but the Council may grant leave of absence without pay for a further reasonable period, upon good cause being shown. No act of the Council in which any member participated whose office was vacant at the time, as herein provided, shall be for that reason invalid, unless the vacancy shall have been previously ascertained and declared by act of the Council or judgment of a court.

Section 18l. If a vacancy occur in the office of Mayor or Commissioner the Council shall appoint an eligible person to fill such vacancy until the next general municipal election.

Section 18m. The Council shall determine its own rules of procedure, may punish its members for disorderly conduct, and may compel the attendance of members.

Sectiono 18n. All meetings of the Council and all committee 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.

Section 18o. At any meeting of the Council three members shall constitute a quorum, but a less number may adjourn from time to time, and may compel the attendance of absent members.

Section 18p. 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, and every action of the Council, except a motion to adjourn, or action to compel the attendance of absent members, shall require the affirmative vote of three members.

Section 18q. No ordinance, except one making an appropriation, shall contain more than one general subject; ordinances making appropriations shall be confined to the subject of appropriations.

Section 18r. The enacting clause of all ordinances shall be in the words, "The City of Portland does ordain as follows:"

Section 18s. Every ordinance, other than emergency ordinances, shall have three public readings, not more than two of which shall be at the same regular legislative session. At least one week shall elapse between the introduction and final passage of any ordinance and no ordinance shall be amended within one week of its final passage, except in case of an emergency ordinance. An emergency ordinance may be enacted upon the day of its introduction, providing that it shall contain the statement that an emergency exists, and specify with distinctness the facts and 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.

Section 18t. Ordinances (a) making appropriations and the annual tax levy, (b) relative to local improvements and assessments therefor, and (c) emergency ordinances, shall take effect immediately upon their passage. All other ordi-

nances 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 the referendum and subject to the provisions of Section 29 (18w) of this Charter.

Section 18u. Ordinances or other 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; but if no such time is designated therein, at the date of the adoption.

Section 18v. Amendments or repeals of ordinances, or sections thereof, shall also be by ordinance.

Section 18w. 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, and shall be carefully filed and preserved and a record thereof made in a book kept for that purpose, marked "Ordinance record."

At any time within ten days after the passage of any ordinance which shall not take effect immediately, any member of the Council may file in writing objections to said ordinance which shall be considered and voted upon by the Council at its next regular meeting. If a majority shall vote to sustain such objections the ordinance shall be deemed repealed and shall not take effect unless again passed in the same manner as a new ordinance. If a majority shall vote not to sustain such objections the same shall have no effect on the ordinance. The objections together with the vote thereon shall be preserved on record.

Section 18x. 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.

Section 18y. Upon the request of any member the ayes and nays shall be taken and recorded upon any action or resolution.

Section 18z. A member of the Council for words uttered in debate therein shall not be questioned in any other place.

Section 18z1. 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 any Commissioner.

Section 18½2. At the close of each fiscal year the books and accounts and the financial affairs and transactions of the city shall be audited by some competent accountant to be appointed for such work by the Council from a list to be provided as follows:

At least sixty days before the time for such annual audit the Council shall make request upon the Portland Clearing House Association to furnish to it a list of the names of three or more competent accountants from which to make such appointment. If said association shall fail or refuse to so furnish such list within twenty days after being so requested application shall then be made by the Council to the grand jury then or next thereafter sitting in Multnomah County, Oregon, to furnish it such list, and if said grand jury shall fail to so furnish such list within twenty days after having been so requested, the Council shall then request the Civil Service Commission of the City of Portland to furnish to it such list and it shall be the duty of the Civil Service Commission to furnish such list. From a list furnished as above provided such appointment shall be made.

The Council may from time to time and as often as it shall deem necessary, have like audit made, paying the expenses thereof in like manner. The audit made at the close of the fiscal year and in the discretion of the Council any audit made by an accountant employed by it shall be published in the city official newspaper.

### **Organization of Council—Mayor.**

Section 19. At its first regular meeting the Council shall elect, by a majority vote, a president. 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.

### **Executive and Administrative Departments.**

Section 20. The executive and administrative powers, authority and duties, not otherwise provided for herein, shall be distributed among five departments, as follows:

- (a) Department of Public Affairs.
- (b) Department of Finance.

- (c) Department of Public Safety.
- (d) Department of Public Utilities.
- (e) Department of Public Improvements.

The distribution of the work among them 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 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.

A complete code providing for the administration of the powers and duties of the different departments and for their organization shall be enacted by the Commissioners as soon as possible after their election. Such code shall provide for a uniform standard for the purchase of materials and supplies and shall provide a purchasing agent, not under civil service rules to inspect and test the quality and quantity of the materials and supplies purchased and determine their exact conformity to specifications. Provision shall be made for the transfer of employes from one department to another. Methods shall be devised for the publication of charts or diagrams showing the financial condition, growth, receipts and expenditures of the different departments. These publications shall be made at least every six months and shall be so published as to give a comparison of the condition at such period with that at a prior period. Each department shall keep time reports and cost data and efficiency records of its employes which shall be made the basis of promotions and increase of salary. Methods shall be provided for by which the heads of departments may determine and compare the work accomplished by the department with reference to its expenditures. 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 stores 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 keep time reports, time records and reports of expenses to be compared with the prior month and prior year which shall show percentage of increase or decrease and shall also keep stores and material accounts for like comparison.

Section 20a. 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 benefited 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.

### **Official Advertising.**

Section 21. All contracts 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."

Section 21a. If the City Official Newspaper ceases to be published, or for any cause the contract be annulled, a new contract for the unexpired term of the original 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."

Section 21b. All advertising and publications provided for in this Charter must be made in the City Official Newspaper and such other publications as the Council may by ordinance direct.

## **ELECTIONS.**

### **Municipal Elections.**

Section 22. A municipal election shall be held on the first Monday in June, 1913, and on the first Monday in June on each second year thereafter, which shall be known as the general municipal election. All others shall be known as special municipal elections. The first general municipal election under this Charter shall be held on the first Monday in June, 1913, for the purpose of electing a Mayor, four Commissioners and an Auditor. The Mayor and the two Commissioners who receive the highest votes shall hold office until the first day of July, 1917, and the Auditor and the other two



Commissioners shall hold office until the first day of July, 1915. Thereafter every such officer shall hold office for the full term of four years. Such elected officers shall assume office the first day of July after the election.

**Manner of Nomination of Officers.**

Section 22a. The manner of nomination of all elective officers shall be by petition.

(a) Nomination Petition. Certificates: The petition for the nomination of each candidate shall consist of not 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 more certificates than there are offices to be filled, all those exceeding such number shall be rejected when presented for filing.

(b) Form of certificates: The form of the certificate shall be substantially as follows:

**INDIVIDUAL NOMINATION CERTIFICATES.**

STATE OF OREGON, )  
County of Multnomah, ) ss.  
City of Portland, )

I do hereby join in a petition for the nomination of .....  
..... whose residence  
is at No. .... street,  
Portland, for the office of .....  
to be voted for at the municipal election to be held in the City  
of Portland, on the ..... day of  
....., 19..... And I make oath  
and say that I am qualified to vote for a candidate for said  
office, and am not at this time a signer of more certificates  
nominating candidates for city elective offices than there are  
offices to be filled; that my residence is at No. ....  
street, Portland, and that my occupation is .....

(Signed) .....  
Subscribed and sworn to before me this .....  
day of ....., A. D. 19.....

Notary Public for Oregon.

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

(c) Filing Petitions: The petition, consisting of at least 100 sufficient certificates, shall be presented to the Auditor for filing not earlier than forty and not later than twenty days before the election. The Auditor shall endorse thereon the day and hour of its presentation and by whom presented. If the petition be sufficient, he shall file the same at once.

(d) Amendment of Petition: If, upon examination by the Auditor, the petition be found not to conform to the provisions of this article, he shall state immediately in writing on said petition 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. The procedure in the case of an amended petition shall be the same as in the case of an original petition. In no case shall any petition be received or considered after twenty days preceding an election.

(e) Nominee's Acceptance: The acceptance of any person nominated under this article shall be filed with the petition with the Auditor, and in the absence of such acceptance the petition 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, .....  
 do hereby accept nomination for the office of .....  
 if elected I will qualify.

(Signed) .....  
 Subscribed and sworn to before me this .....  
 day of ....., A. D. 19 .....

.....  
 Notary Public for Oregon.

(f) The validity or legality of an election shall not be in any way affected by any defect or irregularity in any nominating petition.

(g) Forms Supplied by the Auditor: It shall be the duty of the Auditor, upon application, to furnish a reasonable number of printed forms of such individual certificates, and of acceptances 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.

Section 22*b*. Publication of Lists of Candidates: The Auditor on or before the fifteenth day before every election, shall prepare and file in his office a certificate containing a complete list of the offices to be filled, stating whether for a full or an unexpired term, and the candidates for each office who are entitled to have their names appear upon the ballot. The Auditor shall cause to be published in all succeeding issues of the City Official Newspaper before the day of election, an election notice, which shall contain a copy of a certificate above described, and also the time of holding such election, and the place in each precinct designated for holding the same. A copy of such notice shall be posted at all polling places seven days before the day of election. Failure to post notices shall not invalidate the election, nor shall failure to publish notice invalidate any general municipal election.

Section 22*c*. Informalities in Election: 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.

Section 22*d*. General Election Regulations: The provisions of any state law, in force at the time of any election, relating to the qualifications and registrations of electors, the manner of voting, the duties of election 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 in so far as the same are in conflict with the provisions of this Charter.

“Powers conferred and duties imposed by such laws upon state and county officers are hereby conferred and imposed upon the corresponding city officers.”

### Registration of Voters.

Section 23. The provisions of an act entitled “An act to provide for the registration of electors, regulating the manner of conducting elections, providing for the prevention of and punishment for frauds affecting the suffrage and to prevent illegal voting,” approved February 17, 1899, shall apply to elections held under this Charter, except as herein otherwise provided. No person who has registered for the preceding county election and has not changed his residence need register again for a city election. The County Clerk shall keep open the registration books, lists, etc., for a period of thirty days immediately before the 15th day of April next preceding the city election and during such time shall register all persons who since the registration books were last closed have become eligible to vote at such elections, or who, being entitled to vote, have failed to register, and shall enter changes of residences occurring since the last registration of all persons who shall

apply therefor. Such clerk shall send to the several precincts the precinct register thus corrected, as provided by said act, and the same shall be used by the judges and clerks at such election as provided in said act.

### Preferential System of Voting.

Section 23a. Ballots, Preparation and Form: The Auditor shall cause ballots for general and special elections to be prepared, printed and authenticated. The ballots shall contain a complete list of the offices to be filled and the names of the candidates nominated therefor. When the number of candidates is more than three times the number of offices to be filled, each voter shall have the right to vote for as many first choice candidates as there are offices to be filled, and as many second choice candidates as there are offices to be filled, and as many third choice candidates as there are offices to be filled. The form of the ballot shall be substantially as follows:

GENERAL (OR SPECIAL) MUNICIPAL ELECTION,

CITY OF PORTLAND.

(Inserting date thereof.)

#### INSTRUCTIONS:

To vote for any person mark a cross (X) in a square to the right of the name.

VOTE FIRST CHOICE FOR (here insert number of offices to be filled).

VOTE SECOND CHOICE FOR (here insert number of offices to be filled).

VOTE FOR THIRD CHOICE FOR (here insert number of offices to be filled).

VOTE YOUR FIRST CHOICES IN THE FIRST COLUMN.

VOTE YOUR SECOND CHOICES IN THE SECOND COLUMN.

VOTE YOUR THIRD CHOICES IN THE THIRD COLUMN.

DO NOT VOTE MORE THAN ONE CHOICE FOR ANY ONE CANDIDATE.

All distinguishing marks make the ballot void.

If you wrongly mark, tear or deface the ballot, return it and obtain another from the election officers.

(Here state officers to  
missioners, or Auditor an

If any voter shall vot  
candidate the vote high  
others rejected.

---

Mayor

---

Names of Candidates

---

Auditor

---

Names of Candidates

---

Commissioners

---

Names of Candidates

---

---

referendum matters to be vot

When the number of can  
number of offices to be filled  
the number of offices to be fil  
second choice columns only;  
have no third choice; and th  
be modified accordingly.

When the number of can  
the number of offices to be fill  
shall appear; and in such case  
choice; and the instructions  
accordingly.

Section 23b. Requirement  
used at any election shall be i  
provided on the ballot for Cha  
tions to be voted upon at mun  
the candidates for each office  
in the order in which the n  
nothing on the ballot shall be

(Here state officers to be elected, as Mayor and two Commissioners, or Auditor and two Commissioners).

If any voter shall vote more than one choice for any one candidate the vote highest in grade shall be counted and others rejected.

Mayor	First Choice	Second Choice	Third Choice
Names of Candidates			
Auditor	First Choice	Second Choice	Third Choice
Names of Candidates			
Commissioners	First Choice	Second Choice	Third Choice
Names of Candidates			

referendum matters to be voted upon to appear here.

When the number of candidates is more than twice the number of offices to be filled, and not more than three times the number of offices to be filled, the ballot shall give first and second choice columns only; and in such case the voter shall have no third choice; and the instructions on the ballot shall be modified accordingly.

When the number of candidates is not more than twice the number of offices to be filled only one column for marking shall appear; and in such case the voter shall have no second choice; and the instructions on the ballot shall be modified accordingly.

Section 23b. Requirements of Ballots: All official ballots used at any election shall be identical in form. Space shall be provided on the ballot for Charter amendments or other questions to be voted upon at municipal elections. The names of the candidates for each office shall be arranged on the ballot in the order in which the nominating petitions were filed; nothing on the ballot shall be indicative of the source of the

candidacy, or of the support of any candidate. 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 party or political designation or mark (but words not exceeding twelve indicating his views on strictly municipal questions or issues may be).

Section 23c. Sample Ballots: The Auditor, at least ten days before the election shall cause to be printed not less than 5000 sample ballots upon paper of different color but otherwise identical, except in numbering, with the ballot to be used at the election, and shall distribute the same to registered voters at his office and cause a copy thereof in convenient form to be published in one or more daily papers of general circulation. Sample ballots shall be posted at the polls on election day.

Section 23d. Canvass of Returns and Determination of Results of Elections.

(a) As soon as the polls are closed the precinct election officers shall open the ballot boxes, take therefrom and count the ballots and enter the total number thereof on the tally sheets provided therefor. They then shall count and enter the number of the first, second and third choice votes for each candidate on said tally sheet and make return thereof to the Auditor as provided by law.

(b) If a ballot contain more than one vote for the same candidate, only the one of such votes highest in rank shall be counted. If a ballot contain either first, second or third choice votes in excess of the number of offices to be filled, no vote in the column showing such excess shall be counted.

(c) The foregoing subdivisions (a) and (b) of this section shall be printed conspicuously on the tally sheets furnished to the election officers.

(d) Candidates receiving a majority of first choice votes for any office shall be elected. If the full number of candidates to be elected do not receive a majority of the first choice votes for such office, a canvass shall then be made of the second choice votes received by those candidates for said office who are not elected by first choice votes; said second choice votes shall be added to the first choice votes received by such candidates, and candidates who by such addition shall receive a majority vote shall be elected.

(e) If by count of either first choice votes or of first and second choice votes, as above provided, more candidates than there are offices to be filled shall receive a majority, the candidate or candidates equal in number to the number of offices to be filled having the highest vote shall be elected.

(f) If the full number of candidates to be elected do not receive a majority by adding first and second choice votes, as

## **Judges and Clerks—How Chosen.**

Section 27. Judges and clerks of election to serve at city elections shall be chosen by the Council at its first meeting in January each year in which a city election is to be held, objections, remonstrances and suggestions relating to such judges shall be heard by the Council at its second regular meeting in February.

## **Qualifications of Voters.**

Section 28. No person is qualified to vote at an election held under this act who has not been a resident of the city for six months and of the precinct in which he offers to vote for thirty days next preceding such election, and who does not possess the qualifications of a legal voter of the State of Oregon.

## **Election Returns—How Canvassed.**

Section 29. On the fourth day after an election, or sooner if the returns from all precincts are in, the Auditor shall call to his assistance the County Clerk of the County of Multnomah and a Justice of the Peace, resident in Portland, and they three shall then canvass the returns of the election.

## **Statement of Canvass to Be Filed.**

Section 32. A written statement of the canvass shall be made and signed by the canvassers, or a majority of them, and filed with the Auditor, within the time appointed to complete the canvass. Such writing must contain a statement of the whole number of the votes cast at such election, and the number given for any person for any office and the names of the persons elected, and to what office, and also the number of votes for or against any proposition submitted to the people.

## **Certificate of Election.**

Section 33. Immediately after the completion of the canvass the Auditor must make and sign a certificate of election for each person determined by such canvass to be elected and deliver the same to him on demand.

## **Certificate of Election—Primary Evidence.**

Section 34. A certificate of 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.



### **Contested Elections of Other Officers.**

Section 35. A contested election for any office, other than that of Mayor or Councilman, must be determined according to the law of this state regulating proceedings in contested elections for county officers.

### **Present Incumbents to Hold until Successors Qualify.**

Section 36. The incumbents of all offices, places and positions under the Charter of 1903, not expressly abolished by this Charter, shall continue to hold their respective places until their successors under this Charter are chosen and qualified.

### **Council Empowered to Investigate Boards, Employes, Officers, Etc.**

Section 47. The Council, or a committee of the Council duly authorized by it, may investigate any board or department of the city government, and the official acts and conduct of any city officer, employee or agent; and for the purpose of ascertaining facts in connection with such investigation shall have full power to compel the attendance and testimony of witnesses, to administer oaths and to examine such persons as it may deem necessary, and to compel the production of books, documents and other evidence. Willful false swearing in such investigations and examinations shall be perjury and punishable as such, under the laws of the State of Oregon.

### **Existing Ordinances Continued.**

Section 52. All existing ordinances of the City of Portland in force when this Charter takes effect and not inconsistent herewith, shall be and remain in full force until repealed or until they expire by limitation.

### **Terms "Successive" and "Consecutive" Defined.**

Section 61. 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.

### **Saloon License—School Houses.**

Section 62. No license shall be granted to any person or persons to vend, deal in or dispose of any spirituous, vinous,

fermented or malt liquors (except to regularly licensed druggists or to grocers who may be authorized to sell such liquors not to be used or drunk upon the premises) within four hundred feet, measured on street lines of any block on which a public school building is situated within the City of Portland.

"The specific powers granted to the city under sections 73 and 73½ of the Charter of 1903 shall continue to be exercised by the Council as a part of the general grant made by the Charter."

### **Enumeration of Powers not to Limit General Grant.**

Section 74. The foregoing or other enumeration of particular powers granted to the Council in this Charter shall not be construed to impair any general grant of power herein contained nor to limit any such general grant to powers of the same class or classes as those so enumerated.

### **Council to Exercise Power—Except.**

Section 75. 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 to the exclusion of the Council.

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.

### **Street—Defined.**

Section 76. The term "street" as used in this Charter shall be construed to include any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, public thoroughfare or public way, and any land over which any right of way has been obtained or granted, for any purpose of public travel.

## **PUBLIC UTILITIES AND FRANCHISES.**

### **(a) Public Utilities.**

Section 77. 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.

### **City Power to Construct or Acquire.**

Section 78. 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 92 (120) of this Charter or by the use of any moneys in the general fund at the end of the fiscal year.

### **Public Utility Defined.**

Section 79. 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.

Section. 80 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.

### **Public Utility Certificates—Council May Issue.**

The Council is hereby granted power to issue and sell interest bearing public utility certificates for the construction or acquisition by purchase, condemnation or otherwise of any public utility to be operated within the city. The certificates shall be secured by a mortgage or mortgages upon such public utility plant and the revenues thereof, but the same shall not be a general liability of the city and shall be paid solely from the revenues derived from the plant or from the sale thereof. Such power shall be exercised only by ordinances which shall be subject to referendum in like manner and upon like terms and conditions as ordinances granting franchises.

### **Council May Investigate Public Utilities.**

Section 81. 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 employes 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 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.

### **Public Utility Shall File Report.**

Section 82. 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 person or persons 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.

### **Council may Make Rules for Carrying into Effect Provisions Requiring Report.**

Section 83. The Council shall have power to make all orders, rules and regulations necessary or appropriate to carry into effect the powers granted and to make the same effective by penalties and forfeitures, and upon failure by any franchise holder to comply with any of the requirements of sections 63, 79, 80 or 81, (82, 102, 103 or 104) of this Charter for a period of 30 days after notice, the council shall have power to declare by ordinance a forfeiture of the franchise under which any person or corporation so failing to comply is operating a public utility within the City of Portland.

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

Whenever any person or corporation against whom any rule, order or regulation is directed, as provided by the foregoing subdivision shall believe an order to be unjust or unreasonable, 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.

### **Franchise Subject to the Provisions of This Chapter.**

Section 84. Every franchise hereafter granted shall be expressly subject to all the provisions of the foregoing sections and the power of control and regulation as authorized by such

sections cannot be limited, divested or granted away. Subject to the initiative and referendum such power of control and regulation shall be exercised by the Council and may be exercised by the Council through its agents.

### **Limitations on Indebtedness for Acquiring Public Utility.**

Section 88. 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 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.

### **Title of City to Property—Sale and Lease Thereof.**

Section 89. The title, rights and interest of the City of Portland in and to all 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 U. S. surveys and conforming to by the original plats of the City of Portland, and all landings, wharves, docks, highways, bridges, avenues, streets, alleys, lanes, parks and all other public places, and like property that it may now own or hereafter may acquire are hereby declared to be inalienable. The rights of the City therein shall not be divested or vacated for a distance of two thousand feet from any meander line of any navigable water, or one thousand feet from any railroad depot or terminal yard; provided, that at a greater distance than specified above from any such meander lines and railroad terminal streets may be vacated on proceedings prescribed elsewhere in this Charter, except that the ordinance of vacation shall require for its

passage a vote of at least four-fifths of all the members of the Council and the approval of the Mayor. But whenever the City shall own all the property abutting upon both sides of any part of a street, and such part of the street shall be necessary for the use of such property of the city for a public purpose the street may be vacated in the manner elsewhere provided in the Charter or the laws of the State of Oregon in force at the time for the vacation of streets; provided, however, that the right herein granted shall only be exercised when such vacation shall not interfere with any improvement proposed by the Dock Commission or with access to the water front or any transportation terminal.

But replatting of streets in such manner that new ground is dedicated or required without additional cost to the City of equal area with that vacated, and affording equal way and access to the same terminus, shall not be deemed within the prohibition of this act.

The City may sell any buildings owned by it which may not be needed for public use. Such sale shall be made by the Council in its discretion when thereto authorized by ordinance passed by a vote of at least four-fifths of all the members of the Council and approved by the Mayor, the sales to be made only at public auction. The Council may rent any of the City's property not needed for public purposes, for a term not exceeding five years.

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 against a water way or connects with a railroad terminal it may be occupied by any structure or machinery facilitating or necessary to travel, transportation, or distribution, and which does not interfere with full access of the public to the uses provided; and this clause shall include and apply to all structures necessary in the improvement of the public docks.

### **Franchise Deemed as Property.**

Section 90. Every franchise granted under this Charter shall be taken and deemed as property and shall be subject to taxation as property.

### **Council May Authorize Industrial Tracks.**

Section 91. 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 64 and 72 (83 and 95) of this Charter.

## **Council May Agree with Commercial Railroads on Terms of Occupancy.**

Section 92. 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 agreements shall be subject to the provisions and requirements of sections 71 to 76, and E and F of section 78 (74 to 99 and E and F of section 101) 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.

### **Common Users of Tracks.**

Section 93. 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.

### **Franchise Granted for Limited Time.**

Section 94. 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.

### **No Exclusive Franchise Granted.**

Section 95. No exclusive franchise shall be granted nor shall any franchise, lease or right be granted for a longer period than twenty-five years.



### **Franchise—What to Contain.**

Section 96. 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.

### **Franchise—When Same Takes Effect.**

Section 97. 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.

### **Franchise—What to Contain.**

Section 98. 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 franchise 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 portions 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 64 (83) of this Charter.

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

### **Written Acceptance to Be Filed.**

Section 99. 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.

### **Franchise—What May Contain.**

Section 100. The enumeration and specification of partic-

ular 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.

### Franchise—Conditions.

Section 101. 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.

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

### **Franchise Not to Be Sublet or Leased.**

Section 102. 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.

### **Franchises—Owners of to File Statement Within Ninety Days.**

Section 103. 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 privilege 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 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 76 (99) of this Charter, also unless the Council agrees to such sale by an ordinance expressly passed for that purpose, as provided by Section 79 (102).

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.

#### **Franchises—Auditor to Keep Record of.**

Section 104. 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 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.

#### **Provisions Respecting Franchises Heretofore Granted.**

Section 105. 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.

#### **Abandonment.**

Section 106. No abandonment, non-user 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, non-user, 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.

### **Public Moneys, Revenue and Taxation.**

Section 107. The Commissioner of Finance shall have direct control of the revenues of the City except as otherwise provided by ordinance. The Council shall, by ordinance, provide a system for the collection, custody and disbursements of all public moneys, not inconsistent with the provisions of 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. Such system shall be assimilated, as nearly as may be, to what is known as the uniform system of municipal accounting.

### **Certificate of Commissioner of Finance.**

Section 108. The Commissioner of Finance shall, on or before the first Monday in October of each year certify to the Council the amount of money necessary to be raised by taxation during the ensuing fiscal year to meet payments of interest, sinking fund and principal of bonded indebtedness, and also the estimated amount of revenue from all sources other than tax levy.

(b) On or before the first Monday in October of each year the Commissioner in charge of each department of the City shall cause to be prepared and furnished to the Council, estimates in writing of the public expenses to be incurred in his department, and each branch thereof, for the ensuing fiscal year, specifying in detail such probable expenditures. Duplicates of this estimate shall be sent at the same time to the Commissioner of Finance.

### **Annual Budget Shall Be Filed.**

Section 109. On or before the third Monday in November in each year the Council shall make a complete budget of revenue and expenditure for the ensuing fiscal year, and when said budget is completed and approved, the same shall be filed with the Auditor and published in the City Official Newspaper with summaries and comparisons of the various departments for the current fiscal year.

### **Fiscal Year.**

Section 110. The fiscal year of the City shall commence on the first day of December and end on the last day of November of the succeeding year.

## **Tax Levy.**

Section 111. The Council, on or before the 31st day of December in each year shall levy upon all property not exempt from taxation taxes to provide for the payment of expenses of the City for the ensuing year as follows:

1. A tax not to exceed 8 mills on each dollar valuation to provide for the payment of the general expenses of the City, including maintenance and repair of sewers and paved streets, except as hereinafter in this Section provided, which shall be credited to the General Fund.

2. A tax sufficient to meet the interest on the bonded indebtedness of the City, to be credited to the bonded indebtedness interest fund.

3. A tax of not less than four-tenths of one mill on each dollar valuation for the purchase, payment or redemption of the bonded indebtedness of the City, to be credited to the sinking fund.

4. A tax not to exceed one-half mill on each dollar valuation to provide for the construction of bridges elsewhere than across the Willamette River, the filling of streets across gulches and ravines, the estimated cost of bridges, not to be less than \$15,000 and the fills \$20,000; and the construction of overhead or underground crossings across railroad tracks; provided that this Section shall not release any company or corporation having a franchise or otherwise liable, from paying its full share of the cost of construction of bridges, fills or crossings as provided by the terms of its franchise or otherwise existing.

## **Transfer of Money.**

Section 112. 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 the Council may provide that money transferred must be returned to the fund from which it was transferred. No other transfers shall be made.

## **Unused Balances to Go to General Fund.**

Section 113. 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.

Whenever bonds of the City of Portland are offered for sale, and there is a balance to the credit of any sinking fund or



special 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. All interest received from said investment shall be credited to the fund from which the investment was made, provided, that if there are no bonds available for the investment of any such balance. The City Treasurer shall deposit such funds in the same manner as other City funds are deposited under the provisions of Section 293 of this Charter, but such funds shall only be deposited until such time as the Council may have an opportunity to purchase City of Portland or Improvement Bonds.

### **Expenditures of Money—How Made.**

Section 114. No money shall be expended or payment made from any fund of the City, except assessment funds, until a specific appropriation shall be made therefor and an ordinance making an appropriation of money shall not contain a provision on any other subject.

All demands 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.

Any liability or liabilities incurred by the Council to be paid in any fiscal year, which singly or in the aggregate shall be in excess of the revenues 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 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 received during such year, applicable, or made applicable by transfer to the payment of such liability or liabilities. Nothing contained in this Charter shall authorize the enforcement against or collection from said City, on account of any debt, contract or liability, of any sum in excess of the limitations prescribed in this Section.

The City shall issue no warrants or other evidences of indebtedness, except upon special assessment funds, and the payment of judgments against the City, unless there is money in the treasury duly appropriated and applicable to the pay-

ment 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 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.

### **Issuance of Bonds to Fund Indebtedness; Form and Terms of Bond; Procedure.**

\*Section 118. For the purpose of funding any bonded indebtedness of the City of Portland, or of the former City of East Portland, or of the former City of Albina, already matured or to mature in the future, the City of Portland is authorized and empowered to issue and dispose of bonds of the City of the denominations of from One Hundred Dollars to One Thousand Dollars, as the purchaser may desire, under the seal of the City of Portland, with the interest coupons attached thereto with The signature of the Mayor engraved thereon, and having attached thereto the seal of the said City of Portland, whereby the City shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of twenty-five years from the date thereof, the sum named therein, in gold coin of the United States together with interest therein in like coin, at the rate of four (4) per cent per annum, payable half-yearly, as provided in said coupons. The total amount of such refunding bonds shall not exceed the face or par value of the bonds to be refunded nor shall such refunding bonds be sold at private sale nor for less than par, and accrued interest from the date of issuance of said refunding bonds. Before such refunding bonds can be sold the Council shall cause to be inserted for two 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. Such refunding bonds shall be sold only to the highest bidder. 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 amounts. All bonds issued and disposed of under this act shall be exempt from taxation either by this State or by any County or municipal corporation therein. Should there be any money derived from the sale of the refunding bonds in excess of the amount necessary to retire the outstanding bonds, or any funds in the hands of the Treasurer applicable to such purpose it shall be the duty of the Auditor to advertise for two weeks inviting proposals for the surrender and redemption of any valid bonds of the City. After such advertisement the money applicable to such purpose in the hands of the Treasurer, or such portion thereof as may be required therefor, shall be awarded to the

person or persons offering to surrender said bonds for the lowest price. Upon such award, when duly audited, the Treasurer shall upon the surrender of the bonds, pay the amount to the person or persons to whom the same was awarded and cancel the bonds so redeemed. No bid for the surrender of any bonds of the City shall be accepted which shall require a greater sum of money for their redemption than par and a ten per cent premium.

\*The Council of the City of Portland, or its successors in office, is hereby authorized and empowered in the name of the City of Portland to issue and dispose of bonds of the City of Portland to an amount not exceeding One Million Dollars of the denominations of \$500.00 or of \$1,000.00 as the Council may determine, under the seal of the City of Portland, with interest coupons attached thereto. The bonds shall be signed by the Mayor and countersigned by the Auditor of the City of Portland, and each of said coupons shall have the signatures of the Mayor and Auditor of the City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of twenty-five years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like coin at the rate of four (4) per cent per annum, payable half yearly as provided in said coupons. The bonds issued in pursuance of the authority hereby granted shall be known as "Park and Boulevard bonds of the City of Portland, Oregon," and the proceeds thereof shall be applied to the purchase of parks and small parcels of ground for neighborhood parks and for the improvement thereof, also for the laying out, establishing and improving of a system of boulevards and park-ways with bridges over gulches in the City of Portland. The bonds herein provided for shall be advertised and sold to the highest responsible bidder, and the Council may, at its discretion, reject any and all bids tendered for said bonds and proceed to re-advertise the same when bids are not satisfactory. Of the bonds herein authorized to be issued not to exceed \$500,000 shall be issued and sold during any one fiscal year. All moneys derived from the sale of said bonds shall be in the care and custody of the Treasurer of the City of Portland and credited to a fund to be kept and known as the "Park and Boulevard Fund," and shall be paid out by him on warrant of the Mayor attested by the Auditor of the City of Portland, and not otherwise. The said fund shall be expended by the Council, when first recommended by the Park Board, for the purposes above enumerated and in either the direct purchase or in pursuance of condemnation proceedings, as provided in article 1, chapter I.; article 4, chapter III., and article 1, chapter VI., Sec. 1 to 9, 75 and 347 to 350 of the Charter, and in the improvement of such parks, parkways and boulevards; there

being expressly reserved to the Council the right to assess lots, blocks and parcels of land in any district or districts especially or peculiarly benefited by the establishing, laying out and improving boulevards in the same manner as provided by the Charter for assessing benefits for street improvements.

\*The Council of the City of Portland is hereby authorized in the name of and under the corporate seal of said City to issue and dispose of bonds of said City of Portland to an amount not exceeding Five Hundred Thousand Dollars (\$500,000.00), of the denominations of Five Hundred Dollars (\$500.00) or One Thousand Dollars (\$1,000.00) as the Council may determine, and in such form as said Council shall select with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of said City of Portland, and each of said coupons shall have the signatures of the Mayor and of the Auditor of said City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise in consideration of the premises to pay to the bearer of each of said bonds at the expiration of thirty (30) years from the date thereof the sum named therein in gold coin of the United States, together with interest thereon in like coin at the rate of four per cent (4 per cent) per annum, payable half yearly, as provided in said coupons. The bonds issued under this ordinance shall be known as the "Docks Bonds" of the City of Portland. The bonds herein provided for and authorized to be issued shall be advertised and sold to the highest responsible bidder. The Council may reject any and all bids tendered for such bonds and proceed to re-advertise the same when the bids are not satisfactory. The Treasurer of the City of Portland, Oregon, shall have the care and custody of all moneys received from the sale of said bonds or otherwise, and shall pay out the same on the warrants of the Mayor countersigned by the Auditor and not otherwise. The proceeds from the sale of the bonds as herein provided shall be expended by the Council, first in the payment of the expenses of advertising and issuing said bonds and thereafter for the purchase of land for docks, or for the purchase of land and docks as recommended by the Executive Board, or in pursuance of condemnation proceedings, and secondly in the construction and improvement of docks by the Executive Board in pursuance of appropriations therefor, and the said docks shall be under the control, management and supervision of the said Executive Board and the power shall be vested in said Board to fix the charges for dock and warehouse purposes, and to employ and discharge all necessary employes that may be necessary for the proper management and maintenance of said docks subject to the Civil Service provisions of the Charter. The foregoing paragraph was repealed Nov. 8, 1910.

(a) The Council of the City of Portland is hereby authorized in the name of and under the corporate seal of said City to

issue and dispose of bonds of said City of Portland to an amount not exceeding Four Hundred and Fifty Thousand Dollars (\$450,000.00) of the denomination of Five Hundred Dollars (\$500.00) or One Thousand Dollars (\$1,000.00), as the Council may determine, and in such form as said Council shall select with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of said City of Portland, and each of said coupons shall have the signatures of the Mayor and the Auditor of the City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise in consideration of the premises to pay to the bearer of each of said bonds at the expiration of thirty (30) years from the date thereof the sum named therein in gold coin of the United States, together with interest thereon in like coin at the rate of four per cent. (4 per cent.) per annum, payable half yearly, as provided in said coupons. The bonds issued under this ordinance shall be known as the "Bridge Bonds of the City of Portland. Series 1907." The bonds herein provided for and authorized to be issued shall be advertised and sold to the highest responsible bidder. The Council may reject any and all bids tendered for such bonds and proceed to re-advertise the same when the bids are not satisfactory. The Treasurer of the City of Portland, Oregon, shall have the care and custody of all moneys received from the sale of said bonds or otherwise, and shall pay out the same on the warrants of the Mayor countersigned by the Auditor, and not otherwise. All expenses connected with the purchase and condemnation of any property, franchise or rights, and the expense of the bonds issued as herein authorized and the cost of the bridge herein provided for, are to be paid out of the proceeds of the sale of said bonds.

(b) The proceeds of any sales of what is now known as the Madison Street Bridge, or any part thereof, shall become a part of the fund provided herein for the construction of the new bridge and may be used by the said Executive Board as a part of said fund, and the fund created from the sale of bonds and from the sale of any part or parts of the bridge now known as the Madison Street Bridge, shall be known and designated as the "Hawthorne Avenue Bridge Fund." All of unexpended money after the bridge herein authorized has been constructed and paid for shall be transferred from the Hawthorne Avenue Bridge Fund to a fund to be known and designated as the "Bridge Bond Sinking Fund," or shall be transferred to the "Bonded Indebtedness Interest Fund," and used in the redemption of said coupons outstanding and maturing upon said bonds as the Council of the City of Portland may determine. Any funds or rentals paid for the use of said bridge and trackage rights thereon shall be paid to the Treasurer

of the City of Portland and placed to the credit of the Bonded Indebtedness Interest Fund.

(c) From the Hawthorne Avenue Bridge Fund, as herein provided, the Executive Board of the City of Portland, County of Multnomah, State of Oregon, and its successors in office is hereby authorized and empowered in the name of the City of Portland to build a bridge across the Willamette River in the said city from Hawthorne avenue on the east side of said river to Madison street on the west side of said river, and to remove what is now known as the Madison Street Bridge located across said river from Hawthorne avenue on the east side of said river to Madison street on the west side of said river, and to use or to sell or dispose of said Madison Street Bridge or the material composing the same for such price and upon such terms as the Executive Board in its judgment may determine to be for the best interest of the City of Portland. The approaches to said bridge shall conform to the grades of streets as now established on Hawthorne avenue on the east side of said river and Madison street on the west side of said river.

(d) The said Executive Board and its successors in office for the purpose of carrying into effect this ordinance is hereby authorized and empowered to appropriate and condemn in the name of the City of Portland for the use of the public any private property abutting upon the said avenue or street, or either thereof, or claimed to exist thereunder or over and any and all franchises, easements, liens, approaches, structures, superstructures, leases, railway tracks, railway wires, and roadways, and telephone, telegraph and electric light wires, which said Executive Board may require for the purpose of carrying into effect the purposes of this ordinance. And said property may be entered upon and examined, surveyed and selected in the mode prescribed by the statutes of this state for the appropriation of property for public use.

(e) It shall be the duty of the Executive Board before constructing the bridge herein authorized, to enter into negotiations with the Portland Railway, Light and Power Company, or any other company or corporation now operating cars over what is known as the Madison Street Bridge, for the surrender of its present lease and franchise and any and all other rights or privileges it has in, to or upon what is now known as the Madison Street Bridge, and approaches thereto, and as a consideration for such surrender the Executive Board is hereby authorized to agree for the City of Portland to construct the new bridge herein provided for, and to remove what is known as the Madison Street Bridge, and to make and execute to the said Portland Railway, Light and Power Company, or such other company or corporation now having rights or franchises on said Madison Street Bridge, a lease

or franchise to operate cars over and across said new bridge for a term not exceeding twenty-five years. Provided, however, that the said Portland Railway, Light and Power Company, its successors and assigns, or any other company or corporation holding rights, leases or franchises, on said bridge shall agree in and by said new lease or franchise, to pay as rental for the use of said new bridge and approaches thereto and tracks thereon, five cents (5c) per car for each and every car of thirty-six (36) feet or less in length that crosses said bridge, and such additional rate per car for cars over thirty-six (36) feet in length as may thereafter be agreed upon between the Executive Board and the company or corporation interested therein. Said rental to be paid at the end of each calendar month to the City Treasurer. Said rental in no case to be less than fifteen thousand dollars (\$15,000.00) per year and in case said rental shall amount to less than fifteen thousand dollars (\$15,000.000) per year upon the basis of the rate per car as hereinbefore provided, then and in that event the Portland Railway, Light and Power Company, its successors and assigns, shall at the end of the year, pay the difference between the amount paid at the rate of five cents (5c) per car and the said sum of fifteen thousand dollars (\$15,000.00) to the City Treasurer. In case the Executive Board shall not make such an agreement with the Portland Railway, Light and Power Company and such other company or companies holding leases or franchises on said bridge as is herein authorized to be made, then and in such event said Executive Board may in its discretion temporarily or permanently discontinue or abandon any further steps or proceedings toward the building of said new bridge, or may, in its discretion, proceed to acquire by condemnation as hereinbefore provided, in the name of the City of Portland any and all franchises, easements, leases, approaches, structures, superstructures, liens, railway tracks, railway wires, roadways, telephone and telegraph and electric wires and other private property including said lease and franchise and any other rights or privileges of the Portland Railway, Light and Power Company or such other company or companies as may be interested therein, which may be required for the purpose of carrying into effect the purposes of this act. Said Executive Board and its successors in office, are hereby authorized to enter into contracts and leases with other street railway companies for the use and operation of cars over and upon the tracks of said new bridge and the approaches thereto for such times and such rates and upon such terms and conditions as may in the judgment of said Executive Board be necessary for the best interests of the City of Portland. Provided, however, that in and by every such contract or lease it shall be provided that the street railway company or companies shall pay the City of Portland as rental for the use of said new bridge and

approaches thereto and tracks thereon, five cents (5c) per car for each time each and every car of thirty-six (36) feet or less in length crosses said bridge, and such additional rate per car for cars of over thirty-six (36) feet in length as may be agreed upon between said railway company or companies and said Executive Board. And provided, further, that said Executive Board may in giving or granting any such contract or lease, fix a minimum sum to be paid each month, in any event, by the company or companies to which such contract or lease is given or granted. If a specified agreement for the surrender of the present lease or grant and the granting of a new lease as is herein authorized is not made and entered into by the Executive Board of the City of Portland and the said Portland Railway, Light and Power Company, or other company or companies, or corporation or corporations, for rights on said bridge, the same shall have no right or authority to operate cars over and upon or use said new bridge and the approaches thereto, except under or by virtue of such new contract or lease as may be given or granted to it by said Executive Board in accordance with the provisions of this Section. Nothing in this ordinance shall be construed to authorize the Executive Board or its successors in office, to give any street railway company any exclusive right to operate cars over said new bridge. Should said Hawthorne Avenue Bridge be destroyed by fire, flood or other casualty, any lease or contract with reference to the use of the approaches thereto or contracts thereon by any street railway company shall then and thereupon at the option of said Executive Board and its successors in office cease and determine, and if such bridge shall be rebuilt then said lease or contracts for the use of the approaches to or tracks upon said bridge shall apply to said bridge so rebuilt or renewed. After the building of the said bridge hereby authorized the said Executive Board shall surrender and deliver the possession of the same to the County Court of Multnomah County, and such court shall operate, control and manage the same and keep the same in repair in the same manner as other bridges crossing the Willamette River within the City of Portland are operated, controlled and managed, as required by law.

\*The Council of the City of Portland, and its successors in office, is hereby authorized and empowered in the name of the City of Portland to issue and dispose of bonds of the City of Portland to an amount not exceeding \$275,000.00 of the denomination of five hundred dollars or of one thousand dollars, as the Council may determine, under the seal of the City of Portland, with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of the City of Portland, and each of said coupons shall have the signatures of the Mayor and Auditor of the City of Portland engraved thereon, whereby the City of Port-



land shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of twenty-five years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like coin at the rate of four per cent. (4 per cent.) per annum, payable half yearly, as provided in said coupons. The bonds issued in pursuance of the authority hereby granted shall be known as "General Bonds of the City of Portland, Oregon." The bonds herein provided for and authorized to be issued shall be advertised and sold to the highest responsible bidder and the Council may in its discretion reject any and all bids tendered for said bonds and proceed to readvertise the same when the bids are not satisfactory. The money derived from the sale of said bonds shall be in the custody of the Treasurer of the City of Portland and credited to a fund to be known as "The Fire Boat and Fire Mains Fund," and the Treasurer shall pay out of the same on warrants of the Mayor attested by the Auditor, and not otherwise. When the said bonds are sold and the money therefor has been paid to the Treasurer of the City the power and authority shall be vested in the Executive Board to purchase, construct and equip an additional fire boat for the City of Portland, and to lay the mains as herein provided, and of the proceeds thereof not to exceed \$125,000.00 shall be expended for the purchase or construction and equipment of a suitable fire boat and the remainder thereof shall be expended for the laying of water mains for protection against fire, from the Willamette River and on each side thereof, for a distance of six blocks, and for the purpose of placing on said mains, hydrants and other apparatus as may be determined upon by the Executive Board.

\*Adopted June 3, 1907.

\*Section 1. There is hereby created a department in the City of Portland known as the "Department of Public Docks."

\*Section 2. The Department of Public Docks shall be administered by a dock commission composed of five (5) members, who shall be appointed by the Mayor. Within ten (10) days after the adoption of this measure the Mayor shall appoint five (5) persons, who are qualified voters and have been three (3) years residents of the City of Portland, members of the dock commission. Such persons shall determine by lot among themselves the length of their terms, for one, two, three, four and five years, respectively. On the expiration of the term of any member his successor shall be appointed by the Mayor. 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 of any nature. Within ten days after their appointment the commission shall meet and organize by the election of a chairman and secretary and by making provision for stated meetings.

\*Section 3. The commission shall have power, and it shall be its duty for and on behalf of said City of Portland:

(a) To cause to be prepared a comprehensive plan for the reconstruction of the harbor front of the City of Portland, making provision for the needs of commerce and shipping and providing for the reconstruction of such docks, piers, slips, wharves, basins, cranes and dock apparatus as they may deem necessary for the convenient and economical accommodation and handling of water craft of all kinds and of goods and passengers; and they may modify such plans from time to time as the requirements of commerce and shipping and the advance of knowledge and information on the subject may suggest.

(b) And as a part of such plan to provide for public owned docks of such number and character and in such places as the commission may deem feasible and proper.

(c) To purchase or acquire by condemnation, as hereinafter provided, or by other lawful means, such lands, or rights, or interests therein, as may be proper or necessary for use in the construction of any public owned dock, wharf, pier, slip, basin or other structure 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 wharf, property, or land, and no price can be agreed upon between the commission and the owner thereof, the commission may direct the City Attorney to take legal proceedings to acquire the same for the City in the same manner as land is condemned for the purpose of parks, or as is or may be provided by the general laws of the State of Oregon in the case of corporations having the right of eminent domain. 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 for the purposes for which they were acquired they shall become the property of the City of Portland, free from any restriction, upon the passing of a resolution so declaring by the commission; the commission may exchange, or otherwise dispose of the same, in the discharge of its duties, as hereinafter set forth. No further evidence or attempt by the commission to agree with the owners of property shall be required than the sending of an offer by registered mail to the owner or occupant by name, if known; if not by such general designation, at the premises, if occupied; if not by posting a notice in a conspicuous place on said premises for ten (10) days prior to the institution of the suit setting forth the amount of the offer made by the commission.

(d) The commission shall have exclusive charge and control of the wharf property belonging to the City of Portland, including all the wharves, piers, bulkheads and structures thereon, and waters 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 corporation or to which said corporation is or may become entitled, or which said corporation may acquire under the provisions hereof, or otherwise. 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 commission is also vested with exclusive government and control of all wharf property, wharves, piers, bulkheads and structures thereon, and waters adjacent thereto, and all the basins, slips, and docks, with the land under water, of said City not owned by said corporation. The powers conferred by the law of 1862, being Sections 4042 and 4043 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon, in respect of piers and wharves, the same being Sections 5201 and 5202 of the laws of the State of Oregon, as prepared and annotated under the supervision of William F. Lord, code commissioner, and published in the year 1910, are hereby vested in the said commission. The said commission shall further have and exercise all the powers, rights and duties in respect of the subject matter herein provided for and that are now had or enjoyed by the City of Portland or by any of its departments, or officers, and especially the powers and duties conferred by subdivisions 76, 77 and 78 and of Section 75 of the Charter of the City of Portland; provided, however, that the grant of power herein contained shall in no wise limit, modify or restrict the powers conferred upon and exercised by the municipal corporation known as the Port of Portland, by its charter and several amendments thereto. Said commissioners, in addition to a general control over the harbor front of the City, as aforesaid, shall have authority to use, for loading and landing merchandise with the right to collect dockage, wharfage and tolls, thereon, as hereinafter provided such portions of the streets of the City of Portland ending or fronting upon the Willamette River in said City, as may be used for said purposes without materially obstructing the use of the same for access to the river.

(f) In the construction of docks, or the performance of other work, the commission shall proceed only after public notice asking for proposals based upon the plans and specifications previously submitted and filed with the commission by its engineer, and approved by them; provided that when,

in the judgment of the commission, the bids received are excessive, or otherwise unsuitable, the commission may proceed to do the work directly. The commission shall in all cases have the right to reject any and all bids. In the event that it shall perform the work directly or without contract, it shall make no purchase of materials in amounts exceeding one hundred dollars (\$100.00) except by public letting, or in case of failure to receive bids after reasonable notice in a public newspaper of the City of Portland, or in case of extreme emergency where the delay of public letting might cause serious loss or injury to the work.

(g) The commission shall have the power to make general rules and regulations for the carrying out of the plans proposed by it for the building, rebuilding, repairing, alteration and maintenance of all structures, erections or artificial constructions upon or adjacent to the water front of the City of Portland, and, except as provided by the general rules of the commission, no new structures or repairs upon or along said water front shall be undertaken, except upon application to the commission and under permit by it and in accordance with the general plans of the commission and in pursuance of specifications submitted to the commission and approved by them upon such application. The general rules and regulations of the commission shall be embodied in the forms of ordinances and certified copies thereof shall, forthwith upon their passage, be transmitted to the Auditor of the City of Portland, who shall cause the same to be transcribed at length in a book kept for that purpose and the same shall be included in any publication or compilation of ordinances of the City of Portland. Such book shall be a public record and the same and copies thereof shall be accessible to the public under like terms and conditions as other ordinances of the City of Portland; provided, however, that the commission may, in its discretion, withhold from publication the places where the public-owned docks proposed by it are to be situated until the same shall be acquired. All such ordinances or general regulations prescribed by the commission shall be subject to amendment, repeal or alteration on referendum or by the 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.

(h) The commission shall have the power to fix and regulate from time to time, and from time to time to alter the dockage, wharfage, and crantage charges for all public-owned docks, piers, wharves, or slips, and a schedule of such regulations shall be enacted in the form of ordinances and a certified copy thereof shall be transmitted to the Auditor of the

City of Portland in like manner as other ordinances before the same shall go into or be in effect.

(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 harbor line and the first intersecting street, measuring backward from high water mark, is hereby conferred upon and vested in the docks commission 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 docks, wharves, piers, retaining or sea walls, or other construction across and upon such streets; providing, only, that access be provided to the public at the shoreward end thereof.

In case it shall be necessary to vacate any street or part of street in this section referred to for the purpose of carrying out the powers vested in the docks commission under this act, proceedings for such vacation shall be conducted as follows:

The docks commission or any other person shall petition the Mayor and Council, setting forth the particular circumstances of the case and giving a distinct description of the property to be vacated and the names of the persons particularly affected thereby, such persons to include all owners of property abutting upon the portion of the street to be vacated. Such petition shall be filed with the City Auditor thirty days previous to the session of the City Council at which time the same is proposed to be considered, and notice of the pendency of such petition shall be given for the same space of time in a public newspaper printed in said town. At such session, if the petitioner shall produce the written consent of the owners of the property abutting upon said street, the Council shall proceed to hear and determine upon said application, and may grant the prayer of the petition, in whole or in part. If opposition be made to such petition, the Council shall continue the application until its next session and shall then hear all parties interested, and determine upon the vacation or deny the same, as may seem just in the premises. No such vacation shall take place unless the consent of the person or persons owning the property immediately adjoining said street or alley be obtained thereto in writing, which consent shall be acknowledged before some officer authorized to take acknowledgments of deeds, and filed with the County Clerk. Such vacation shall vest in the owners for the time being of the lots or ground bordering thereon on either side, in equal proportions.

(j) The commission shall have the power to employ such officers, employes, and agents as may be necessary in the efficient and economical carrying out of its duties and to

fix and provide for their compensation. All permanent officers and employes of the commission, except consulting or technical employes, and employes engaged in construction, shall be subject, in respect of their appointment and removal, to the civil service rules of the City of Portland. All offices, places, and employments in the permanent service of the commission shall be provided for by ordinance duly passed and a list of the same shall be transmitted to the civil service commission for classification in like manner as other employments in the service of the City.

(k) The commission shall annually make to the Mayor of the City of Portland a full report of its doings for the year, including an itemized account of its receipts and expenditures, and of its estimated receipts and expenditures for the ensuing year. Such report shall be made at the same time as reports of the 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 the sinking fund hereinafter described and for the necessary expenses of the commission in the maintenance and operation of dock property, 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 Clerk 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 the City of Portland in addition to the amount necessary to pay the interest and sinking fund on the outstanding bonds of the commission.

(l) The commission is hereby authorized, in the name of and under the corporate seal of the City of Portland, to issue and dispose of bonds of the City of Portland to an amount not exceeding two million five hundred thousand dollars (\$2,500,000), of such denomination as the commission may determine, and in such form as they may direct. The commission may prescribe the length of time for which said bonds shall run, and that such bonds, or a prescribed portion of them, may be retired at any time after ten years. Such bonds may be issued in series, as the necessity for the expenditure of money in the progress of the work of the commission may arise. The bonds shall be signed by the Mayor and countersigned by the Auditor of the City of Portland. Coupons shall be attached with engraved signatures of the Mayor and Auditor. Said bonds shall contain a promise on the part of the City of Port-

land, to pay to the bearer of said bonds, or the registered holder, if the same shall be registered, at the maturity thereof, the sum mentioned therein in gold coin of the United States, together with such interest thereon in like gold coin, as said commission shall prescribe, not to exceed six per cent per annum, payable half-yearly. Said bonds shall be known as "Dock Bonds of the City of Portland." They shall be sold to the highest responsible bidder, but the commission may reject any and all bids tendered for the same, and proceed to readvertise when bids are not satisfactory. The Treasurer of the City of Portland shall have the care and custody of all moneys received from the sale of said bonds, and shall pay out the same on the warrants of the chairman of the commission, countersigned by its secretary, and not otherwise. The proceeds from the sale of the said bonds shall be expended by the commission, first, in the payment of the expenses of the issuance of the said bonds; second, for the preparation of the plan provided for by Section 3; third, for the purchase of land for the docks, or the purchase of lands and docks, or in pursuance of condemnation proceedings; and, fourth, in the construction and maintenance of docks, piers, slips and wharves, and in the maintenance and operation and management of the same, and in the exercise of the commission's general powers. The bonds may contain such provision for their redemption as the commission may prescribe, but in the event of no provision being made therein, after five years from the issuance of any series of bonds, not less than two per cent of the principal thereof shall be set aside as a sinking fund and invested in income bearing securities, preference being given to bonds of the City of Portland; such security in no case to have a date of maturity subsequent to that of the bonds for the payment of which they are to provide.

(m) All moneys received by the commission shall be paid to the City Treasurer and by him kept in a separate fund. Disbursements shall be made by him on warrants of the president and secretary of the commission, in pursuance of its general purposes and after express authority or ordinance, or resolution of the commission. The books of the commission may from time to time be audited by the City Auditor of the City of Portland under the direction of the Mayor in such manner and at such time as he may prescribe.

\*Section 4. That that 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 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.

\*Adopted November 8, 1910.

\*Section 118 $\frac{1}{2}$  The Council of the City of Portland is hereby authorized in the name of and under the corporate seal of said city to issue and dispose of bonds of said City of Portland to an amount not exceeding two million dollars, of the denomination of five hundred dollars, or one thousand dollars, as the Council may determine, and in such form as the said Council shall select, with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of said City of Portland, and each of said coupons shall have the signatures of the Mayor and Auditor of the City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of thirty years from the date thereof the sum named therein in gold coin of the United States, together with interest thereon in like gold coin at the rate of four per centum per annum, payable half-yearly as provided in said coupons. The bonds issued in pursuance of the authority hereby granted shall be known as the "Bridge Bonds of the City of Portland, Series of 1909." The bonds herein provided for and authorized to be issued, shall be advertised and sold to the highest responsible bidder. The Council may, at its discretion, reject any and all bids tendered for such bonds and proceed to re-advertise the same when the bids are not satisfactory. The Treasurer of the City of Portland, Oregon, shall have the care and custody of all moneys received from the sale of said bonds, or otherwise, and shall pay out the same on warrants of the Mayor countersigned by the Auditor, and not otherwise. All expenses connected with the purchase or condemnation of any property, easement, franchise, or rights, and the expense of the bonds issued as herein authorized, and the cost of the bridge herein provided for, with its approaches, terminals and necessary accessories, are to be paid out of the proceeds of the sale of said bonds.

From the fund herein provided for, the Executive Board of the City of Portland, Multnomah County, State of Oregon, and its successors in office, is hereby authorized and empowered, in the name of the City of Portland, to construct and build a bridge, with appropriate approaches and terminals, and with a clearance of not less than 65 feet above high water and not less than 96.13 feet above the city datum or low water



mark, across the Willamette River in said city, from Broadway street at or near its intersection with Larrabee street, on the east side of said river, and following the line of Broadway street, extended westerly in its present course, to a point at or near its intersection with Seventh street on the west side of said Willamette River; thence southerly and easterly to a point at or near the intersection of Sixth and Irving streets; and it shall have full power and authority, subject to such regulations as may be imposed by the United States, to build, erect and construct piers, abutments and other necessary supports in the bed of the Willamette River for the foundation of such bridge.

The location of the west approach and incline of said bridge shall be subject, however, to such modification and change as may be deemed expedient by said Executive Board or its successors in office.

. The said Executive Board, or its successors in office, for the purpose of carrying into effect the provisions of this section, is hereby authorized and empowered to appropriate and condemn in the name of the City of Portland, for the public use, any property occupied by or abutting upon said streets, bridge, site, approaches, or terminals, or necessary or which may be required, for the construction or maintenance of said bridge, approaches or terminals, including all franchises, easements, liens, approaches, structures, superstructures, leases, railroad tracks, and railroad property, railway wires, rights of way, roadways, telephone, telegraph and electric wires, which said Executive Board, or its successors may require to carry into effect the purposes of this section, and such property may be entered upon and examined, surveyed, selected, condemned and appropriated in the mode provided by the Charter of the City of Portland, or by the statutes of the State of Oregon, for the appropriation of property for public use or corporate purposes. And for the purpose of carrying the provisions of this section into effect, the Executive Board of the City of Portland, or its successors in office, is authorized and empowered to appropriate and use the whole or any part of any of the public streets or highways of the City of Portland or to establish or alter the grades thereof. All railway tracks laid upon said bridge, or upon its approaches or terminals, shall forever be and remain the exclusive property of the City of Portland, and no exclusive privilege or franchise shall be granted to any person, railway company, or other public service corporation, for the use of the whole or any part of such bridge, approaches or terminals. And all of such privileges or franchises that may be granted by the City of Portland for the use of the whole, or any part of such bridge, approaches, or terminals, shall be granted upon such compensation to the City as may be determined by the Council of the City of Port-

land or its successors in office. After the construction of such bridge, the Executive Board, or its successors in office, shall surrender and deliver the possession of the same to the County Court of Multnomah County, State of Oregon, and such court shall operate, control and manage the same and keep the same in repair in the same manner as other bridges crossing the Willamette River within the City of Portland are operated, controlled and managed as required by law.

All acts and parts of acts in conflict herewith are hereby repealed to the extent that they may conflict with the provisions hereof.

\*Adopted June 7, 1909.

### **Ferries and Bridges—To Be Operated by Multnomah County.**

\*Section 118¾. 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 Court 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.

All that part of section 118 and 118½ of the Charter of the City of Portland, entitled, "An Act to Incorporate the City of Portland, Multnomah County, State of Oregon, and to provide a Charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State, January 23, 1903, as amended, in so far as the same conflict with the provisions of this Section be and the same are hereby repealed.

\*Adopted November 2, 1912.

### **Annulment of Back Taxes.**

Section 119. All taxes except special assessments for local improvements levied by the City of Portland or by the

former cities of East Portland, Albina or Sellwood for any year prior to 1895, which shall not be collected before July 1st, 1904, shall become void and no steps shall thereafter be taken for their collection.

### **Bonds—How Issued.**

Section 120. 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 approved by vote of the people at a general or special election at which the question shall be submitted in the same manner as other measures are submitted under the initiative or referendum. This provision shall not apply to bonds heretofore authorized. All bonds of the City of Portland shall be sold to the highest responsible bidder.

### **GENERALLY**

#### **Official Books and Papers Property of the City and Subject to Examination.**

Section 122. 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, by the Mayor or by the public.

#### **Boards and Commissions Abolished, Bonds Validated.**

Section 123. No board or commission now existing under the Charter of 1903, as amended, except the Civil Service Commission which shall be called the Civil Service Board which shall not be abolished, shall continue to exist more than six months after this Charter takes effect, and until such time such other boards or commissions shall be subject to full regulation or abolition by the Council: provided, however, that the Executive Board shall cease to exist on July 1st, 1913.

The Council may, in the exercise of its general legislative powers, create and establish such boards and commissions as it may deem necessary and may abolish the same or alter their personnel from time to time.

All bonds heretofore issued and sold by the City of Portland and the former cities of East Portland and Albina (both now a part of the City of Portland), now outstanding and aggregating the sum of \$12,798,700.00 are hereby approved and validated, and the Council of the City of Portland is hereby authorized to issue and sell all additional bonds heretofore authorized and not sold under the provisions of Sections 118, 118½, 227, 425¾ and 429 authorizing the issuance and sale of municipal garbage collection bonds, of the Charter of 1903,

as amended: provided that the bonded indebtedness of the City of Portland shall at no time exceed the amount authorized under the provisions of Section 88 of the Charter of 1903, and provided, further, that the bonds issued and sold under the provisions of Section 383a of the Charter of 1903, as amended shall not be considered as a part of the debt limit fixed by said Section 88.

All bonds heretofore or hereafter issued or authorized to be issued pursuant to Section 227 of the Charter of 1903, or pursuant to any amendment to the said section, are hereby declared valid and general obligations of the City of Portland, for the payment of the principal and interest of which a tax may be levied in addition to the tax in this Charter provided for, in case the Water Fund of said City should at any time prove insufficient for that purpose.

The several measures amendatory of and supplementary to Section 118 of the Charter of 1903, including Section 118½ and Section 425¾ of said Charter, and especially two measures adopted by the people of the City of Portland, the first at a special election held on the 8th day of November, 1910, entitled, "A Measure to provide for the improvement of water and harbor front of the City of Portland, for the acquirement, construction, maintenance and operation of public docks, and for the acquirement by condemnation, or otherwise, of lands for the same; to create a commission to carry on such work and to regulate and control the construction, maintenance, and operation of wharves, docks, slips, piers, basins, and other water front structures in said city; to authorize the issuance and sale of bonds of the City of Portland up to two million five hundred thousand dollars (\$2,500,000) for the above purposes, and to levy a tax as may be necessary for current expenses in carrying out the above purposes, and to amend Section 118 of the Charter of the City of Portland as now amended by adding thereto the following four sections," and the second at a regular city election held in said City on the 5th day of June, 1911, entitled, "An Act to amend Chapter VII of the Charter of the City of Portland, entitled, 'An Act to incorporate the City of Portland, Multnomah County, State of Oregon, and to provide a charter therefor, and to repeal all acts or parts of acts in conflict therewith,' filed in the office of the Sectreary of State, January 23, 1903, as amended, by inserting a section in said Chapter VII after Section 425½ and before Section 426 thereof, which shall be designated in the Charter as Section Four Hundred Twenty-five and three-fourths (425¾) of Chapter VII, authorizing the sale of bonds in an amount not to exceed Six Hundred Thousand Dollars for the acquisition of land for, and the erection and maintenance of a Public Auditorium in the City of Portland, Multnomah County, State of Oregon, and creating

a commission to carry out the provisions of said act," are hereby ratified and bonds issued under the same are hereby declared valid obligations of the City of Portland.

### **No Person to Hold Two Offices Yielding Compensation— All Officials, Except Women, to be Registered Voters.**

Section 128. No person shall at any time hold more than one office yielding pecuniary compensation under this Charter, or under the Mayor, Council, or any of the departments of the city. All municipal officials, except women, shall be registered voters of the City of Portland.

### **Council May Require Additional Bond or Undertaking**

Section 130. When under any of the provisions of this Charter, or of any ordinance, an official undertaking or bond shall be required from an officer, the Council may, by resolution, require an additional undertaking or bond, whenever, in the opinion of the Council such undertaking or bond or any surety thereto becomes insufficient; and such additional undertaking or bond shall also be required when a surety to a bond shall die or cease to be a resident of the city.

### **Terms of Bonds and Undertakings; Justification of Sureties.**

Section 131. City officers shall not be accepted as surety for each other on official undertakings or bonds. Every such undertaking or bond 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. Such bond or undertaking when it is not that of a qualified surety company, must also be executed by two or more sureties who shall each justify in the amount required for said bond; but when the amount of the bond or undertaking is more than five thousand dollars, the sureties may become severally liable for portions of not less than twenty-five hundred dollars. When there are more than two sureties, such sureties may justify in an amount which in the aggregate shall equal double the amount of said bond.

### **Requirements of Sureties on Bonds.**

Section 132. Every surety upon an official undertaking or bond, other than lawfully authorized surety companies, must make an affidavit, which shall be endorsed upon such

undertaking or bond, that he is a resident and freeholder in the city, and worth in real property situated in the city, exclusive of incumbrances thereon, double the amount of his undertaking over and above all sums for which he is already liable or in any manner bound, whether as a principal, indorser or surety, and whether such prior obligation or liability be conditional or absolute, liquidated, or unliquidated, due or to become due. All persons offered as sureties on official bonds may be examined on oath as to their qualifications by the officer whose duty it is to approve the undertaking or bond. All bonds and undertakings provided for by this Charter, except that of City Treasurer, may be secured by individual sureties.

### **Officer Liable on Bond for Acts and Omissions of Deputies, Clerks, Etc., Appointed by Him.**

Section 133. Every officer shall be liable on his official undertaking or bond for the acts and omissions of his deputies, assistants, clerks and employes, appointed by him, and of any and each of them, and every official undertaking or bond shall contain such a condition.

### **Bonds May Be Required of Subordinates.**

Section 134. Every board, department or officer may require of their deputies, clerks or employes bonds of indemnity with sufficient sureties for the faithful performance of their duties, the penalties in which shall be prescribed by ordinance.

### **No Officer to Be Interested in Contracts for Labor or Material for City.**

Section 135. No councilman or other officer or employe of the city shall be or become directly or indirectly interested in or in the performance of any contract for the supply of labor or material to the city, or in the sale of any article, the price or consideration of which is payable from the city treasury, or in the purchase or lease of any real estate or other property belonging or to be taken by the City, or which shall be sold for taxes or assessments or by virtue of legal processes at the suit of the City. And in case any officer or employe of the City shall be interested personally as a promoter or stockholder or shareholder in any firm or corporation in any grant or privilege or franchise sought by himself or his associates or such firm or corporation from the City of Portland, or any public utility which is sought to be acquired or duplicated by the City or which is offered for sale or lease by the City, such officer or employe shall be incapacitated to take any part in the negotiations or proceedings connected with the giving or granting of such grant, privilege or franchise, but all such negotiations and

proceedings and acts as would otherwise be conducted by such officer or employe shall be conducted and done on behalf of the City of Portland by such officer and employe as would have done and conducted the same in the absence of such interested officer and employe.

If any officer or person in this section designated shall violate the provisions of this section he shall forfeit his office and all such contracts, grants, privileges and franchises in the hands of others than a purchaser without notice for value shall be void.

### **Books and Records Open to Inspection; Certified Copies.**

Section 137. All books and records of every office and department shall be open to the inspection of any citizen at any time during business hours. Certified copies or extracts from said books and records shall be given by the officer having the same in custody to any person demanding the same, and paying or tendering ten cents a folio of one hundred words for such copies or extracts; but the record of the Police Department shall not be subject to such inspection unless permission be given by the Executive Board.

### **Appointments to Be In Duplicate In Writing: Where Filed**

Section 138. 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 Commission and the other with the Auditor.

### **Salaries to Be Full Compensation.**

Section 139. The salaries provided in this Charter shall be in full compensation for all services rendered, and excepting such salaries, 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.

### **Officer Favoring Bidder on Contract Guilty of Malfeasance**

Section 140. 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 or different kinds of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office.

### **Officers to Devote Entire Time.**

Section 141. All officers and employes receiving pay from this City shall devote their entire time during business hours to the interest of the City, except when excused as in this Charter provided.

### **Mayor—His Duties—Annual Message.**

Section 147. The Mayor shall exercise a careful supervision over the general affairs of the City and its subordinate offices. It shall be his duty from time to time to make such recommendations to the Council as he may consider to be for the welfare of the City. On or before the fifth day of January in each year, he must communicate, by message, to the Council a general statement of the conditions and affairs of the City and submit therewith the annual budget of current expenses of the City.

Section 151. 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, and shall report the results thereof in each of his annual reports or messages.

### **May Investigate Offices and Accounts, With Power to Administer Oaths and Examine Individuals.**

Section 152. 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, officers, 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.

**Mayor May Suspend, Pending Investigation, Any Officer, Except Councilman.**

Section 153. The Mayor shall have the power to suspend, pending an official investigation, any officer of the City, except Councilmen, for any official defalcation or wilful neglect of duty, or official misconduct.

**Mayor to Be Notified of Violation of Contracts.**

Section 158. 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 employe. 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 behalf.

Section 159. All contractors shall, at the time of executing any contract for work to be done for the City, execute a bond to the satisfaction of the Council to be approved by the Mayor, in such sum as said Council may deem adequate, not less than fifty per cent of the contract price of such contract, payable to the City of Portland, and if executed by individual sureties they shall justify in double the amount of the said bond; said bond shall be conditioned for the faithful performance of such contract, and further that the contractor will fully secure and pay the just claims of all laborers, material men and sub-contractors employed by him thereunder. Any such laborer, material man or sub-contractor whose just claims may not be satisfied, shall have and is hereby granted a right of action upon said bond

in the name of the City of Portland and said action shall have the same force and effect as if this City was enforcing the covenants of such bond. All persons having such claims may join or be brought into one action and the City shall also be made a party thereto to the end that all rights arising under one bond may be determined in one action.

Section 160. The Council shall make no purchase of supplies and material in excess of two hundred and fifty (\$250.00) dollars without having duly advertised for the same in the City Official Newspaper. The Council shall have no power to let any contract for any public improvement or for any supplies for the City of Portland except such contract be let to the lowest responsible bidder for the class or kinds selected by the Council. The specifications upon which the bids shall be made shall clearly state the kind, class, grade and quality of improvement or supplies desired and one or more sets of the specifications may be adopted by the Council. The Council shall have the right to reject any and all bids.

This provision shall not prevent the Council from employing labor direct to construct or carry on public works or to make public improvements.

Section 161. That so much of Sections 167 to 268 and 287 to 305, both inclusive, and of Sections 328 to 345, both inclusive, as is not inconsistent with the provisions of this Charter shall remain in effect as ordinances only subject to repeal or amendment by the Council in like manner and with like effect as other ordinances passed by the Council.

#### (Fire Department.)

#### **Fire Department: How Organized; Subject to Civil Service Rules; Authority Vested In Executive Board.**

Section 167. The Fire Department of the City of Portland shall be appointed and organized, subject to the Civil Service rules of this Charter, by the first Executive Board appointed after this Charter takes effect; and thereafter, subject to the restrictions contained in this Charter, all the powers of said City connected with and incident to the appointment, discipline and government of its Fire Department shall be vested in the executive Board of said City.

#### **Executive Board to Organize Fire Department; Appoint Engineer and Employes; Power to Make Rules and Regulations; Civil Service Rules to Apply to Every Officer and Member of the Department.**

Section 168. The Executive Board shall have the power and it is hereby made its duty to organize, govern and conduct

a Fire Department for effective service within the City of Portland, and to that end may appoint a Chief Engineer and as many other officers and employes as in its opinion are necessary. It shall have the power to make all necessary or convenient rules and regulations for the organization and conduct of said department, and for receiving and hearing complaints against any members and for the removal or suspension of any member of said department. The civil service rules prescribed in this Charter shall apply to every officer and member of the department and shall govern the actions of the Executive Board in its organization and government of said department.

### **Executive Board to Care for Property of Fire Department.**

Section 169. The Executive Board shall have the custody and management of all the public property, including the fire alarm telegraph, pertaining to the Fire Department. It shall have power and authority, subject to the limitations and appropriations made, and expenditures authorized by the Council, to purchase and acquire all necessary apparatus, including fire-boats, engines, hose, hose carriages, horses and all other personal property which the exigencies of an efficient fire department may require. It shall have power and authority to sell and dispose at public sale under the provisions of this Charter relating to sales of public property of any portion of said personal property whenever the same is not required, or when it may be considered by the said Executive Board unfit for service in said department. The proceeds of any such sale shall be paid by the purchaser to the Treasurer of the City, who shall issue a proper receipt therefor, and all such moneys shall be credited to the Fire Department Fund of said City.

### **Oath of Members of Fire Department.**

Section 170. All officers and members of the Fire Department serving on full time and devoting their labor exclusively to the interests of the City, before entering upon their duties, shall take an oath before the Auditor, similar in tenor and effect to that required of City officers, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of said Auditor.

### **Chief Engineer; His Duties.**

Section 171. The Chief Engineer shall be the executive officer of the said Fire Department. He shall devote his time and attention exclusively to its interests and shall engage in no other business. It is his duty and that of the assistant engineers to see that the rules and regulations of the Executive Board and the ordinances of the Council, are carried out, and also to attend to such duties as fire wardens as may be required

of them, and to see that all laws, orders and regulations established to secure protection against fire are enforced. It shall also be the duty of the Chief Engineer to enforce the rules and regulations made from time to time to secure discipline in said Fire Department, and he shall have power to suspend any subordinate officer, member or employe for a violation of the same, as prescribed by the civil service rules, and shall forthwith report such violation in writing, with his reasons for suspension, to the Executive Board. Upon consideration of the matter, the Executive Board may approve the action of the Chief Engineer or may disprove the same and reinstate such officer at once. The Executive Board, nevertheless, shall have power to suspend or remove any subordinate member or employe of the Fire Department in like manner as other appointing authorities under the civil service rules. The Chief Engineer shall diligently observe the condition of the apparatus and the workings of the department and report in writing thereon at least once a month to the Executive Board and make such recommendations and suggestions respecting the same as he may deem proper.

#### **May Destroy Buildings to Check Fire.**

Section 172. The Chief Engineer, or, in his absence, any Assistant Chief Engineer, may, during a conflagration, cause to be cut down, or otherwise removed, any buildings or structures for the purpose of checking the progress of such conflagration.

#### **Executive Board to Render Annual Statement to Council; Council May Require Monthly Estimates and May Limit Expenses.**

Section 173. The Executive Board shall, on the first day of January of each year, report to the Council in detail the expenditures of the Fire Department and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the Fire Department for the ensuing year. Said statement must show the number and class of employes in each branch of the department, the salaries to be paid and the number to be employed. Said statement shall also include a complete inventory of all the property of the Fire Department under their charge; a record of all fire alarms and fires which have occurred in the city during the preceding year, together with the cause of all such fires, so far as the same shall have been ascertained; also the amount of losses caused by such fires and the insurance thereon. The Council shall thereafter make such appropriations as it may deem necessary within the limits herein elsewhere prescribed to meet the expenses of the department and may also limit the

expenditure authorized during any month and may also require from the Executive Board monthly estimates in advance of the expenses of the Fire Department.

### **Executive Board to Examine and Pass on Payroll; Cannot Increase Salary Over Amount In Annual Report Without Consent of Council.**

Section 174. The Executive Board shall examine and endorse its approval on all pay-rolls and demands of the Fire Department, and after being so approved, the Auditor shall examine and audit them, and if correct and within the appropriation and authorized expenditure, they shall be paid as other accounts are paid out of the City treasury. The Executive Board shall not, without the approval of the Council, increase the salary of any officer or employe of the Fire Department above the amount estimated and stated in its annual report.

### **Executive Board In Emergency to Appoint Temporary Employes.**

Section 175. The Executive Board in case of any general conflagration or great emergency, may appoint such temporary employes as it may deem necessary and to whom civil service rules shall not apply.

### **Disabled Member of Fire Department to be Paid Pension.**

Section 176. When any member or officer of the Fire Department becomes badly disabled in consequence of and while in the performance of his official duties he may continue to draw his regular salary at the discretion of the Executive Board for a period not to exceed three months. If such disability incurred in consequence of and while in the performance of official duty shall appear to be of such character as permanently unfit such member for active duty in the Fire Department, he may be allowed by the Executive Board a pension of Ten Dollars per month to be paid monthly as other salaries of the members of the Fire Department are paid, but if such officers or members in such department on recovery from disability be assigned to duty and full pay, his pension shall cease.

### **Assignments of Disabled Members.**

Section 177. Members and officers of a higher grade who have done faithful service and have been disabled so as to unfit them for serving in the position occupied when so disabled may be assigned to other duties suitable to their physical abilities and shall always have preference in such assignments.

## **Leave of Absence.**

Section 178. The Executive Board shall grant annually to every permanent member of the Fire Department leave of absence of not less than one week, and not more than two weeks, and no reduction of pay shall be made therefor; and to every extra man in the department there shall be granted annually one week's leave of absence without reduction of pay.

## **(Police Department.)**

### **Police Department; How Organized; Executive Board to Make Rules and Regulations.**

Section 179. The Police Department of the City of Portland shall be appointed and organized, subject to the civil service rules of this Charter, except as hereinafter provided, by the first Executive Board appointed after this Charter takes effect. To that end the Executive Board may make all necessary or convenient rules and regulations for the organization and conduct of the police force, for the care and management of the City prison, for receiving and hearing complaints against any member of said force, for the removal or suspension of any member of said force, and for the forfeiture of all or any portion of the wages that may be due any member of such force on account of misconduct or negligence in the discharge of his duties; all the powers of said City connected with and incident to the appointment, discipline and government of its police shall be vested in the Executive Board of the City, except as herein otherwise provided.

### **Police Department to Consist of Chief, Captains, Etc.— Oaths of Office.**

\*Section 180. The Police Department shall consist of a chief of police, and all necessary captains of police, detectives, patrolmen, clerks, and a women's auxiliary. Every officer and member of the police force, including private, special, temporary and substitute policemen, before entering upon the discharge of his duties, shall take an oath before the Auditor, similar in tenor and effect to that required of city officers, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the Auditor.

\*As amended June 7, 1909.

### **Bond of Chief of Police.**

Section 181. The Chief of Police before entering upon the duties of his office shall file a bond in such sum as the Executive Board may require, not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000), with surety

or sureties to be approved by the Mayor, that he will faithfully perform the duties of his office. The Chief of Police after having taken the oath of office and filed his bond, shall thereafter, under the direction of the Executive Board, have command and control of the police force of said City. The chief of police and his sureties shall be responsible to the City or any person aggrieved, the same as sheriffs and their sureties now are.

\*Section 182. Every captain of said police force shall give a bond in the sum of Five Thousand Dollars (\$5,000.00); and every sergeant, patrolman, special patrolman, detective and clerk in the sum of One Thousand Dollars (\$1,000.00), with sureties to the satisfaction of the Mayor, for the faithful discharge of his duties, and the payment of any damage that may be adjudged against him by any tribunal for the illegal arrest imprisonment, or injury by him to any person. But the Council may by resolution, when it shall appear for the public interest authorize the acceptance of personal sureties on such bonds. The Chief of Police is a peace officer, and must execute all process issued by the Municipal Judge or directed to him by any magistrate of this State in criminal matters; he may make arrests for breach of peace or commission of crime within the limits of the city, with or without a warrant, as peace officers do under the laws of this State; he must exercise a vigilant control over the peace and quiet of the City; he shall keep a watchful care to prevent fires, and exercise like care over all property of the City and report to the proper authorities all waste of water, stoppage of sewers, and all damage to any city property; he is the keeper of the City prison or house of correction; he must attend regularly upon the sittings of the municipal court and the meetings of the Council; he shall exercise such additional powers as may be conferred upon him by the ordinances of said City to enable him to carry out the objects and purposes of this Charter.

\*As amended June 3, 1907.

### **Duties of Chief of Police; Executive Board May Suspend Members.**

Section 183. The captains of police, detectives and policemen shall possess like power and authority except as herein provided. The Chief of Police shall have control over captains, detectives, clerks and all policemen when they are upon duty, and shall see that the City ordinances, and the rules, orders and regulations for the government of the police force are observed and enforced, and he shall have power to suspend any subordinate officer, member or employe for a violation of the same, as prescribed by the civil service rules, and shall forthwith report such violation in writing, with his reasons for suspension, to the Executive Board. Upon consideration of the matter, the Executive Board may approve the action of the

Chief of Police or may disapprove the same and reinstate such officer at once. The Executive Board, nevertheless, shall have power to suspend or remove any subordinate officer, member or employe of the Police Department in like manner as other appointing authorities under the civil service rules.

#### **Fees to Be Paid Over to Treasurer; Record of Arrests.**

Section 184. The Chief of Police, or any officer of the police force, when acting under or enforcing any law or statute other than a city ordinance, is entitled to collect and receive the same fees and compensation as are allowed to a constable for like services, and he shall pay the same over to the City Treasurer, as provided in the case of fees received by the Police Judge; but no fees shall be taxed against Multnomah County for services rendered by either Chief of Police or Police Judge. The Chief of Police shall keep in his office a book of arrests, in which shall be entered by him, or under his direction, the name of every person arrested, the cause of such arrest, by whom the arrest was made and the date thereof.

#### **Fees, Rewards; Employment of Attorneys by Members of Police Force; Penalty for Violation of Provisions.**

Section 185. No member of the police force shall for his own benefit, under any pretense whatever, receive or share in any present, fee, gift, or emolument for public service, other than the regular salary and pay, except by the consent of the Executive Board and Chief of Police, publicly given, nor shall any member share in or receive any gift, fee or reward from any person who may become bail for any arrested, accused or convicted person, or who may become surety for any such, on appeal from or review of the judgment or decision of any court or magistrate, or any fee, gift or reward in any case from an attorney-at-law who may prosecute or defend any person arrested or prosecuted for any offense in Multnomah County; nor shall any member, directly or indirectly, interest himself or interfere in any manner whatever in the employment of any attorney to aid in the defense of any person arrested or accused; for any violation of either of the foregoing provisions the person so offending shall be immediately removed from the police force.

Upon the complaint of any person alleging a violation of this Section the Executive Board shall summon the officer accused before it and shall hold a summary hearing with power to subpoena witnesses and to compel the production of all necessary evidence and if it find that a violation of this Section has been committed by such officer he shall immediately be dismissed from the force and shall be ineligible for reappointment.



### **Special Patrolmen or Policemen.**

Section 186. The Executive Board is hereby authorized to appoint persons of suitable character special patrolmen or policemen, but such special policemen shall not be paid by the City for their services as policemen.

### **Examination of Premises of Pawnbroker, Junk Shop or Second-hand Dealer.**

Section 187. The Chief of Police may in writing empower any member of the police force, whenever such member is in search of property feloniously obtained, or in search of suspected offenders, to examine the books of any pawnbroker, or his business premises, or the business of any junk-shop, keeper or dealer in second-hand merchandise or intelligence office keeper, and such member of the force thereunto authorized in writing as aforesaid shall be allowed to examine any property purporting to be pawned, pledged or deposited in the possession of whomever such property may be; but no such property shall be taken from the possessor thereof without due process or authority of law.

### **Possession of Burglar's Tools a Misdemeanor.**

Section 188. Any person found in said City of Portland or within four miles of the corporate limits thereof, having in his possession any burglar's tools or implements of any kind commonly used by burglars in breaking into or entering houses, shall be deemed guilty of a misdemeanor, and upon conviction thereof before the police court, or other court of said City having competent jurisdiction thereof, shall be fined in a sum not less than Twenty-five nor more than One Hundred Dollars, or be imprisoned in the City jail for a period not less than ninety days nor more than twelve months, or both.

### **Duties of Police Force.**

Section 189. The police force of the City of Portland shall at all times of the day and night within the boundaries of said City preserve the public peace, prevent crime, arrest offenders, protect rights of persons and property, guard the public health, preserve order, remove nuisances existing in streets, roads, public places and highways, report all leaks or other defects in water pipes and sewers, and street lights not burning to the proper authorities, provide a proper force at every fire in order that thereby the firemen and property may be protected, protect strangers and travelers at the steamboat and ship landings and railroad stations, and generally obey and enforce all ordinances of the City Council and criminal laws of the State and of the United States.

**Executive Board to Examine and Pass on Payroll; Cannot Increase Salary Over Amount In Annual Report Without Consent of Council.**

Section 190. The Executive Board shall examine and endorse its approval on all pay-rolls and demands of the Police Department, and after being so approved, the Auditor shall examine and audit them, and if correct and within the appropriation and authorized expenditure, they shall be paid as other accounts are paid out of the City treasury. The Executive Board shall not, without the approval of the Council, increase the salary of any officer or employe of the Police Department above the amount estimated and stated in its annual report.

**Executive Board to Render Annual Statement to Council; Council May Require Monthly Estimate and May Limit Expenses.**

Section 191. The Executive Board shall on the first day of January of each year report in detail to the Council the expenditures of the Police Department and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the Police Department for the ensuing year. Said statement must show the number and class of employes in each branch of the department, the salaries to be paid and the number to be employed. The Council shall thereafter make such appropriations as it may deem necessary within the limits herein elsewhere prescribed to meet the expenses of the department and may also limit the expenditure authorized during any one month, and may also require from the Executive Board monthly estimates in advance of the expenses of the Police Department.

**Executive Board In Emergency to Appoint Temporary Employes.**

Section 192. The Executive Board in case of any mob, riot, pestilence, or on days of public demonstration may appoint such temporary policemen as it may deem necessary, who shall have all the powers and perform all the duties of regular policemen. Civil service rules shall not apply to such temporary policemen, nor shall they be required to furnish the bonds required of regular policemen. Such appointments shall not continue beyond the emergency.

**Executive Board to Appoint Eligibles From Civil Service List to Fill Vacancies.**

Section 193. The Executive Board may appoint a sufficient number of substitutes from the eligible list certified by Civil

Service Commission and under their rules, to fill all vacancies occasioned by the absence of any member of the force, who shall receive compensation only for the time they serve, and the amount of such compensation shall be deducted from the pay of the absent member.

### **Gaming and Lottery Houses, Obscene Public Amusements—Mayor and Executive Board to Suppress.**

Section 194. Whenever the Mayor or the Executive Board ascertains or receives satisfactory information that any house, room or premises within such City or within four miles of the corporate limits thereof is being kept or used as a common gaming house or common gaming premises for playing therein for wager of money at a game of chance, or if the same is kept or used for any lewd or obscene public amusement or the deposit of sale of lottery tickets or policies, it shall be lawful for the Mayor or the Executive Board to authorize and direct the Chief of Police or any officer of the force to enter such house, room or premises and forthwith arrest all persons therein found offending against any law and to seize all instruments of gaming, lottery tickets and lottery policies, and bring the said articles into court.

### **Same—Chief of Police to Cause Parties Interested In, to be Arrested.**

Section 195. The Chief of Police shall cause such arrested persons to be vigorously prosecuted and such seized articles to be destroyed, and the Executive Board shall cause the owner of such house, room or premises, his agent or representative to be notified in writing that such house, room or premises is being used for unlawful purposes, and it shall be the duty of the owner, agent, attorney or representative to cause the use of the premises for such unlawful purposes to cease.

### **Executive Board Successor to Police and Fire Department Relief Fund Board; Assessments Therefor.**

Section 196. The Executive Board is hereby constituted and appointed the successor of the Police and Fire Department Relief Fund Board and the powers and authority heretofore vested in said Board shall be vested in the Executive Board. Said Executive Board shall have power and is hereby authorized to assess upon each member of the Police and Fire Departments a sum to be deducted from the monthly pay of each member, not exceeding fifty cents per month; and the sum so fixed and deducted shall be paid into the City Treasury to the credit of the Police and Fire Departments Relief Fund and shall be used exclusively to relieve members of the Police and Fire Departments when sick or disabled from the performance of

duty, for funeral expenses, relief of their families in case of death, or for pensions when honorably retired from the Police or Fire Department.

### **Rewards, Fees, Etc., and Proceeds of Sale of Unclaimed Property to Go Into Said Fund; Investment Thereof.**

Section 197. All fines and forfeitures from policemen or firemen, all rewards, fees, proceeds of gifts, and amount of compensation for any extraordinary service of any member of the police or fire force, all moneys arising from the sale of unclaimed property or money, after deducting all expenses incident thereto, shall be paid into the City Treasury to the credit of the Police and Fire Relief Fund. The Executive Board shall invest the same from time to time when there is a surplus in United States bonds, bonds of the State of Oregon, bonds of the City of Portland, or loan the same upon first mortgage with improved real estate security valued at three times the amount of the loan. In the event of such real estate loans, an appraisal of the property, signed by at least three members of the Executive Board and approved by the Mayor, shall be filed with the other papers of the loan. The City Treasurer shall be the custodian of all bonds and loans provided for in this Section.

### **Disabled Members of Police and Fire Department: Pensions.**

Section 198. When any member or officer of the Police or Fire Department becomes badly disabled, in consequence of and while in the performance of his official duty, he may continue to draw his regular salary at the discretion of the Executive Board for a period not to exceed three months. If such disability shall appear to be of such character as to permanently unfit such member from active duty upon the police or fire force, he shall be allowed out of the Police or Fire Department Fund a pension of Ten Dollars (\$10.00) per month, to be paid monthly, as provided by this Charter for the salaries of the members of the Police and Fire Departments, but if such member or members of said Departments on recovery from such disability, be assigned to duty and full pay, his pension shall cease. Members and officers of a higher grade, who have done faithful service and have been disabled so as to unfit them from serving in the position occupied when so disabled, may be assigned to other duties, not inconsistent with the civil service provisions of this Charter, suitable to their physical abilities, and shall have preference in such assignments. When such members of the Department, in consequence of such partial disability, have been assigned to any position having a rate of compensation lower than the one to which such member was entitled previous to his disability, such assignment shall

not exclude him from receiving a pension, nor terminate the pension which may have been awarded him previously, provided that the total compensation shall not exceed full pay. The pension herein provided shall be set aside from and in addition to any allowance which may come from the Police and Fire Relief Fund heretofore provided. Any member or officer of a higher grade who has served continuously for the period of fifteen years, and who has reached the age of sixty years, may, on retirement from active service, be allowed by the Executive Board a pension of Ten Dollars (\$10.00) per month, to be paid as provided above for pensions on account of disability, so long as said pensioner remains a resident of the State of Oregon.

### (Control of Streets.)

#### **Street Cleaning and Sprinkling Department—How Organized—Executive Board to Have Charge of Property.**

Section 199. The Street Cleaning and Sprinkling Department of the City shall be appointed and organized by the Executive Board. The Executive Board shall appoint a superintendent and all other laborers and employes, subject to the civil service rules of this Charter. The Board shall have the custody and management of all property belonging to said Department and, subject to the limitations of the appropriations made and expenditures authorized by the Council, shall have power and authority to purchase and acquire all necessary equipment for an efficient department. It shall have power to sell and dispose of by public auction all personal property whenever the same is not required, or when it may be considered by the said Executive Board as unfit for service. The proceeds of any such sale shall be paid by the purchaser to the Treasurer of the City, who shall issue a proper receipt therefor, and all such moneys shall be credited to the General Fund of the City.

#### **Executive Board to Render Annual Statement to Council; Council May Require Monthly Estimates and May Limit Expenses.**

Section 200. The Executive Board shall on the first day of January of each year report to the Council the expenditures in detail of the Street Cleaning and Sprinkling Department and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the said Department for the ensuing year. Said statement must show the number and class of employes in each branch of the Department, the salaries to be paid and the number to be employed. The Council shall thereafter make such appropriations, within the limits herein elsewhere provided, as it may deem necessary to meet the expenses of the Depart-

ment, and may also limit the expenditure authorized during any month and may also require from the Executive Board monthly estimates in advance of the expenses of said department.

**Executive Board to Examine and Pass on Payroll; Cannot Increase Salary Over Amount In Annual Report Without Consent of Council.**

Section 201. The Executive Board shall examine and endorse its approval on all pay-rolls and demands of the said Department, and after being so approved, the Auditor shall examine and audit them, and if correct and within the appropriation and authorized expenditure, they shall be paid as other demands are paid out of the City Treasury. The Executive Board shall not increase the salary of any officer or employe of the Street Cleaning and Sprinkling Department above the amount estimated and stated in its annual report without the approval of the Council.

**Executive Board to Have Charge of Public Improvements.**

Section 202. The Executive Board shall have the exclusive management of the construction, reconstruction, maintenance and removal of all public and local improvements, including the grading, paving, curbing, or otherwise improving the streets, alleys, parks, boulevards and other public places of the City; all public, district and private sewers; of all sidewalks, crosswalks, bridges, elevated roadways, railways, viaducts, tunnels and other like structures; of all buildings to be constructed for or belonging to the City and the grounds surrounding the same; all excavations of streets, alleys or other public places; the erection of poles and stringing of wires, whether done by the City, corporations or individuals.

**Executive Board to Regulate Franchise In Streets, and Operations Thereon.**

Section 203. Whenever the Council shall by ordinance authorize or has heretofore authorized the erection, maintenance and removal of poles, wires and cables for telephones, telegraphs, electric lights, electric railways, electric motors or any other purpose, or the laying down of tracks and turntables for street cars and other railways or the laying and use of underground conduits or subways for the same, in, under, upon or over the streets, alleys or public parks and public grounds of said City, or in, under, over and upon any lands owned by or under control of said City, whether they be inside the limits of said City or not, the Executive Board shall have the power and authority to regulate the manner of carrying out the provisions of any such ordinance, and may pursuant to ordinance require

all wires and cables to be laid in such conduits or subways; and may pursuant to ordinance regulate the kind, manner and character of the rails to be used by the street railway companies and other railway companies within the limits of the City; and may require all companies building and operating such roads to conform to the street grades in all streets wherein the same are operated; and may fix and regulate, pursuant to the ordinances of the City, the opening of street surfaces and the places and manner of laying down and taking up all motor, gas, steam, sewer, and other pipes placed in the streets and other public places in said City.

### **Executive Board to Cause Streets to Be Repaired.**

Section 204. The Executive Board shall have power and authority to make all ordinary repairs to streets and elevated roadways and bridges which may be considered advisable, and the expense thereof shall be paid out of the Street Repair Fund.

### **Definition of Street in this Article.**

Section 205. The term "street," as used in this article, shall be construed to include any street, avenue, boulevard, alley, lane, bridge, bicycle path, road or public thoroughfare, and any land over which any right of way has been obtained, or granted, for any purpose of public travel.

### **(Lighting.)**

### **City May Contract for Lighting for Five (5) Years; May Provide Its Own Plant.**

Section 206. The City of Portland may contract for the lighting of public buildings, streets, avenues, parks, public grounds and places for any period not exceeding five (5) years. It shall have the power and authority to procure lands, either within or without the city, and purchase or construct the necessary buildings, engines, dynamos and other machinery, tools, lamps, lines, conduits, poles, towers and other apparatus and appliances constituting a plant for lighting the City by electricity or by any other means or system, and if the Council deem it advisable, it may purchase towers, poles, wires, lamps and other appliances, and cause lines of wire to be constructed, the use of which it may let to any persons or corporation contracting to light the City. It shall also have power to lay pipes and conduits in the highways, alleys and public places for gas or electric light wires, and to erect in the highways, alleys and public places poles, towers or posts for wires or lamps, and to place, construct and maintain the necessary lines of wires either below or above ground in the highways, alleys or public places.

## **City May Issue Bonds to Provide Plant.**

Section 207. The Council for the purpose of providing for the construction of the public lighting plant as herein provided, may raise money by tax or issue bonds of the City as hereinafter provided, or may raise said funds by both tax and bonds, as or the Council of the City may seem meet and to the best interests of the City; but any money raised by taxes for such purposes shall be subject to the limitations in this Charter as to the amount to be raised in any one year for lighting purposes. It shall also have power to issue bonds in like manner or raise moneys by tax for the purchase or construction of conduits, wires, posts, poles, towers, lamps and other apparatus and appliances for use by any party or parties contracting for the public lighting as herein provided. For the purposes aforesaid, the City is authorized to issue and dispose of bonds to the amount of \$300,000, of the denomination of from \$100 to \$1,000, as purchasers may desire, with interest coupons attached thereto, signed by the Mayor and countersigned by the Auditor, whereby the City shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay the bearer of each of the said bonds at the expiration of twenty-five (25) years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like coin, at the rate of four per centum per annum, payable half yearly, as provided in said coupons.

## **Proceedings On Contract for Lighting.**

Section 208. If the Council shall determine to contract for lighting, it shall by ordinance direct the Executive Board to enter into a contract for lighting the City, either by electricity or by such other means as it may determine, for a period of time to be mentioned in such ordinance, not exceeding five (5) years. It shall thereupon be the duty of said Executive Board to prepare specifications and advertise for a period of not less than sixty (60) days for proposals, and enter into a contract in behalf of the City with the lowest responsible bidder, for lighting the City by such means as are specified in such ordinance; provided, it shall be competent for the Executive Board to contract for lighting the public buildings and any part or portion of the City by different means or systems.

## **Procedure to Acquire Plant.**

Section 209. If the Council shall determine that it is advisable to establish a plant for public lighting, to be owned by the City, it may by ordinance direct said Executive Board to purchase the necessary lands, machinery, wires, poles, lamps, towers and other apparatus and appliances above mentioned



the cost of which shall not exceed \$300,000.00. It shall thereupon be the duty of said Executive Board, without further approval or confirmation of their contracts by the Council, to carry into effect the authority thereby conferred and to make the necessary purchase of lands, machinery, engines, tools, lamps, apparatus and appliances and construct the buildings required, and cause to be constructed or laid all necessary conduits and lines of wire below ground, and to erect and construct all necessary poles, towers, posts, lines of wire above ground and other apparatus and appliances, which shall be necessary or requisite according to such system or systems as it may deem best for lighting the City.

### **Special Election to Decide.**

Section 210. Before the Council shall direct said Executive Board to establish a plant as herein provided, it shall by resolution submit to the electors of the City, to be voted upon by said electors at a special election to be called for that purpose, the question as to whether the authority hereby conferred shall be exercised. The proposition shall be stated upon the ballots in the following form: "For a city lighting plant—Yes," "For a city lighting plant—No;" and any elector may vote for or against said proposition by marking a cross opposite said words "Yes" or "No," respectively. The votes upon said proposition and for and against the same, respectively, shall be certified, returned and canvassed in the manner now provided by this Charter for certifying, returning and canvassing votes cast for City officers. If a majority of the electors voting thereon in said City shall vote in favor of a City lighting plant, then the authority hereby conferred may be exercised; otherwise the same shall not be exercised. Notice shall be given by the Auditor by publication in the City Official Newspaper of the election to vote upon said proposition at least thirty days before the election.

### **City Electrician and Employees.**

Section 211. The Executive Board may, subject to the civil service rules of this Charter, employ an electrical engineer, who shall be known as the City Electrician, and also such other superintendents, engineers, clerks, agents and subordinates under them as may be necessary to carry into effect the provisions of this Charter, and may regulate and define their duties and prescribe their compensation.

### **Executive Board to Have Charge of City Lighting.**

Section 212. The Executive Board shall have general supervision and management of all public lighting, and of any plant established by the City, as herein provided for that purpose,

and all employes engaged in or about the construction or operation thereof, and shall make the necessary purchase of fuel, tools, supplies, materials, apparatus and appliances required in the operation and management of said plant, without further approval of confirmation of their contracts by the Council. The expenditures for the operation and management of said plant shall not exceed in any one year the tax levied for that purpose.

#### **Limit of Expenses for Lighting.**

Section 213. No contract shall be let, nor any purchase be made of any lands or property requiring the payment of any money, nor shall any moneys be paid for public lighting, in excess of the tax authorized to be levied by this Charter for that purpose and of moneys raised by issuing bonds as herein provided.

#### **Executive Board to Have Supervision of Wires, Etc.**

Section 214. The Executive Board, subject to ordinance, shall have the supervision of the construction of all the electric lighting lines of the wires in the City, whether owned by the City or by other parties, and of all connections made with any building or buildings, and no such wire or lines of wire shall be placed, laid, erected or constructed, nor shall any pole or post or conduit be laid, placed or constructed for such lines, nor any connection made with any building or buildings, except under such general regulations as it from time to time may adopt.

#### **Injuring or Destroying Lighting Property an Offense; Penalty.**

Section 215. Any person who shall cut, break, injure or destroy any building, engine, dynamo or other machinery, or appliances, poles, posts, towers, lamps, wires or conduits erected, constructed or used for the public lighting of the City, whether owned by the corporation or by any party or parties contracting for the lighting of the City, shall be deemed guilty of a misdemeanor, and shall be punished therefor by a fine of not less than twenty-five dollars nor more than one thousand dollars or by imprisonment not exceeding two years, or by both fine and imprisonment in the discretion of the court. The Circuit Court of the State of Oregon shall have jurisdiction of offenses under this section.

(Harbor.)

#### **Executive Board to Have Charge of Water Front; Harbor Master.**

Section 216. All the wharves, water front and harbor within the City of Portland shall be under the management and control of the Executive Board subject to ordinance.

The first Executive Board appointed after this Charter takes effect shall appoint, subject to civil service rules, a Harbor Master whose salary shall be fixed by the Council. The Executive Board may appoint subject to civil service rules such deputy Harbor Masters as the requirements of the City may demand, the number and compensation of whom shall be determined by the Council.

### **Rules and Regulations for Water Front; Duties of Harbor Master.**

Section 217. The Executive Board may establish such rules and regulations, not inconsistent with this Charter and the ordinances of the City, as it may deem right and proper for the control of the wharves and water front, and of the harbor and of the ships and vessels therein, and persons violating any of said rules and regulations shall be guilty of a misdemeanor and upon conviction thereof in the Municipal Court, or, in case of an appeal therefrom, in the Circuit Court of the State of Oregon for Multnomah County, shall be punished by a fine not exceeding \$250.00, or by imprisonment for a period not exceeding ninety days, or by both such fine and imprisonment in the discretion of the Court. It shall be the duty of the Harbor Master and that of his deputies to see that the rules and regulations of the Executive Board, and the ordinances of the Council, are obeyed, and he shall report in writing each month to the Executive Board the condition of the harbor and all matters of interest pertaining thereto, together with any recommendations looking to the better care and improvement of the same.

### **Duties of Harbor Master.**

Section 218. Said Harbor Master and said deputies shall be ex-officio members of the police force of the City and shall have the same power to make arrests for violation of ordinances of the City or of the laws of the State of Oregon as is possessed by other police officers of the City, and said Harbor Master and said deputies are especially charged with the duty of enforcing the laws of the State of Oregon relative to merchant seamen, and particularly the act of the Legislative Assembly of the State of Oregon filed in the office of the Secretary of State February 25th, 1889, entitled "An act for the prevention of and punishment for enticing or harboring seamen from ships and other vessels in the waters of the Columbia and Willamette rivers, or for arresting officers or seamen on such vessels, and to amend sections 1952 and 1953 of Hill's Annotated Laws of Oregon."

### **Bond of Harbor Master.**

Section 219. The Harbor Master shall give a bond in the sum of \$5,000.00 and each deputy in the sum of \$1,000.00.

Said bonds shall contain the same terms as bonds required herein of captains of police and patrolmen and the provisions of this Charter covering bonds of captains of police and patrolmen shall apply also to bonds of the Harbor Master and his deputies.

**(Pound.)**  
**Pound Master and Deputies.**

Section 220. The Executive Board shall, subject to the civil service rules, appoint a Pound Master, whose salary shall be fixed by the Council, and also such deputies and assistants as may be necessary for the efficient service of the department, whose number and compensation shall be determined by the Council.

**Rules and Regulations; Duty of Pound Master.**

Section 221. The Executive Board shall establish such rules and regulations, not inconsistent with this Charter and ordinances of the City, as it may deem right and proper for the control of the department.

It shall be the duty of the Pound Master and of that of his deputies and assistants to see that the rules and regulations of the Executive Board, and the City ordinances relating to the Pound Department are enforced and he shall report in writing each month to the Executive Board all matters of interest to the Department together with any recommendations he may have to make for the efficient administration of the same.

**(Water Board.)**  
**Water Board—How Organized.**

Section 222. There shall be a Water Board to consist of four members besides the Mayor. The Mayor shall be chairman and the Auditor clerk of the Board. The members of the Board shall be appointed by the Mayor for terms of four years, except as herein otherwise provided, and may be removed by the Mayor at any time; but on removing any member of the Board the Mayor shall make a written report to the Council setting forth his reasons for such removal and the same shall be filed in the Auditor's office.

**Same.**

Section 223. Upon the taking effect of this Charter, the Mayor shall immediately constitute the Water Board by appointing two members to serve for two years and two members for four years subject to removal as above provided and as these terms expire thereafter the Mayor in office shall appoint two members to serve for four years to fill the place of those members whose terms have expired.

## Vacancy—How Filled.

Section 224. In case of a vacancy occurring in the Water Board from any cause the same shall be filled by appointment by the Mayor for the unexpired period of the term of the member whose place became vacant.

## Water Board to Have Charge of Water Plant; Qualifications of Members.

Section 225. The said Board shall have charge of the water works and water plant of the City. No person shall be eligible for appointment as a member of said Board unless he is or has been, for at least five years next preceding his appointment, an elector of said City. No person shall be eligible for appointment who is directly or indirectly interested in furnishing water to the inhabitants of the City, or any part thereof, or to the City or any part thereof.

## City Authorized to Construct and Operate Water Works.

Section 226. The City is authorized and empowered to construct or purchase, keep, conduct and maintain water works and all necessary plants and facilities of a character and capacity sufficient to furnish the City and inhabitants thereof, as well as the places and people along or in the vicinity of the lines of pipes, conduits, or aqueducts constructed or used for such purpose with an abundance of good, pure, wholesome water for all uses and purposes necessary for the comfort, convenience and well being of the same, and to that end may acquire, by purchase or otherwise, and own and possess such real and personal property within and without the limits of the City as in the judgment of the Council may be deemed necessary and convenient, and for such purpose may also issue bonds and dispose of the same as hereinafter provided.

## City Authorized to Issue Bonds.

\*Section 227. For the purpose of carrying the provisions of this Charter relating to the water works into effect, for the construction of an additional pipe line or conduit from the head works on the Bull Run River to the City of Portland, for the purchase of land for and the construction of reservoirs necessary in connection therewith, and for laying water mains, including laterals, distributing mains, and mains for reinforcement, and for the purchase of water meters and for the installation of a meter system in the supply of water in the City of Portland, the Council of the City of Portland, and its successors in office, are hereby authorized and empowered in the name of the City of Portland, from time to time, as may be deemed expedient and necessary, to issue and dispose of bonds of the City of Portland

of the denominations of five hundred (\$500.00) dollars or one thousand (\$1,000.00) dollars, as the Council may determine, under the seal of the City of Portland, with interest coupons attached thereto. The amount of the several issues of such bonds shall be determined by the Council of the City of Portland, upon the recommendation of the Water Board, but the total issue of bonds is not intended to be limited except as provided by Section 88, of the Charter of the City of Portland. The said bonds shall be signed by the Mayor and countersigned by the Auditor of the City of Portland, and each of said coupons shall have the signature of the Mayor and Auditor of the City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds at the expiration of twenty-five years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like coin at the rate of four (4) per centum per annum, payable half-yearly, as provided in said coupon. The bonds issued in pursuance of the authority hereby granted shall be known as, "Water Bonds of the City of Portland." The bonds herein provided for shall be advertised and sold to the highest responsible bidder, and the Council may at its discretion reject any and all bids tendered for such bonds and proceed to readvertise for the same when the bids are not satisfactory. All moneys derived from the sale of said bonds, and all moneys received from water rates, shall constitute the Water Fund of the City of Portland, and shall be in the care and custody of the Treasurer of the City of Portland and credited to said Water Fund, and shall be paid out by the Treasurer on warrants of the Mayor, attested by the Auditor of the City of Portland, and not otherwise. The principal and interest of said bonds shall be paid out of the Water Fund of the City of Portland.

The Water Board of the City of Portland shall have power and authority to enter into the necessary contracts to purchase all necessary materials and supplies and to employ and discharge agents, workmen, laborers, and servants as it may deem necessary or convenient in the conduct, extension, operation and management of the water works, subject to the civil service rules (except that the Superintendent and Engineer of the Water Board shall not be subject to the civil service rules), and to do any other act in the construction, operation and maintenance of the water works of the City of Portland that may be deemed necessary or advantageous to said City.

All water mains, including laterals, distributing mains and mains for reinforcement hereafter laid or constructed shall be paid for out of the water fund, and not otherwise. There may be paid out of said water fund and refunded to all persons who have paid the City Treasurer assessments for the laying of water

mains in front of or adjacent to their property, in accordance with the provision of Section 227, of the Charter of the City of Portland, as amended by the act adopted by the electors of said City on the 3rd day of June, 1907, as aforesaid, the moneys, exclusive of interest, so paid, or that may be paid by them to the City Treasurer for the laying of water mains in front of or adjacent to their property; provided, however, that no moneys shall be so refunded on account of the construction of a main or mains until such time as the annual income therefrom shall be equal to six per cent of the original cost of said main or mains. Such refund shall be made by warrants drawn by the Mayor and attested by the Auditor when authorized by a vote of the Water Board of the City of Portland.

The Water Board shall not cause to be laid any water mains unless, in its judgment, the revenue that will be derived from water rates, within a reasonable period after the laying of such water mains, in the district in which the same shall be laid, shall produce a revenue equal to six (6) per centum per annum upon the cost of laying such water mains: Provided, however, that when the owner of property to be served by a water main, the income from which will not equal six (6) per centum of the cost of construction thereof, desires to construct such main, such owner may, when first authorized by the Water Board, construct said main, at his own cost and expense, provided the same is constructed in accordance with plans and specifications approved by the Engineer of the Water Board, and under the supervision of an inspector to be appointed by the Water Board, the cost of such inspection to be paid by the said owner; and at any time thereafter, when the annual income from such main shall equal six (6) per centum of the original cost thereof, the City of Portland may take over such main at a price not exceeding the original cost, less two and one-half (2½) per centum for depreciation.

The Council of the City of Portland shall have power and authority, when first recommended by the Water Board, to acquire any water works or water plant, or part thereof, either by the direct purchase of the same, or in pursuance of condemnation proceedings, in the manner prescribed by law for the appropriation of private property for corporate purposes or public use, and the cost of the same shall be paid out of the Water Fund. The Council shall annually, in pursuance of Section 235, of the Charter, upon the recommendation of the Water Board, fix and establish rates for the use and consumption of the water, sufficient to provide for the expense of maintaining and conducting the water works of said City, and the creation of a sinking fund not less than two (2) per centum of the par value of all outstanding bonds, including bonds hereafter issued pursuant to the provisions of this section, for the purpose of retiring and paying off said bonds. Said sinking fund shall be used and applied under the direction of the Water Board, either in the pur-

chase of any valid bonds issued by or due from the City at a premium of not to exceed ten (10) per centum, or in the payment and redemption of any of the aforesaid water bonds at a premium not to exceed ten (10) per centum, and said water bonds, when so acquired, shall be forthwith cancelled and deposited with the Auditor.

All bonds heretofore issued, authorized to be issued by the above entitled amendment to Section 227, of the Charter of the City of Portland, adopted by the electors of the City of Portland on the 3rd day of June, 1907, and by the above entitled amendment to said Section 227, as amended, adopted by the electors of the City of Portland on the 7th day of June, 1909, are hereby declared valid obligations of the City of Portland, and are in all respects hereby approved and confirmed."

\*As amended Nov. 8, 1910.

### **Water Committee to Deliver Property to Water Board.**

Section 228. When the Water Board is selected as in this Charter provided, the preceding Water Committee of the City of Portland shall turn over the City waterworks and plant to it, and all property pertaining thereto, together with all the books, papers and accounts relating to the construction or purchase thereof, as the case may be, and the Water Board shall thereupon take possession and charge of and shall, subject to ordinance, manage, conduct and maintain the same, and in so doing it may in like manner alter, improve and extend such works from time to time, and may, pursuant to ordinance, purchase and acquire on behalf of the City of Portland other waterworks and property, when the receipts from the waterworks are sufficient to defray the cost thereof and as the growth of the City and the wants and convenience of the inhabitants thereof may require.

### **Meetings: Quorum.**

Section 229. The Water Board shall meet in the City of Portland for the transaction of business regularly once a month on such day and hour thereof as it may determine and in such place as the Council may provide, and otherwise as often as may be deemed necessary and convenient. Three members of the Water Board shall constitute a quorum for the transaction of business.

### **Mayor to Execute Contracts and Sign Orders for Money.**

Section 230. The Mayor shall execute all written contracts and sign all orders for the payment of money authorized thereby.



## **Auditor Clerk of Water Board; His Duties.**

Section 231. The Auditor is the clerical officer of said Water Board, and he shall make and keep a fair minute of its acts and doings; countersign all orders authorized by it and signed by the Mayor, for the payment of money, and attest all written contracts signed by the chairman on its behalf; keep its accounts, and have the custody of its books and papers.

### **Payments: How Made.**

Section 232. The Treasurer shall pay out money from the "water fund" on the order of the Mayor, countersigned by the Auditor, and not otherwise.

### **Moneys: How Handled.**

Section 233. All moneys collected or received by the Water Board for the use and consumption of water or otherwise shall be deposited with the Treasurer of the City, who shall give such bonds, in addition to the bonds hereinafter provided, as the Council may require, who shall keep the same separate and apart from the other funds of the City, in a fund to be known as the "Water Fund," and pay it out only on the order of the Mayor, countersigned by the Auditor, and to the holder of any overdue interest coupon of the bonds aforesaid upon the presentation and surrender thereof, and not otherwise.

## **Water Board: Its Power and Authority; Employes; Civil Service Rules.**

Section 234. The Water Board has power and authority:

1. To employ, hire and discharge from time to time, subject to the civil service rules of this Charter (excepting that the Engineer and Superintendent shall not be subject to civil service rules), all such agents, workmen, laborers and servants as it may deem necessary or convenient in the conduct, extension, operation, and management of said waterworks and property.

2. Subject to ordinance to make all needful rules and regulations for the conduct and management of the same by the City and the inhabitants thereof.

3. To establish rates as hereinafter provided for the use and consumption of the water by the City and inhabitants thereof, including the people living along the line or in the vicinity of the works outside the City.

4. To provide for the payment of water rates monthly in advance and to shut off the water from any house, tenant or place for which the water rate is not duly paid or when any rule or regulation is disregarded or disobeyed.

5. To do any other act or make any other regulations necessary and convenient for the conduct of its business and the due execution of the power and authority given it by this Charter and not contrary to law.

### **Estimate of Expenses; Water Rates.**

Section 235. The Water Board shall, annually, before the first day of January, make a written estimate of the probable expenses of maintaining and conducting the waterworks during the ensuing year, and also the cost of any contemplated alteration, improvement or extension thereof, and thereupon ascertain and prescribe, as nearly as it conveniently can, a water rate for such year which will insure a sufficient income from the sale of water to pay such expenses and costs, together with one-year's interest on the bonds aforesaid then issued and outstanding, and also a sufficient amount to meet the interest on the bonds known as the East Side water bonds, which bonds are of a par value of \$250,000, and payment of which are assumed by the City of Portland under the act consolidating the cities of Portland, East Portland and Albina. Said estimate shall thereupon be submitted to the Council. The Council shall not increase the expenditures proposed, nor decrease the water rates set out therein, but it may reduce or omit any proposed items of expenditure or increase the rates to be paid for water. The Council shall by ordinance authorize the proposed expenditures to be paid only out of the water fund, and shall likewise fix the water rates for the ensuing year. In the case of any unforeseen or great emergency the Council may by ordinance at any time on recommendation of the Water Board authorize further expenditures to be made out of the "Water Fund."

### **Water Rates: How Fixed; Sinking Fund, How Used.**

Section 236. On and after January 1, 1905, a sum not exceeding two per cent of the par value of the bonds issued under this Charter and under the act of 1885 and amendments thereto, which created the Water Commission of the City of Portland, and said \$250,000 of the bonds known as the East Side water bonds, then outstanding shall be annually estimated for in fixing the water rate, in addition to the expenses, cost and interest aforesaid, and be collected as a part thereof; which sum, when so collected, shall constitute a sinking fund to be used and applied under the direction of said Water Board either—

1. In the purchase of any valid bonds issued by or due from the City at a premium not to exceed ten per cent.

2. To purchase of any of the bonds issued under said act of 1885, or acts amendatory thereto, or this Charter, or of the issue known as the East Side water bonds, at a premium not to exceed 10 per cent.

3. The payment and redemption of any of the bonds issued under said act of 1885 and acts amendatory thereof, under this Charter, and said bonds known as the East Side water bonds, as may be selected by lot on the first day of January of any year at a premium not to exceed ten per centum; all bonds purchased or redeemed under the second and third subdivisions of this section shall forthwith be cancelled and deposited with the Auditor.

### **Statement of Receipts and Disbursements to be Published**

Section 237. The Water Board shall cause a quarterly statement in detail of its receipts and disbursements to be made and signed by its chairman and filed with the Auditor, who shall preserve the same among the files of his office and shall cause the same to be published in the City Official Newspaper; and the Water Board shall cause to be made, filed and published as a part of its last quarterly report in each year an inventory or statement of the property, implements and material in its possession or control pertaining to the waterworks, together with the condition and approximate value thereof.

### **(Board of Health.)**

#### **Board of Health; How Constituted.**

Section 238. There shall be a Board of Health, which shall consist of three regularly certificated physicians who have been in active practice in this City for five years before the time of their appointment. No person shall be ineligible to serve thereon by reason of sex. They shall be appointed by the Mayor and shall have supervision of all matters appertaining to the sanitary condition of the City and its public institutions. The Chief of Police shall be a member of the Board by virtue of his office. The Mayor may remove any member at any time, but the grounds for such removal shall be stated to the Council in writing and filed with the Auditor.

The Council shall provide an office for the Board of Health.

#### **Same; Term of Office.**

Section 239. The members of the Board shall hold office for three years and serve without compensation. The terms of office shall be so arranged by lot that one of them shall go out of office each year. The Mayor shall be a member and chairman of such Board and the Auditor shall act as secretary of the Board.

#### **Same; Meetings.**

Section 240. Meetings of the Health Board shall be held

at least once a month, and whenever requested by the Mayor or two of its members.

### **Same; to Appoint City Physician and Health Officer.**

Section 241. Said Board shall appoint and remove at pleasure a City Physician who shall be a regularly certificated physician and whose duties shall be prescribed by the Council.

Said Board shall appoint a Health Officer who shall be the executive officer of the Board and see that the ordinances relating to the sanitary affairs of the city and the rules and regulations of the Board are enforced. Said Board shall appoint such other officers, agents and employes as may be necessary.

### **Council to Fix Salaries.**

Section 242. The Council shall fix the salaries of all officers, agents and employes appointed by the Board of Health. Such compensation shall not exceed the salaries paid for similar services in private institutions of like character in the city.

### **Powers of Health Board; Rules and Regulations.**

Section 243. The Board shall have the management and control of the City Hospitals, Ambulance Service, Receiving Hospitals, and supervision of all matters pertaining to the preservation, promotion and protection of the lives and health of the inhabitants of the city. It may adopt rules and regulations, not inconsistent with this Charter or city ordinances, for determining the character of nuisances, and providing for their abatement, and the discharge of its functions in general. Such rules shall be kept on file in the Auditor's office.

It shall have the sanitary supervision of all institutions of the city, including jails, school-houses and all public buildings; of the disposition of the dead; of the disposition of garbage, offal and other offensive substances.

It shall have exclusive control and disposition of all expenditures necessary in the institutions under its immediate control.

### **Duties of Health Board.**

Section 244. The Board shall enforce all ordinances, rules and regulations which may be adopted for the carrying out and enforcement of a good sanitary condition in the city; for the protection of the public health; for determining the nature and character of nuisances and for their abatement; and for securing the proper registration of births, deaths and other statistical information. It shall from time to time

submit to the Council a draft of such ordinances, rules and regulations as it may deem necessary to promote the objects mentioned in this section.

### **Health Board to Appoint Officers and Nurses; to Control Spread of Diseases.**

Section 245. The Board of Health may appoint and remove at pleasure such officers and nurses and all assistants as may be necessary to maintain the efficiency of the hospitals and pest houses established by the Council and may cause to be removed thereto and kept therein any person affected with a contagious or infectious disease whenever necessary for the preservation of the public health.

The ratio of employes to the inmates of any institution under the care of the Board shall not exceed that maintained by private institutions of like character in the city.

### **Health Board to Estimate Expenditures Salaries.**

Section 246. The Board of Health shall on the 1st day of January in each year report to the Council, in detail, the expenditures of the Health Department and the outstanding bills of the preceding year and also an estimate in detail, of the amount of salaries and other necessary expenses of the Health Department for the ensuing year. Such statement must show the number and class of employes in each branch of the department, the salaries to be paid and the number be employed, and shall further set forth such statistics as it may consider to be of benefit. The Council shall thereafter make such appropriation as it may deem necessary within the limits herein elsewhere prescribed to meet the expenses of the Health Department and may also limit the expenditures authorized during any one month and may also require from the Health Department monthly estimates in advance of its expenses.

## **LIBRARY.**

### **Ordinance of July 18, 1901, Ratified.**

Section 247. Ordinance No. 12302, enacted for the purpose of providing the inhabitants of the City of Portland with the free use of the library of the Library Association of Portland and approved by the Mayor on the 18th day of July, 1901, and all things done thereunder, are hereby ratified and confirmed.

### **Agreement between City and Library Association Authorized.**

Section 248. If Ordinance No. 12302 ceases to operate as set forth in section 249 of this Charter, the Library Association

of Portland and the City of Portland, by ordinance of the Council duly passed, may enter into an agreement for a term not to exceed ten years for the purpose of establishing and maintaining a public library under the management and control of said association and the City of Portland, and said agreement shall further provide for the management and control of said public library by a board of directors, to be chosen in such number and manner, and for such terms as may be therein agreed upon. In the event of such an agreement being entered into, the provisions of this Charter, except section 253 thereof, shall be considered to be a part of the said agreement.

### **Provisions for Library when Ordinance 12302 or Agreement Ceases.**

Section 249. Whenever said Ordinance No. 12302, or a similar contract made under this Charter, cease to operate by the terms thereof, or by mutual agreement of the Library Association and the city (which agreement the city through its Council is hereby authorized to enter into), or from any cause whatever, the following sections of this Charter shall at once be in force and effect.

### **Council May Levy Tax.**

Section 250. The Council may, for the purpose of establishing and maintaining a public library and such branches thereof as the Library Board may from time to time establish, and for purchasing books, journals and periodicals, and for purchasing or leasing real and personal property, and for constructing such buildings as may be necessary, annually levy a tax of not to exceed one-fifth of one mill upon each dollar of the assessed value of the taxable property in the City of Portland. The proceeds of such tax shall be credited to the Library Fund.

### **Library Fund.**

Section 251. All revenue from such tax, together with all money derived by gift, devise, bequest or otherwise, for the use of the library, shall be paid into the city treasury and be designated as the Library Fund, and be applied exclusively to the purposes herein authorized. If such payment into the treasury shall be inconsistent with the terms or conditions of such gift, devise or bequest, the Library Board shall provide for the safety and preservation of the same and the application thereof to the use of the public library, in accordance with the terms and conditions of such gift, devise or bequest.

## **Library Property to Belong to City.**

Section 252. The title of all property, real and personal, now owned or hereafter acquired by purchase, gift, devise, bequest or otherwise, for the purposes of the public library, when not inconsistent with the terms of its acquisition, shall vest in the City of Portland, and in the name of the City of Portland may be sued for and defended by action at law or otherwise.

## **Library Board—How Constituted—Term of Office.**

Section 253. For the management and control of such library, there shall be a Library Board of six appointed by the Mayor, besides the Mayor. Such Board shall hold office for three years from the first day of September in the year of appointment, and until their successors are appointed; but upon their first appointment they shall divide themselves at their first meeting by lot into three classes, one-third for one year, one-third for two years, and one-third for three years, and their terms shall expire accordingly. All vacancies shall be immediately reported by the Board to the Mayor, and be filled by appointment in like manner, and, if in an unexpired term, for the residue of the term only. The Mayor may remove any member for misconduct or neglect of duty.

## **Same—No Compensation.**

Section 254. No person shall be ineligible to serve upon the Library Board by reason of sex. No compensation shall be paid or allowed any member.\*

## **Powers of Library Board—Quorum.**

Section 255. The Library Board shall have charge of the public library and the branches thereof, and of all real and personal property thereunto belonging, or that may be acquired by loan, purchase, gift, devise or otherwise, when not inconsistent with the terms and conditions of the gift, devise or bequest. It shall have exclusive control of all moneys appropriated for the Library Fund and the supervision, care and custody of the rooms or buildings constructed, leased or set apart for that purpose. It shall meet for business purposes at least once a month, and at such times as it may appoint in a place to be provided by the Council for the purpose. A majority of the Board shall constitute a quorum for the transaction of business. It shall elect a librarian and such assistants as may be necessary. The Auditor shall act as secretary and shall keep an account of all property, money, receipts and expenditures and a record of all proceedings.

## **Rules and Regulations and Other Powers.**

Section 256. The Library Board, by a majority vote of all its members to be recorded in the minutes with the ayes and noes, shall have power—

1. To make and enforce all rules, regulations and by-laws necessary for the administration, government and protection of the public library and branches thereof, and all property belonging thereto, or that may be loaned thereto.

2. To administer any trust declared or created for such public library and branches thereof.

3. To define the powers and prescribe the duties of all officers; determine the number of and appoint necessary subordinate officers and assistants, and such appointments, except that of librarian, shall be made subject to the Civil Service rules of this Charter.

4. To purchase books, journals, publications and other personal property.

5. To order the payment from the Library Fund of any authorized liability or expenditure, upon vouchers certified by the Mayor and Auditor.

6. To fix the salaries of the librarian and his assistants; and, with the approval of the Council, expressed by ordinance, to erect and equip such building or buildings, room or rooms, as may be necessary for the public library and branches thereof.

7. To establish when authorized by ordinance such branches of the public library, as the growth of the city may from time to time require.

8. To extend the privileges and use of the public library and its branches to non-residents, upon such terms and conditions as the Board may prescribe.

### **Library Board to Make Report and Estimate of Expenses.**

Section 257. On or before the 1st day of January of each year, the said Library Board shall make a report to the Council, stating the condition of its trust, the various sums of money received from the Library Fund, and all other sources, and how much money has been expended, the number of books and periodicals on hand, the number added during the year, the number lost and missing, the number of books loaned out, and the general character of such books, with such other statistics, information and suggestions as it may deem of general interest. In such report the Board shall also make an estimate for the ensuing year of the sums of money required for operating



expenses, purchase of books and periodicals, purchase of supplies, repairs and alterations, and for such other ordinary and extraordinary expenses as will aid the Council to determine the proper amount of the levy provided for in section 250 of this Charter, and in making such estimate it shall be stated what sums of money will probably be received from trust funds, which by the terms of the trust are devoted to some particular part of the library expenses.

### **Council May Provide Building for Library.**

Section 258. The Council shall have power to appropriate and authorize the use, either in whole or in part, of any real estate belonging to the city for the purpose of erecting and maintaining a building or buildings thereon to be used for the public library or branches thereof, and may appropriate the whole or any portion of any public building belonging to the city for such use.

## **PARK BOARD.**

### **Park Board—How Constituted.**

Section 259. There shall be a Park Board to consist of four members besides the Mayor, and no person shall be ineligible as a member by reason of sex. The Mayor shall be chairman, and the Auditor, clerk of the Board. The members of the Board shall be appointed by the Mayor for terms of four years, except as herein otherwise provided, and may be removed by the Mayor at any time; but on removing any member of the Board, the Mayor shall make a written report to the Council, setting forth his reasons for such removal, and the same shall be filed in the Auditor's office.

Upon the taking effect of this Charter, the Mayor shall immediately constitute the Park Board by appointing two members to serve for two years, and two members for four years, subject to removal as above provided, and, as these terms expire, thereafter the Mayor in office shall appoint two members to serve for four years to fill the places of those members whose terms have expired.

### **Vacancies—How Filled.**

Section 260. In case of a vacancy occurring in the Park Board from any cause the same shall be filled by appointment by the Mayor for the unexpired period of the term of the member whose place became vacant.

### **Powers of Park Board—Qualifications of Members.**

Section 261. The said Board, except as herein otherwise provided, shall have the general management and supervision

of all parks, squares, openings and public grounds surrounding public buildings now owned or hereafter acquired by the city, and also shall have power to regulate and control the planting, trimming, growing, use, preservation and maintenance of all shade or ornamental trees, shrubs, plants or flowers in, upon or over any street, boulevard, path or sidewalk of the city. No person shall be eligible for appointment as a member of said Board unless he or she has been a resident of the city for at least five years next preceding the appointment.

### **Rules and Regulations.**

Section 262. The said Board may adopt such rules and regulations for the use, management and supervision of the parks, squares, openings, public grounds, and grounds surrounding public buildings, bath houses or other places of recreation, now belonging to the city or hereafter acquired by it, as to the Board may seem reasonable and necessary; such rules and regulations not to be inconsistent with the provisions of this Charter or the city ordinances.

### **Restriction on Exhibitions of Works of Art.**

Section 263. No work of art shall be placed in any park, or in any other public ground which is subject to the supervision of the Park Board, without its permission.

### **Park Fund.**

Section 264. All moneys, donations, devises, bequests and legacies received or donated to the city for park and pleasure purposes shall be taken up, held and accounted for by the city separately under the name of the Park Fund.

### **Employees to Give Bonds.**

Section 265. All employees acting in any fiduciary capacity in connection with the parks or pleasure grounds shall be placed under proper bonds.

### **Park Board to Hire Employees; Civil Service Rules.**

Section 266. The Park Board has power and authority to employ, hire and discharge from time to time, subject to the Civil Service rules of this Charter (except that of park-keeper shall not be subject to Civil Service rules), all such workmen and laborers as it may deem necessary to the proper conduct and management of the public places under its control.

## **Park Board to Make Report and Estimate of Expenses; Appropriations; Limitation on Expenditure.**

Section 267. The Park Board shall on the first day of January of each year report to the Council in detail, the expenditures of the Board and all outstanding demands of the preceding year, and also an estimate in detail of the amount of salaries and other necessary expenses of the said Board for the ensuing year. Said statement must show the number and class of employes, the salaries to be paid and the number to be employed. The Council thereafter shall make such appropriation, within the limits herein elsewhere provided, as it may deem necessary to meet the expenses of the Board, and may also limit the expenditure authorized during any month, and may also require from the Park Board monthly estimates in advance of the expenses of said Board. A failure so to furnish such estimates, when required, shall be sufficient grounds for the removal of one or all the members of the Board.

## **OTHER OFFICERS.**

### **Boards and Commissions to Serve without Pay.**

Section 268. No member of any board or commission shall receive any salary or other compensation for his services as such.

### **OFFICERS OTHER THAN COMMISSIONERS.**

#### **Auditor.**

Section 269. 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.

If a vacancy occur in the office of Auditor the Council shall appoint an eligible person to fill such vacancy until the next general election, subject to the provisions of law with respect to the recall of officers, and also subject to the provisions of this Charter declaring when a vacancy shall exist; the person appointed to fill such vacancy must within five days from the date of appointment or election qualify therefor as in the case of an officer elected for the full term or he shall be deemed to have declined and the office shall be considered vacant. Any such vacancy shall be filled at the next general municipal election for the unexpired term.

#### **Salary of Auditor—Bond.**

Section 270. The salary of the Auditor shall be fixed by the Council and shall not be less than thirty-six hundred

dollars per annum, payable monthly out of the General Fund in the same manner as other salaries are paid. He shall give a bond for the faithful performance of his duties in such sum as the Council may determine.

### **Auditor's Deputies—Civil Service Rules; Compensation of Deputies and Clerks.**

Section 271. 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.

### **Auditor and Deputies May Administer Oaths.**

Section 272. 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 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.

### **Duties of Auditor.**

Section 273. The Auditor is the accounting and clerical officer of the city. He shall be in personal attendance at his office daily during office hours. He shall receive and preserve in his office all accounts, books, vouchers, documents and papers 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 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. He shall make a semi-annual statement to the Council showing the receipts and disbursements of the city and the state of each particular fund at the close of business on the 31st day of May in each year, and shall also prepare and transmit to the Council on or before the 15th day of December in each year a report of the financial transactions of the city during the calendar year ending the 30th day of November, next preceding and of its financial condition at the close of business on said 30th day of November. The report shall contain an accurate statement in summarized form

and also in detail 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 property of said city, and of the accounts of said city with grantees of franchises and also a statement showing all franchises, permits, or other privileges then in effect, and the purpose for which the same were granted and the names of the present owners of each thereof.

As a part of each annual statement of the Auditor he shall include therein an inventory of all public property of the city together with its condition and approximate value and shall also include therein a summary of the assets and liabilities of the city.

#### **Auditor to Keep Account of Moneys; Audit All Demands.**

Section 274. The Auditor shall keep an account of all moneys paid into and out of the treasury. Any ordinance or resolution providing for the payment of any demand out of the treasury, whether from public funds or from private funds deposited therein, shall always be construed as requiring the auditing of such demand by the Auditor before the same be paid.

#### **Auditor to Keep Record of Demands Audited.**

Section 275. The Auditor shall number and keep an official record of all demands audited by him, showing the number, date, amount, name of the original holder, and against what appropriation drawn and out of what fund payable.

#### **Auditor to Approve No Demand Not Allowed by Proper Authority.**

Section 276. The Auditor shall approve no demand unless the same has been allowed by authority of the Council.

#### **Allowance of Certain Demands Prohibited.**

Section 277. No demand shall be allowed by the Auditor in favor of any person or corporation 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 who has 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; nor in favor of any officer who has neglected or refused to comply with any of the provisions of law regulating his duties; nor in favor of any officer or employe for the time he shall have absented himself without legal cause or duly granted leave of absence from the duties of his office during office hours, and the Auditor must always examine on oath any person receiving a salary from the city touching such absences.

### **Demands, How Presented and Audited.**

Section 278. Every demand upon the Treasurer except the salary of the Auditor must before it can be paid be presented to the Auditor, who shall satisfy himself whether the money is legally due, and its payment authorized by law, and against what appropriation and out of what fund it is payable. If he allows it he shall endorse upon it the word "Allowed," with the name of the fund out of which it is payable and the date of such allowance, and sign his name thereto, but if he disallow the same he shall endorse upon it the word "Rejected." No demand shall be approved, allowed, audited or paid unless it specify each several item, date and amount composing it, and have endorsed thereon the legal authority for its payment.

### **Auditor to Keep Register of Warrants; Shall Not Give Preference.**

Section 279. The Auditor shall keep a register of warrants, showing the funds upon which they are drawn, the number, in whose favor, for what service, and the appropriation applicable to the payment thereof. He shall not allow any demand out of its order, nor give priority to one demand over another drawn on 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.

### **Warrants—How Drawn for Audited Demands; Limitation on Issue.**

Section 280. When any demand has been duly approved and audited, the Mayor and Auditor shall draw warrants on the Treasurer therefor. Such warrants must be drawn on the fund appropriated therefor and be signed by the Mayor and attested by the Auditor; but no warrant, 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 of the City Treasurer and appropriated to the payment thereof upon presentation of same.

### **Auditor to Issue Licenses.**

Section 281. The Auditor must issue all licenses authorized by ordinance upon the delivery to him of the receipt of the Treasurer for the amount of money required for such license.

### **Auditor to Keep Records of Council.**

Section 282. 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.

### **Certified Copies—Fees Therefor.**

Section 283. 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 the same as 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.

### **Auditor Shall Keep Present Ownership Book.**

Section 284. 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.

### **Auditor to Receive Estimates of Expenses; Mayor to Prepare Budget; Council to Levy Tax.**

Section 285. On or before the first day of January in each year the several officers, commissioners, boards and departments of the city, except as in this Charter otherwise provided, shall prepare and file with the Auditor an estimate of the expenses and disbursements for the ensuing year of their respective offices, commissions, boards and departments. From such estimates the Mayor shall prepare his annual budget for the current expenses of the ensuing year and present the same with his annual message to the Council. When said budget has been received, the Council, by ordinance, shall estimate and declare the necessary amount of money to be raised by the general taxes and shall levy the necessary tax therefor which shall be certified by the Auditor to the County Clerk of Multnomah County, who shall extend the

said tax in an appropriate column upon the county tax roll. The said tax shall be collected by the officer collecting the county tax and shall be turned over by him to the City Treasurer within ten days after he has collected the same, with a statement of the amount of money so collected and the year or years for which the amount was collected. The tax levy as certified up to the County Clerk shall be in one sum and shall be entered in a column headed "City of Portland Tax." Neither the Sheriff nor the Tax Collector of Multnomah County nor said county shall receive any fees or compensation for collecting such taxes.

### **Appointive Officers.**

\*Section 286. As soon as convenient after their election the Council shall, by ordinance, appoint the following officers: Treasurer, City Engineer, City Attorney and Municipal Judge and Purchasing Agent.

\*See Section 161.

Section 286a. All appointed officers shall serve during the pleasure of the Council. All 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 officers 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 salary of every officer. The officers named in this section shall at the time of their appointment be citizens of the United States, residents and qualified voters of the City of Portland.

The Municipal Judge and City Attorney shall be attorneys of the supreme court of the state of Oregon. The city Attorney may have one or more deputies with same qualifications as the City Attorney, to be appointed by him, in writing, and to continue during his pleasure. The number and compensation of such deputies to be fixed by the Council and shall be deemed removed on the removal or resignation of the City Attorney.

### **Council May Create Offices or Abolish Same.**

Section 286b. 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.



Each Commissioner shall appoint and remove the incumbents of all subordinate offices and employments in his department, subject to the Civil Service Rules of this Charter.

### **Consulting Employes—Council May Appoint.**

Section 286c. 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.

### **Auditor to Keep Record of Franchises; Holders of Franchises to Make Reports.**

Section 287. The Auditor shall keep a separate record of 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 Circuit Court of the State of Oregon for Multnomah County, 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 addition

may impose a fine of not less than \$25.00 or more \$500.00 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 analagous to that on mandamus.

### **Treasurer.**

#### **Treasurer—Qualifications; Term of Office.**

Section 288. There shall be a Treasurer of the City of Portland, who shall have been a duly qualified voter of said city for at least five years next preceding his election. He shall be elected by the people and hold office for two years from the first day of July next succeeding his election, and until his successor is elected or appointed and has qualified.

#### **Salary of Treasurer—His Bond.**

Section 289. He shall receive an annual salary of twenty-four hundred dollars per annum, payable monthly out of the General Fund in the same manner as other salaries are paid. He shall give a bond of some surety company or companies to be approved by the Mayor in the sum of one hundred thousand dollars to secure the faithful performance of his duties.

#### **Treasurer May Appoint Deputy; Civil Service Rules; Council to Fix Salaries of Deputy and Clerks.**

Section 290. The Treasurer may appoint one deputy to continue in office during his pleasure and, subject to the Civil Service Rules, such clerks as may be necessary. The salary of said deputy and the number and compensation of said clerks shall be fixed by the Council.

#### **Duties of Treasurer.**

Section 291. The Treasurer is receiver of taxes, and shall receive and keep all moneys that shall come to the city by taxation or otherwise, and pay out the same upon the warrant of the Mayor, attested by the Auditor. He must keep an account with the General Fund and a separate account with each special fund that may be raised for any specific object, and when a warrant is drawn on any particular fund it shall be paid out of such fund only. The Treasurer shall make a semi-annual statement to the Council, showing the receipts and disbursements and the state of each particular fund at the close of business on the 30th day of June of each year, and shall also prepare and transmit to the Council on or before the 5th day of January of each year a report of the receipts

and disbursements of the city for the calendar year ending on the 31st day of December next preceding and the state of each fund at the close of business on said 31st day of December, and shall file the same with the Auditor. Such report must be published by the Auditor in such manner as may be prescribed by ordinance.

### **Treasurer Not to Lend City Money.**

Section 292. Except as hereinafter provided, the Treasurer shall not lend, use nor deposit any of the moneys received by him as such Treasurer or any part thereof, to or with any bank, banker, corporation or person, nor shall he pay out any part of such moneys nor allow the same to pass out of his personal custody, except as authorized by law or this Charter. If the Treasurer shall violate any of the provisions of this section he shall be deemed guilty of misconduct in office and be liable to removal therefrom and be proceeded against accordingly.

### **Banks May Apply for Deposits.**

\*Section 293. Any bank in the City of Portland with a paid-up capital of fifty thousand dollars, which desires to receive on deposit a portion of the city funds, shall file with the City Treasurer an application for such deposits. Such application shall state:

First—The amount and character of security the bank has to offer; and

Second—The rates of interest the bank will pay on open account and on time certificates of deposit (however, no standing funds shall be deposited on time certificates of deposit). The treasurer shall present such application, together with his recommendation, to the Council. The Council shall thereupon determine what bank or banks shall receive the city funds and be designated as depositaries of the city. The bank or banks receiving such deposits from the city will be required to deposit with the Treasurer either: Bonds of the City of Portland, Port of Portland, or School District No. 1, Oregon, the face value of which must be at all times equal to the amount of money on deposit by the city with said bank or banks; or bonds of any other city, county, municipality or school district within the State of Oregon; or well recognized railroad or street railway bonds, the interest upon which has not been in default for a period of six years prior to the offering of such bonds as security, and the market value of which is such that the net returns from the bond is no greater than five per cent. per annum.

Where state, county, municipal or school bonds, railroad

or street railway bonds, except City of Portland, Port of Portland, and School District No. 1 bonds, are offered as security, the market value of the same at all times shall be kept not less than one and one-quarter times the amount of the city deposit in said bank or banks.

The Council shall determine the relative value of all securities offered, and when the same rate of interest is bid, the Council shall give preference to the bank or banks offering bonds of the City of Portland, Port of Portland, or School District No. 1, Oregon, as security. The Council may at its option reject any securities offered.

\*As amended June 7, 1909.

### **Treasurer to Deposit in Banks Designated by Council.**

Section 294. After the Council designates what bank or banks are city depositaries all the funds then in the hands of the City Treasurer, or thereafter received by him, shall be deposited in the banks so designated, in the name of the City of Portland, and subject to the order of the City Treasurer. All interest upon city funds shall be paid to the city.

### **Treasurer to Make Monthly Statements of Deposit.**

Section 295. The Treasurer shall make monthly statements of the amount of moneys deposited, as hereinbefore provided, giving separately the amounts deposited on open account and in interest-bearing certificates in each bank, and shall file such statements with the Auditor, who shall present the same to the Council at its next regular meeting thereafter. The Treasurer shall furnish a copy of such report, together with a statement of the amount and kind of security pledged for such deposits, to any newspaper applying therefor.

### **Liability of Treasurer for Deposited Funds.**

Section 296. When the funds in the hands of the Treasurer shall be deposited, as hereinbefore provided, such Treasurer shall be exempt from all liability therefor by reason of the loss of any such deposited funds, from the failure, bankruptcy or any other acts of any such banks or bankers, to the extent and amount of such funds in the hands of such bank or bankers at the time of such failure or bankruptcy, but for no cause shall he be discharged from his liability to the City for the care and custody of the securities deposited with him by the banks or bankers acting as depositaries of the City funds.

### **When Treasurer Shall Keep Possession of Funds.**

Section 297. If no bank or banks will agree to take the money of the City on deposit on terms satisfactory to the Coun-

cil, as provided in this Charter, the Treasurer shall keep the same in cash in his own possession.

### **Council May Require Additional Security From Banks.**

Section 298. Whenever from any cause the Council shall deem the securities pledged by any bank insufficient and inadequate security for the funds of the City deposited with such bank, the Council shall require other or additional securities to be given by such bank to be approved by the Council; and if such bank shall fail promptly to furnish such securities the Treasurer at once shall withdraw all deposits from such bank and such bank shall cease to be a depository of the City funds until it shall be reinstated as such by vote of the Council after it has deposited securities satisfactory to the Council.

### **Treasurer to Be In Personal Attendance at Office; Fees.**

Section 299. The Treasurer shall be in personal attendance at his office each day during office hours. No fees of any kind shall be retained by him, but the same from whatsoever source received or derived shall be paid by him into the treasury.

### **Receipts—How Issued by Treasurer.**

Section 300. The Treasurer, on receiving any money into the Treasury, shall make out and sign two receipts for the money, such receipts shall be alike, except that upon the face of one of them shall appear the word "Original" and upon the face of the other shall appear the word "Duplicate." Such receipts shall be numbered and dated, and shall specify the amount, on what account and from what person or officer received, and into what fund or on what account paid. The Treasurer shall enter upon the stubs of such receipts a memorandum of the contents thereof, and deliver the receipt marked "Original" to the person or officer paying such money into the Treasury, and forthwith deliver the receipt marked "Duplicate" to the Auditor, who shall write upon its face the date of its delivery to him, and charge the Treasurer with the amount specified therein, and file the receipt in his office.

### **City Officers of Agents to Pay Money of the City to Treasurer; Penalty for Failure.**

Section 301. Any officer or agent of this City or other person who shall receive or have in his hands any money belonging to the City, shall immediately pay the same to the Treasurer and a receipt thereof in duplicate shall be issued and one of the receipts shall be delivered to the Auditor by the Treasurer. If any such officer, agent or other person shall fail to pay to

the Treasurer any money so received, for more than forty-eight hours after the money shall have been received by him, such officer, agent or other person shall forfeit to the City double the amount of money so received, to be recovered by civil action brought by the City against him in a court of competent jurisdiction.

### **(City Engineer.)**

#### **City Engineer; How Appointed; Qualifications of.**

Section 302. There shall be a City Engineer of the City of Portland, who shall have been a duly qualified voter of said City; he shall be appointed and may be removed by the Mayor, but in case of such removal the grounds therefor shall be transmitted by the Mayor to the Council and filed with the Auditor; he must have been in the practice of his profession for not less than ten years, and have had responsible charge of work for at least five years.

#### **City Engineer; Salary; Deputies; Fees.**

Section 303. The City Engineer shall appoint one or more deputies and such other employes as may be necessary, subject to the civil service rules of this Charter. The salary of the City Engineer shall be twenty-four hundred dollars per annum, and the number and salaries of the deputies and employes of the department shall be determined by the Council, but no deputy or employe shall receive more than \$1800 per annum. The Engineer shall serve the City exclusively, and shall not be engaged in other business while he is in its service. He shall receive no compensation other than his salary. The Council, by resolution, shall establish fees and charges for the services to be performed by the City Engineer for persons, companies, counties and corporations and may from time to time change and adjust the same. The City Engineer shall require such fees or charges to be paid in advance for any act or service demanded of him, and such money thus paid shall be paid to the Treasurer and credited by him to the general fund.

#### **Duties of City Engineer; Filing of Plats.**

Section 304. The City Engineer shall keep himself informed of the condition of all public streets, squares, parks, grounds, highways, bridges, sewers and street lights, and all plans and specifications for the construction, improvement or repairs thereof shall be made by him or under his supervision; and he shall have supervision of all surveys of streets, squares and parks, and all construction, improvements and repairs herein specified, whether such work be done by contract or otherwise. Before any ordinance is passed for the improvement of any street, highway or elevated roadway, he shall certify in writing to the

Council as to the suitability of such proposed improvement, to the needs and requirements of the City; he shall see that the provisions of all contracts, ordinances and regulations relating to the construction, improvement and repair of streets and property herein designated are strictly complied with, and no claim for work as herein specified shall be allowed or paid out of the City Treasury without the certificate of the City Engineer that said work has been done to his satisfaction; but any contractor or property owner feeling himself aggrieved by the determination of the City Engineer may appeal to the Executive Board, and if upon such appeal it be determined that such work was done well and faithfully according to contract, the Executive Board may accept said work and direct that the same be paid for.

The City Engineer shall keep proper records of all matters relating to the business of his office, and report to the Executive Board or other boards, commissions or the Council from time to time such suggestions and recommendations as to matters connected with his department as he may deem expedient. It shall be the duty of the City Engineer to make all surveys, plans, specifications, maps and estimates for all the public works in the City or on property belonging to the City, and to perform such other duties as may be required of him by the Executive Board, other boards, commissions or Council or ordinances of said City.

No new plat of lands within the City nor of any addition to the same, shall be filed for record, nor shall any street, alley or other way be dedicated, until the plat or dedication shall have been submitted to the City Engineer, together with proof that all taxes and special assessments on the property included been paid, or application to pay the same under the provisions of the bonding act has been accepted, and until he shall have endorsed thereon his certificate that the taxes and street assessments appear to have been paid, or payment provided for under the bonding act, and that the plan of such lands, addition, street or way is of a suitable and convenient character. Any person aggrieved by the failure or refusal of the City Engineer to certify a plat or dedication may appeal to the Council, which shall hear and determine the matter with all convenient speed, and if it reverse his decision a certified copy of the resolution declaring such action shall be attached to the plat or dedication in lieu of the certificate.

And when the Council shall determine, upon the certificate of the City Engineer or otherwise, that the plan of any addition or of any plat or dedication is improper or unsuitable it may, by resolution, require the filing of a new plat subject to the conditions hereinbefore set forth, as a condition to the establishment of any grade, or the improvement of any street in such addition.

## **City Engineer to Act for All Boards or Commissions.**

Section 305. The City Engineer shall be the consulting engineer of all boards and commissions authorized by this Charter or created hereafter in pursuance thereof, but he shall receive no compensation or salary therefor other than his salary as City Engineer.

### **(Civil Service.)**

## **To What Persons and Offices Civil Service Rules Apply.**

Section 306. 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 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 Chief of Police Department, the Superintendent and the Chief Engineer of the Water Department and the Secretary of the Civil Service Commission, the Mayor's Secretary, the members of the Health Department and the Librarian.

## **Civil Service Commissioners—How Appointed; Qualifications of.**

Section 307. The Civil Service Commission 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.



## **Secretary—Commission to Appoint.**

Section 308. The Commission shall appoint a secretary, who shall keep records of its proceedings, preserve all reports made 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 Commission. His salary shall be fixed by the Council, and shall be not less than \$100.00 per month. At the request of the Commission, 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.

## **Commission to Classify Places and Employments.**

Section 309. The Commission 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.

## **Commission to Publish Rules and Keep Examination Papers.**

Section 310. The Commission shall make rules to carry out the purposes and provisions of this Article, which rules shall provide, in detail, the manner in which examinations shall be held, and appointments, promotions and removals made in pursuance thereof; and the Commission may, from time to time, change its rules. Such rules, and all changes therein, shall be forthwith printed for distribution by the Commission, and the Commission 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 Commission shall keep on file all examination papers and the markings thereof, and all other papers, documents and communications received by them; and all records and files of the Commission shall be public and accessible at convenient times, as other public records and documents; but examination papers and markings need not be preserved more than five years.

## **Examinations—How Held.**

Section 311. The Commission 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 examinations shall be confined to 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 to residence, age, health, habits and moral character as may, by rule, be prescribed by the Commission. Notice of the time, place and general scope of every examination shall be given by the Commission 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 Commission for 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 opinions, affiliations or services. The Commission 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 Commission, he shall, without being entitled to extra compensation therefor, act as such examiner. Any commissioner may act as an examiner. No examiner shall receive any compensation for his services as such.

## **Commission to Keep Register of Positions and Applicants Therefor; Method of Keeping.**

Section 312. The Commission 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 Commission, and who are otherwise eligible. Such persons shall take rank upon said 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 Commission 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.

## Vacancies, How Filled; Employes of Six Years' Standing to Be Reappointed.

Section 313. Whenever there shall be a vacancy in any position in the classified civil service, the appointing authority shall immediately notify the Commission thereof. The Commission 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 Commission 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 Commission 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 Commission 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 Commission, 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 Commission 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.

### Temporary Appointments.

Section 314. 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 longer than thirty days.

## **Restrictions on Appointments.**

Section 315. 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 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.

## **Promotions—Rules Regarding.**

Section 316. The Commission 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 promotions shall be competitive among such members of the lower ranks established by the Commission for each department as desire to submit themselves to such examination; and the Commission 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 the same, as near as may be, as provided for applicants for original appointment. But the Commission 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 Commission shall give the same at least equal value with the record on examination for promotion.

## **Removals—Investigation—Suspension—Commission to Make Reports.**

Section 317. No employe in the classified civil service who shall have been permanently appointed under the provisions of this article shall be removed or discharged except for cause, a written statement of which, in general terms, shall be served upon him and a duplicate filed with the Commission. Such removal or discharge may be made without any trial

or hearing. Any employe so removed may within ten days from his removal file with the Commission a written demand for investigation. If such demand shall allege, or if it shall otherwise appear to the Commission that the discharge or removal 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 Commission, or by or before some officer or board appointed by the Commission to conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal or discharge 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 employe. On such grounds the Commission may find that the employe so removed is entitled to reinstatement upon such conditions or terms as may be imposed, by the Commission, or may affirm his removal. The findings of the Commission, or such officer or board, when approved by the Commission, shall be certified to the appointing officer and shall be forthwith enforced by such officer.

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 employes, discharges shall be made in the inverse order of appointment, and if such offices or places shall again be created or reinstated the employes so removed (except as to emergency employes) shall have preference for reappointment in the order of their discharge.

The Commission 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 Commission at any reasonable time.

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.

### **Commission to Be Provided With Office, Etc.**

Section 318. The Council shall furnish the Commission 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.

## Commission to Keep Roster of Employes; General Provisions.

Section 319. It shall be the duty of said Civil Service Commission 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 of 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 to the Commission all the information which may be reasonably requested, or which the regulations established by the Commission 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 Commission 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 Commission 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 Commission to the Auditor as having been appointed or employed in pursuance of this Article and of 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.

### **Commission May Make Investigations; Powers of.**

Section 320. 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 Commission under the provisions of this Article each Commissioner and the secretary shall have the power to administer oaths. Said Commission 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 employes of the City shall afford the said Commission all reasonable facilities in conducting any investigations authorized by this Article, and give inspection to said Commission of all books, papers and documents belonging or in any wise 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.

### **Misdemeanors of Commissioners—What Are.**

Section 321. Any Commissioner, examiner, or any other person who shall wilfully or corruptly, by himself or in co-operation 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.

### **Political Assessments Prohibited.**

Section 322. 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 contribution. 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 assessment, 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.

#### **Bribery—"Public Officer" Defined.**

Section 323. 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 at 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 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.

### **Recommendations of Applicants—How Limited.**

Section 324. 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.

### **Political Services.**

Section 325. 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.

### **Violation of Civil Service Provisions a Misdemeanor.**

Section 326. 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.

### **Penalty for Misdemeanor Under this Article; Jurisdiction of.**

Section 327. 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.

### **Mechanics and Laborers—Preference—Minimum Wage.**

Section 327a. 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.

### **Judiciary. Municipal Court.**

#### **Municipal Court Created.**

\*Section 328. There is hereby created a Municipal Court for the City of Portland, which shall be known and described as the "Municipal Court for the City of Portland," which shall be a court of record, having a seal.

\*See Section 161.

#### **Jurisdiction of Municipal Court.**

Section 329. Said Municipal Court shall have jurisdiction of all crimes defined by ordinances 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; 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 a 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 judge thereof, his successor or a person appointed by the Mayor to preside as such judge as hereinafter provided.

### **Municipal Judge; Qualifications; Term of Office.**

Section 330. The Judge of the Municipal Court shall be an attorney of the Supreme Court of the State of Oregon, and must have been an elector of the City and State for at least five years preceding his election. He shall be elected by the people and hold office for the term of two years and until his successor is elected or appointed and has qualified. He shall qualify on or before the first day of July next succeeding his election. He shall receive a salary of \$1,800.00 per year, payable monthly, out of the general fund in the same manner as other salaries are paid therefrom.

### **Clerk of Municipal Court Appointed by Executive Board; His Duties; Records.**

\*Section 331. The Municipal Judge is authorized and empowered to appoint a clerk of said Court who shall perform the duties as clerk of said court and of the Police Department. He shall record all the proceedings of said Court in convenient books or records kept by him for that purpose. The records so kept shall be public records, subject to examination and inspection as other public records. Said clerk shall hold his office during the pleasure of the Municipal Judge, and until his successor is appointed and qualified. Said clerk shall not be subject to the civil service rules. The clerk of the Municipal Court shall receive a salary of \$100 per month payable out of the general fund, in the same manner as other salaries are paid out of said fund. 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 to receive for and in behalf of the Court or the Judge thereof, and subject to the direction of the presiding judge, money deposited for bail, all fines and costs imposed by the Court or Judge 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 other duties required of him by the presiding Judge. He shall execute a bond in such sum as the Council may order, to be approved by the Mayor, conditioned for the faithful performance of his duties, which shall run to the City of Portland and to whomsoever it may concern, and such bond shall be filed with the Mayor.

\*As amended June 5, 1905.

## **Proceedings In Municipal Court; Jury Trials.**

Section 332. All proceedings before the Court or Judge thereof, including all proceedings for the violation of any City ordinance, are governed and regulated by the general laws of the State applicable to the justice of the peace or justices' courts in like or similar cases, except as in this Charter otherwise provided; but in a proceeding for the violation of a City ordinance the trial should be before the Judge and without a jury, unless the defendant, on demanding a jury, shall deposit in Court a sum sufficient to pay the per diem of such a jury for one day. The jurors summoned or serving in said Court shall be paid the same per diem and mileage as is required to be paid jurors serving in justices' courts, the same to be paid out of the City Treasury, the Judge of said Municipal Court to issue certificates of the amount due for said service, the same to be presented to the Auditor and warrants therefor drawn upon the Treasurer in the manner provided by the Council.

### **Fines, Costs, Fees and Expenses Recovered to be Paid to Treasurer.**

Section 333. All fines, costs, fees and expenses taxed against or received from any defendant in a criminal proceeding before the Court or Judge thereof, either for the violation of a City ordinance or law of the State, shall, when received or collected, be paid by said Judge to the Treasurer, who shall give him duplicate receipts therefor, one of which shall be filed with the Auditor; and all fines imposed by the Court or Judge and penalties recovered before either for a violation of a City ordinance or a law of the State, shall, when received or collected, be disposed of by him in like manner, and said Judge shall not be entitled to have or receive any fee or compensation for any act by him done or performed, or by virtue of this Charter, other than the salary herein provided.

### **Fees When Acting as Justice of the Peace.**

Section 334. When any service authorized by law to be performed by a justice of the peace shall be performed by the Municipal Court or Judge thereof, there must be taxed and collected therefor the fees or compensation prescribed by law to be charged by a justice of the peace for such services, and all such fees and compensation shall be paid over to the Treasurer as is elsewhere provided in this Charter.

### **Mayor to Appoint Temporary Judge in Absence of Municipal Judge.**

Section 335. In case of illness or temporary absence of the Judge of the Court, the Mayor may designate any person hav-

ing the qualifications of a judge of the court to preside as such Judge; he shall forthwith take the oath of office and perform the duties of the Judge of the Court during the temporary absence or disability of the Judge thereof. Such substitute shall be paid by the City at the same rate as the Judge for the time he serves, which amount shall be deducted from the salary of the Judge.

### **Appeals From Municipal Court.**

Section 336. Except as hereinafter stated, appeals may be taken and shall be allowed from final judgments rendered in the Municipal Court in all actions, both civil and criminal, under the same circumstances on the same conditions, in the same manner, and with like effect, that, under the laws existing at the time of the rendition of any such judgment, appeals may be taken and shall be allowed from final judgments rendered in similar actions in justices' courts. Any defendant who is convicted of any crime defined or created by this Charter, or of a violation of any ordinance, rule or regulation of the City of Portland, and is sentenced to any imprisonment or to pay a fine exceeding twenty dollars, may, within five days from the date of such conviction and judgment, appeal to the Circuit Court of Multnomah County, by giving to the City Attorney a written notice of appeal and filing an undertaking on appeal, with one or more sureties, to be approved by the Municipal Judge in said Municipal Court, which undertaking shall be to the effect that such defendant and appellant shall pay all costs awarded against him on the appeal and render himself in execution of any judgment rendered against him on the appeal; and the City may appeal to said Circuit Court from any final judgment in any such criminal action by serving upon the defendant therein or his attorney and filing in said Municipal Court a written notice of appeal, within five days from the date of the rendition of such final judgment.

### **Pending Actions to be Proceeded With.**

Sections 337. All actions and proceedings pending in the Municipal Court of the City when this Charter takes effect shall thereafter be proceeded with in accordance with the provisions of this Charter, or any City ordinance applicable thereto, and continue in force by this Charter.

### **Removal of Municipal Judge; His Successor.**

Section 338. The Council may at any time, for cause, by a two-thirds vote of all its members, remove the Municipal Judge from office. Upon any such removal the Mayor shall appoint a successor to said Municipal Judge, who shall possess the

qualifications required of the Municipal Judge by this Charter, and who shall qualify in like manner.

### **City Attorney.**

#### **City Attorney; His Qualifications; Term of Office.**

Section 339. The City Attorney shall be an attorney of the Supreme Court of the State of Oregon and shall be an elector of the City and of the State of Oregon at the time of his election, and must have been such for at least five years preceding such time. He shall be elected by the people and hold office for the term of two years and until his successor is elected or appointed and has qualified. He shall qualify on or before the first day of July next succeeding his election.

#### **Duties of City Attorney; Salary of; Generally.**

Section 340. The City Attorney must attend to, and shall, subject to the direction of the Council, have control of all actions, suits or proceedings in which the City is legally interested, and must attend to the prosecution of every person charged with the violation of a City ordinance, or of any regulations adopted under authority of this Charter, or with the Commission of a misdemeanor as declared by this Charter or by virtue of its authority. In any prosecution for violation of any regulation adopted by the Executive Board, or any other board created by this Charter, the City Attorney shall act under the directions of such board, subject to such paramount control as is given to the Council by this Charter.

He shall prepare for execution all contracts, bonds or other instruments to which the City is a party; he shall give his advice and opinion in writing concerning any matter in which the City is interested when required by the Mayor, Executive Board, Water Board, or other board or body, Council or any committee of the Council; he may have one or more deputies, to be appointed by him in writing and to continue during his pleasure, the number and compensation of such deputies to be fixed by the Council. The salary of the City Attorney shall be \$2400 per annum, payable in monthly installments out of the City Treasury.

#### **Same—In Municipal Court.**

Section 341. It shall be the duty of the City Attorney in person or by deputy to prosecute without charge, other than the salary paid him as City Attorney or deputy, all causes brought before the Municipal Court for any violation of the ordinances of the City, or of regulations adopted under the authority of this Charter, or for the commission of any misdemeanor as declared by this Charter or by virtue of its authority.

## **Council to Provide Office for City Attorney.**

Section 342. The City Attorney shall have his office and headquarters in such rooms in the City Hall as the Council may designate, to be provided and furnished at the expense of the City, which shall be open on all business days during such hours as the Council shall fix.

## **City Attorney's Records.**

Section 343. The City Attorney shall have charge and custody of said office and of all legal papers pertaining thereto, which shall be arranged and indexed by him in such convenient and orderly manner as to be at all times readily accessible. He shall keep in said office a complete docket and duplicate pleadings of all suits, actions or proceedings in which the City or any department or official thereof is interested, pending in any court or tribunal, upon which docket such appropriate entries shall be made as to show at all times the condition of each one of such cases. He shall also keep and record in a book to be provided for that purpose, the original or duplicate copies of all written opinions furnished by him to the City, or to any department or official thereof, and also of all certificates of titles furnished to the City, or any department or official thereof by him, and all abstracts of titles which shall hereafter be furnished to or obtained by the City. He shall also procure, as far as possible, all legal opinions and abstracts of title which have heretofore been furnished to the City, or any department or official thereof, and shall file and arrange such opinions and abstracts in such manner and order as to be at all times readily accessible, and shall make and preserve an index thereof. He shall also procure all law books heretofore purchased by the City and in the possession of any law officer or ex-law officer of the City or other person, and mark them and arrange them in a proper bookcase.

## **City Attorney Required to Institute Suits, Etc.**

Section 344. The City Attorney shall have authority, upon the written direction of the Council, to institute upon behalf of the City, or any board or commission of the City, any suit, action or proceeding, in any court or tribunal, local, State or Federal. All appeals on behalf of the City to the Circuit Court of the State of Oregon, in Municipal cases, shall be taken by the City Attorney when by him deemed advisable. All other appeals on behalf of the City shall be taken by the City Attorney only upon the written direction of the Council.

## **Shall Deliver Records to His Successor.**

Section 345. He shall deliver all books and records, reports,

documents, papers, statutes, law books and property of every description in his possession, belonging to his office, or to the City, to his successor in office, who shall give him duplicate receipts therefor, one of which he shall file with the Auditor.

### **Local Improvement Code.**

Section 345a. That so much of Sections 346 and 347, 348, 349 and 350 as heretofore amended, and of Sections 362 to 421 both inclusive, of the Charter of 1903, as is not inconsistent with the provisions of this Charter shall remain in full force and effect as ordinances only subject to repeal and amendment and to the enactment of new legislation by the Council in the manner and subject to the restrictions in this Section provided upon the subject of improvements of whatever nature to be paid for by local assessment. Such Sections shall be known as the Local Improvement Code. No repeal of any portion thereof, amendment thereto nor new legislation upon the subject shall be made by the Council except by ordinance which shall be published in full and in its final form in the City Official Newspaper at least thirty days before its final passage. Notice shall be given in the City Official Newspaper and by publishing conspicuous advertisements in one or more daily papers published in the City of Portland having a circulation of not less than 1500 not less than five times, the last of such notices to be published not less than ten days before the final adoption of any such amendment, repeal or new legislation. Upon the adoption of any amendment to or the repeal of any part of such Local Improvement Code or the adoption of any new legislation upon the subject, the whole Local Improvement Code shall be printed in pamphlet form and the Auditor shall be furnished with a sufficient number of copies thereof for distribution to all persons inquiring for the same. The Council, in the exercise of its general legislative powers, may provide in its discretion for the performance of any public work by or on behalf of the City and for the method of payment thereof, but said Local Improvement Code must provide for the giving of not less than ten days' notice by publication, or by mailing to persons interested, (a) of the intention to make any improvement, and (b) of any proposed assessment against property owners for the same, and the right shall be preserved to the owners of sixty per centum in extent of the property affected by any assessment for a local improvement except for street opening or sewers to defeat the same by remonstrance.

### **Establishing and Changing Streets. Power of Council Over Streets.**

Section 346. The Council of the City of Portland is hereby granted power and authority within the limits of said City of Portland, whenever it may deem it expedient, to open, lay out,



establish, widen, alter, extend, vacate or close streets, and to appropriate and condemn private property therefor.

### Opening of Streets.

\*Section 347. Whenever the Council shall deem it expedient to open, lay out and establish a new street, or to change an existing street by widening, altering or extending the same, it shall by resolution direct the City Engineer to make a survey of such proposed street or change, and to make a plat of the same and a written report containing a full and complete description of such proposed street, or change of the boundaries of an existing street, and of the portions of each lot or tract of land benefited by such opening, laying out, establishing or change, and the amount of damages sustained and the amount of benefits accruing to each lot or tract of land contained in said report, the City Engineer shall make such survey, plat and report and file the same with the Auditor within thirty days from the date the same was ordered by the Council, unless said Council shall grant an extension of time. Should the Council deem said survey, plat and report satisfactory, it shall adopt the same by ordinance embodying said report, and thereupon the Auditor shall, within five days after said ordinance becomes a law, cause to be published a notice of the adoption of such ordinance in the City Official Newspaper once each week for two consecutive weeks, such notice shall name a date not less than ten days after the last publication thereof at which the Council shall receive and hear remonstrances from persons interested in or affected by such proceedings. All remonstrances must be filed with the Auditor not later than the day preceding the time fixed for hearing the same. Any person notified or deemed to be notified under this section must appear before the Council on the day fixed for hearing said remonstrances. If no remonstrance is filed, the Council shall, by resolution, direct the Auditor to enter in the Docket of City Liens the respective sums of benefits over damages so assessed on each particular lot or parcel of land, and the names of the owners or other parties in interest in the lands or other property benefited and assessed in like manner as assessment for street improvements are entered in said Lien Docket, and when so docketed said sums shall be a lien or charge upon the estate and interest of the respective owners and parties interested in such lands or other property and also the said owners and other persons interested as aforesaid, shall be respectively and severally liable to pay said assessments, and in case no appeal or other proceedings in court be taken as to any such assessment of benefits or damages, the said excess so assessed shall be paid to the Treasurer of the City of Portland within ten days from the time of entering the same on the Docket of City Liens, or the same shall be deemed delinquent; and thereupon shall be collected in like manner as provided for the collection of other

delinquent assessments by this Charter, excepting that if all the property upon which assessments are due and delinquent is not sold at any sale, proceedings may be begun for a subsequent sale immediately after the returns of a sale are made. All moneys arising from such assessment of benefits shall be kept in a separate fund and be applicable to the satisfaction of the excess of damages over benefits assessed to owners and other persons interested in the property taken or damaged for the purpose of laying out, establishing or changing the street in the manner in which such benefits are assessed and for the payment of expenses incurred by the City for surveying and advertising, and for all court costs incurred in said proceedings. If a remonstrance is filed the Council may, by resolution, discontinue said proceedings or it may by resolution, direct the Auditor to transmit to the City Attorney a certified copy of the ordinance adopting the report of the City Engineer, together with a certificate or abstract showing the respective interests of all persons claiming to be the owners of the lands, or of improvements thereon, to be appropriated, or that will be benefited. The City Attorney shall thereupon institute an action for the condemnation of the property to be appropriated. The City shall be considered the plaintiff, and such action shall be conducted and be heard and determined, and the judgment thereon enforced as far as practicable in the same manner as an action at law. The jury shall view the proposed street, the property to be appropriated, and the property against which benefits are to be assessed, and shall determine and assess how much, if any, less valuable the lands or other property, or any part thereof, through or over which the proposed street is to be opened, laid out, established or changed, will be rendered thereby, and shall also ascertain the respective interests of all persons claiming to be the owners of the lands or other property aforesaid, or of the improvements thereon, or to have any interest in said lands or improvements and the damage which each of the said owners respectively will sustain, and shall also make a just and equitable estimate and assessment of the value of the benefits and advantages of said proposed street or change to the respective owners and other persons interested in all lands, or other property, which the jury shall deem specially benefited by said opening, laying out, establishing or change, but the jury shall be prohibited from assessing any lands for benefits except such as are described in the adopted report of the City Engineer. The verdict of the jury shall be a final and conclusive determination of the assessment for damages or benefits unless the judgment rendered in said case shall be reversed or modified on appeal. An appeal to the Supreme Court of the State may be taken from said judgment in the same manner as from other judgments of said Circuit Court and with like effect. The fact that one called as a juror is a taxpayer of the City of Portland shall not disqualify him from sitting as a juror in said action. The same fees and costs shall

be taxed and paid in such proceedings as are allowed in other cases, and in all such actions or proceedings concerning the opening, laying out or changing of streets under the provision of this Charter, all proceedings had for that purpose shall be presumed to have been regularly and legally taken until the contrary is shown.

\*Section 348. After the entry of a judgment in an action as herein provided for, the City Attorney shall cause to be filed in the office of the Auditor a certified copy of the verdict of said jury. The Council, at the expiration of the time limited for appeal, if no appeal be taken, or immediately after judgment is rendered, if an appeal be taken, shall by resolution direct the Auditor to enter in the Docket of City Liens the respective sums of benefits over damages so assessed as hereinbefore provided.

\*Section 349. Whenever the full amount of the assessment of benefits as entered in the Docket of City Liens is paid into the City Treasury, warrants shall be drawn on the Treasurer, payable out of the fund to be provided for that purpose, for the amount of excess damages, or excess of damages and costs assessed, and in favor of the owner or owners, or other persons in interest, and when said warrants therefor are drawn and ready for delivery to the parties entitled to the same, such property shall be deemed appropriated for the purpose of such street, and not otherwise; provided, that no process of any court shall issue to compel any appropriation for damages or the issuing of warrants for the same.

\*Section 350. And when said warrants are drawn and ready for delivery to the parties entitled to the same, the property required for public use as shown in the report of the City Engineer shall be deemed appropriated for the purpose of the street, and the Council shall by resolution declare such street to be opened, laid out, established or changed, and within thirty days after the adoption of said resolution the City Engineer shall file for record with the County Clerk of Multnomah County a copy of said resolution, and an accurate plat of said street, and of the property so appropriated for public use. An appeal to the Supreme Court shall not stay the proceedings so as to prevent the City from taking such lands into possession and using them for street purposes.

\*As amended Nov. 2, 1912.

### **Additional Method of Opening Streets.**

Section 351. Where the public necessity shall require it, the Council may, by ordinance, direct the City Attorney to institute an action for condemnation of any property needed for a street or for other public use. By the same ordinance the Council shall direct the City Engineer within ten days from the beginning of such action to view such property and make

report to the Council of the value of the property and of the rights and interest of the several persons having interests therein as reported by the City Attorney on examination of the title.

The Council shall thereupon provide a fund and draw a warrant thereon in favor of such persons for the sum or sums found by the City Engineer, or such greater sum as they may deem proper security for the owners.

Such fund may be provided by appropriation from the general fund, by levy of assessments for benefits, as in other cases or in any other lawful manner. Within five days from the deposit of the warrant in the registry of the court where the action is pending, the City may take possession of the property unless application shall sooner be made to the court for a ruling increasing the amount of the security. If such application shall be made within the time limited, the court shall hear same forthwith in a summary way, and fix such security as it shall deem necessary as security for the taking.

If the amount is not increased, the City may take possession immediately. If the amount be increased, the City shall take possession as soon as the Council shall provide a fund and draw a warrant thereon for the amount so fixed, and deposit the same in the registry of the court. The action shall then proceed to trial and judgment as other like actions.

No person shall be disqualified to act as a juror therein by reason of his being a resident and property owner within the City. If the verdict be given for a greater amount than the appropriation, judgment shall be against the City for the excess to be payable immediately, and if the court shall so direct, as a condition of the further use of the property of the City; if for a less sum, a new warrant shall be given for the amount of the judgment, and that deposited shall be returned.

This section shall not be construed as precluding the owner from any remedies otherwise given by law to determine whether the property is subject to appropriation.

Section 352. Within thirty days from the date of the first publication of the notice of any public improvement the owners of three-fifths or more in area of the property within the assessment district may make and file with the Auditor a written objection to or remonstrance against said proposed improvement, and said objection or remonstrance shall be a bar to any further proceedings in the making of such improvement for a period of six months unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor; provided that if any such objection, remonstrance or petition shall be signed by the agent or attorney of any property owner, there shall be filed with the Auditor within the time provided for such remonstrance or petition the written authority for such agent or attorney to sign any such remonstrance or petition, otherwise the signature shall be disregarded.

## Bonding Street Extensions.

\*Section 361a. Whenever the Council, or other competent authority, shall have proceeded to lay out or establish new streets or change existing streets by widening, altering or extending the same, and shall have assessed the cost thereof to the property benefited thereby or liable therefor, it shall be lawful for the owner of any property so assessed for such establishment or change of streets in the sum of ten dollars or more, at any time within thirty days after notice of such assessment to file with the Auditor a written application to pay said assessment in installments, and such written application shall state that the said applicant and property owner does hereby waive all irregularities or defects, jurisdictional or otherwise, in the proceedings to establish or to change streets for which said assessment is levied and in the apportionment of the cost thereof. Said application shall contain a provision that the said applicant and property owner agrees to pay said assessment in twenty semi-annual installments, with interest at the same rate on all such assessments which have not been paid as that expressed in the bonds issued to pay for such improvements. Said application shall also contain a statement, by lots or blocks, or other convenient description, of the property of the applicant assessed for such establishment or change of streets.

No such application shall be received and filed by the Auditor if the amount of such assessment, with any previous assessment for street improvements, or sewers, or for the establishment or changing existing streets, by widening, altering or extending the same assessed against the same property and remaining unpaid, shall equal or exceed the valuation of said property, as shown by the last tax roll of the County of Multnomah, unless the owner or applicant pay the difference between the amount standing against said property and remaining unpaid, including the assessment contemplated herein, and the assessed valuation of said property as shown by the last tax roll of the County of Multnomah, in cash; provided, however, that if the application is made by such property owner to pay said assessment in installments as herein provided, and the said street for which such assessments is made is not established or changed, as aforesaid, the said application to pay the assessment in installments as provided herein shall be of no force or effect, and shall not stand as a lien against the property of said applicant.

\*Section 361b. The Auditor shall keep all such applications as are specified in Section 361a hereof, in convenient form for examination. The application received for each establishment or change of streets shall be kept separate, and he shall also enter in a book kept for that purpose, under separate heads

for each such establishment and change of streets, the date of filing of each application, the name of the applicant, a description of the property and the amount of the assessment, as shown in the application.

\*Section 361c. After the expiration of the time for filing application for the payment of assessments for establishing and for changing streets, as aforesaid, by installments, as provided in Section 361a of this Charter, the Auditor shall enter in a docket for that purpose, to be known as the Bond Lien Docket, under separate heads for each establishment and change of streets, by name or number, a description of each lot or parcel of land, or other property, against which said assessment is made, or which bears or is chargeable for the cost of such establishment or change of streets, and upon which application to bond has been filed, with the name of the owner and the amount of such unpaid assessment. Such docket shall stand thereafter as a Lien Docket as for taxes assessed and levied in favor of the City of Portland, and for the amounts of such unpaid assessments therein docketed, with interest on said unpaid assessments at the rate provided in the bonds issued for such unpaid assessment, against each such lot or parcel of land, or other property, until such assessments and interest are paid in the manner hereinafter provided; and all unpaid assessments and interest shall be and remain a lien upon each lot or parcel of land, or other property, respectively, in favor of the City of Portland, and such liens shall have priority over all other liens and incumbrances whatsoever, except the lien of subsequent City assessments and general taxes; provided, however, that if the street for which the application is made to pay the assessment in installments is not established or changed, as aforesaid, then and in that case the application for the payment of the assessment by installment shall be null and void and of no force and effect, and the entry made in the docket as in this Section provided, shall be by the Auditor marked in such docket as cancelled.

\*Section 361d. When such bond lien docket shall be made up, as hereinbefore provided as to the assessments for such establishment or change of streets, and a copy of such bond lien docket furnished to the Treasurer, the Council shall by ordinance authorize the issue of its bonds in convenient denominations, not exceeding one thousand dollars each, and in all equal to the total amount of unpaid assessments for such establishment and change of streets and for which application to pay under the provisions of Section 361a has been filed, as shown by said bond lien docket; and such bonds shall, by the terms thereof, mature in ten years from the date thereof, and be payable in gold coin of the United States, and bear interest not to exceed six per cent per annum, payable semi-annually to be evidenced by coupons attached to said bonds. The City shall

have the right to take up and cancel such bond or bonds, upon the payment of the face value thereof, with accrued interest to the date of payment, at any semi-annual coupon period, at or after one year from the date of such bond or bonds. Notice, stating that certain bonds are to be taken up and cancelled as aforesaid, and that the interest thereon shall cease at the interest paying period next following, shall be published in the special notice newspaper not less than twice during the month preceding said semi-annual period; and after said semi-annual period interest upon the bonds designated in such notice shall cease. Such bonds, before issuance, shall be signed by the Mayor, or President of the Council, counter-signed by the Auditor, and authenticated by the seal of the City of Portland attached thereto, and shall be registered, consecutively, by number and denomination of each, in a book to be kept by the Auditor, to be known and designated as "Bond Register for Street Extension." Each of such bonds, whether issued for the opening, laying out and establishment of streets, or for the changing of existing streets, by widening, altering or extending the same, shall have distinctly and plainly inscribed or printed on the face thereof the registered number of said bond and the words "Street Extension Bonds." Such bonds shall be advertised for sale and sold for the highest price obtainable, but for not less than the par value and accrued interest; and the proceeds thereof shall be paid by the purchaser to the Treasurer and the par value thereof credited to the street extension funds for which said bonds are issued; and the accrued interest and premium accruing from the sale of said bonds shall be credited to the General Fund, the fund from which interest is paid on said street extension warrants, or to the improvement bond sinking fund, as the Council shall direct.

\*Section 361e. Thereafter there shall be due and payable semi-annually for 10 successive years to the Treasurer by the owner of each lot or parcel of land assessed for such establishment or change of streets, whose application to pay the costs thereof by installments has been filed as provided in Section 361a of this Charter, five per cent of the amount of such assessment against the property of such owner, as appears by the bond lien docket described in Section 361c of this Charter, with the amount of one-half year's interest, but not to exceed six per cent per annum on unpaid assessments or installments. The first payment aforesaid shall be due and payable at the expiration of six months from the date of such assessment in the bond lien docket and subsequent payments at the expiration of each six months thereafter. Should such owner or owners neglect or refuse to pay the sum or sums aforesaid as the same shall become due and payable for a period of twenty days, then the same shall be collected in the same manner and with the same penalties as delinquent street or sewer assessments are collected. It shall be the duty of the Auditor and

Treasurer, when the installments and interest on any assessment in the bond lien docket are due, to make the proper extensions of such installments and interest on said bond lien docket, and it shall be the duty of the Treasurer to notify the owner or owners of property that the installments aforesaid are due and payable, but a failure of such owner or owners to receive such notice shall not be taken or held to prevent the collection of the same as herein provided. The Treasurer shall issue a receipt to the person or persons paying said installments and interest, and shall file duplicates of said receipts with the Auditor. The Auditor and Treasurer shall make the proper entries on said bond lien docket, showing the amount of each payment, and the date thereof; provided, however, that at any time after issuance of such bonds any owner at the time being of any such lot or parcel of land, or other property, against which such assessment is made and lien docketed may pay into the City Treasury the whole amount of the assessment for which such lien is docketed, together with the full amount of interest and cost accrued thereon to such date of payment, and upon producing to the Auditor the receipt of such Treasurer (in which receipt shall be stated not only the amount of such payment, but also a description of the lot or parcel of land or other property upon which such payment is made), the Auditor shall enter in such lien docket opposite the entry of the lien therein, the fact of such payment and the date thereof, and such payment made and entered in such bond lien docket shall be and operate as a discharge of such lien to the amount of such payment and from the date thereof.

\*Section 361f. The Treasurer receiving any funds accruing by virtue of this Article, shall keep such funds and the amount thereof separate and apart from other funds. The amount of such funds paid on account of installments and interest on unpaid installments shall be placed to the credit of funds to be known and designated as "Street Extension Bond Sinking Fund" and "Street Extension Bond Interest Fund," respectively. The amount placed to the credit of the "Street Extension Bond Sinking Fund" shall from time to time, under the direction of the Council, or other competent authority, be deposited in a bank, subject to the provisions of Section 293 of this Charter, or be invested in or used for the purchase of bonds of the City. In the purchase of bonds the premium and accrued interest thereon shall be paid out of the extension bond interest fund, and all interest received by the Treasurer on account of coupons due shall be placed to the credit of the street extension bond interest fund. Interest due on street extension bonds shall be paid out of the street extension bond interest fund. All bonds purchased by the City shall be held by the Treasurer as a sinking fund, and shall be disposed of by direction of the Council, when required for the



redemption of bonds previously issued as they shall become due and payable.

\*Section 361*g*. Entries of payments of installments, interest and costs, made under the provisions of this act, shall be made in the bond lien docket aforesaid as the same shall be received, with the date thereof, and such payments made and entered in said bond lien docket shall be and operate as a discharge of such lien, to the amount of such payments, and from the date thereof.

\*Section 361*h*. No obligation incurred by the City by virtue of Section 361*a* to 361*g*, inclusive, of this Charter shall be deemed or taken to be within or any part of the limitation by law as to indebtedness.

\*Section 361*i*. At any time after the bonds which may be issued under Section 361*d* shall become payable the City may redeem such bonds, and to that end shall redeem the same consecutively by number of such bonds, commencing with number one of such bonds, and shall give notice of the readiness to redeem by publication in the special notice newspaper once each week for two consecutive weeks, giving therein the number of the bonds which shall be redeemed, and the time at which such redemption will be made, and after such time so fixed for redemption, no interest shall accrue or become payable on such bonds so notified for redemption.

\*As amended Nov. 2, 1912.

## VACATION OF STREETS.

### Notice and Petition for Vacating Street.

Section 362. Whenever any person or corporation interested therein shall desire the vacation of any street, or part thereof, within the City of Portland, the person or corporation so desiring said vacation shall give notice, by advertisement thereof, for four consecutive weeks, in the City Official Newspaper that at a regular meeting of the Council of the said City, to be had at the time stated in such notice of publication, a petition will be presented to the Council praying for the vacation of such street, or portion thereof, particularly describing the same. The petition, so to be presented to the Council shall set forth a description of the part of the street proposed or sought to be vacated, and the purpose for which the ground is proposed to be used, and the reason for such vacation, and there shall be appended to such petition, as a part thereof, and as the basis for such vacation, and as a basis for the granting of the prayer of such petition, the consent of the owners in fee simple, of at least two-thirds of the real estate fronting on both sides of said street which or part of which is proposed to be vacated, estimated upon the frontage

of the street, such frontage to commence at a line drawn equi-distant from the termini of the street, or portion thereof, proposed to be vacated, and extending along such proposed vacation the entire length thereof and two hundred feet in each direction from the termini thereof, unless such street shall not be continuous in either direction, in which case the consent of the owners above provided for shall only be required for the distance that it is continuous; provided, that in the vacation of a plat it shall require the consent of the owners of two-thirds of all the real estate fronting on the streets designated on such plat. The consent of the owners of the requisite number of front feet hereinbefore required to be attached to the petition for the vacation of a street shall be given in writing and duly acknowledged before an officer authorized to take acknowledgments, and such consent shall be attached to the petition for such vacation, and such petition and consent shall be filed with the Auditor. The Council shall, upon the presentation of such petition, and the filing of the proof of the due publication of the notice herein prescribed with the Auditor, fix a time for hearing said petition and objection thereto, if any be filed. At the time fixed by the Council for hearing said petition, and the objections filed thereto, if any, the Council shall ascertain and determine whether the consent of the owners of the requisite number of front feet has been obtained as aforesaid, and such finding shall be made a matter of record, and shall be conclusive of the facts as found in all collateral proceedings, and shall be prima facie evidence of the facts in all direct proceedings. If upon such hearing the Council shall find that the public interest would not be prejudiced by the vacation of such street, or part thereof, applied for, and that the consent of the owners of the requisite number of front feet has been obtained, as hereinbefore provided, the Council may grant the prayer of the petitioner in whole or in part, and may vacate the street sought to be vacated by such petition, and cause such vacation to be made a matter of record.

### **Title to Street Vacated.**

Section 363. If upon the hearing of the petition for the vacation of such street, or part thereof, as in the preceding section provided for, the Council shall determine that such street should be vacated, and shall by ordinance vacate the same, such street shall be attached to the lots or ground bordering on such street, and all right and title thereto shall vest in the owners of the property on each side thereof in equal proportions. In every case where a street shall have been originally dedicated wholly by the owner or owners of the property abutting upon one side only of such street, then in the event of the vacation of such street all right and title thereto shall

vest in the then owner or owners of the property abutting upon the side of the said street last aforesaid.

### **Vacation of Street to be By Ordinance; Record of Same.**

\*Section 364. The vacation of any street by the Council shall only be made by ordinance, and a certified copy of such ordinance shall be filed for record, and duly recorded, in the office of the County Clerk of Multnomah County, and said County Clerk shall record the same in the records of deeds for said county and place an appropriate reference upon the margin of the original plat or plats of said street, or part thereof vacated, to indicate the book and page where such vacation is recorded.

No street shall be vacated upon the petition of any person or corporation whereby such petition it is proposed to re-plat or rededicate any street or streets in lieu of the original plat or streets, unless such petition shall be accompanied by a plat showing the proposed manner of re-plating of the streets, alleys or highways to be dedicated in lieu of the street or streets asked to be vacated, and attached to which proposed plat or dedication there shall be the sworn affidavit of the person proposing to make such new plat or dedicate such street for highways, that such proposed plat or dedication of streets will be made immediately upon the vacation prayed for in the petition in consideration thereof.

\*As amended June 7, 1909.

### **Establishment and Change of Grades.**

#### **Council Empowered to Establish and Change Grades.**

Section 365. All streets, avenues, boulevards, lanes, alleys and bicycle paths within the corporate limits of the City of Portland, now open or dedicated to public use, or which may hereafter be opened or dedicated to public use, or which have or may become such by prescription or user, shall be deemed and held to be open public streets, avenues, boulevards, lanes, alleys and bicycle paths for the purposes of this Charter, and the Council is hereby empowered to establish and change the grades of the same, and fix the width thereof, and is hereby invested with jurisdiction to order to be done thereon any of the work mentioned in this Charter, in accordance with the directions and proceedings provided in this Charter.

#### **Same.**

Section 366. The Council is hereby authorized and empowered to establish by ordinance the grade of any street within the City when such grade has not been established,

and may require from the City Engineer all maps and data it may deem necessary in relation thereto.

The Council is hereby authorized and empowered to change by ordinance the grade of any street within the City of Portland pursuant to the following provisions:

### **Notice of Resolution to Change Grade.**

Section 367. Whenever it shall be deemed expedient to change the grade of any street within the City, the Council shall pass a resolution declaring its intention to make such change of grade and describing the same. Said resolution shall be kept of record in the office of the Auditor and shall be published for ten consecutive publications in the City Official Newspaper. The City Engineer within three days from the first publication of said resolution shall cause to be posted in at least two places on the street or streets at points affected by such change of grade notices headed "Notice of Change of Grade" in letters not less than one inch in length, and shall in legible characters state that such a resolution has been passed by the Council, the date thereof, and briefly, the change of grade proposed, and the time within which written objection or remonstrance against the same may be made. The City Engineer shall file with the Auditor an affidavit of the posting of said notices, stating therein the date when and the places where the same have been posted.

### **Remonstrance by Property Owners.**

Section 368. At any time before 20 days after the first publication of the resolution provided for in the preceding section, the owners of more than one-half of the property affected by such change of grade may make and file with the Auditor a written objection or remonstrance against the same, and said objection or remonstrance shall be a bar to any further proceedings thereto, for a period of six months, after which if the Council proposes to change such grade the same proceedings shall be had as in the first instance.

### **Jurisdiction; When Obtained.**

Section 369. If no such written objection or remonstrance be filed within the time designated, or if the Council finds that the written objection or remonstrance is not legally signed by the owners of more than one-half of the property affected by the proposed change of grade, the Council shall be deemed to have acquired jurisdiction to change by ordinance the grade as described in the resolution previously adopted.

## Damages for Change of Grade—How Assessed.

Section 370. When the grade of any street has once been established and any permanent building has been constructed on any lot abutting said street or affected by such change of grade, the owner or owners of any such permanent buildings, during the time designated for filing objections or remonstrances may file with the Auditor a claim of damages by reason of such change of grade, and such claims shall describe the land upon which such buildings stand and an estimate of the value of said buildings and of the damages which such change of grade will cause to said buildings, and said claims and all statements contained therein shall be sworn to by the party or parties owning said buildings and land or by their agents or legal representatives. Thereafter the Council shall appoint three disinterested freeholders of the City, having the same qualifications as viewers for the opening, laying out and establishing of streets, to estimate and determine the damages that will be sustained by the owners of buildings affected by said change of grade and to assess the benefits accruing to property benefited by such change of grade. The said viewers shall be appointed, and they shall qualify, and notices of their meeting and of the filing of their report shall all be done in the same manner as similar acts and proceedings are done in the opening laying out and establishing of streets. The said viewers shall include as part of the benefits assessed the amount of their compensation for services, which shall be the sum of four dollars each for each day actually engaged in said service, but in no case shall the amount of said assessment of benefits exceed the actual benefit to the lot or parcel of land or other real property so assessed, deducting therefrom any damages or injuries to the same parcels which are less than said benefits, nor shall any damages be awarded for any building erected prior to the establishment of the grade which is proposed to be changed, and no award of damages to any person shall be greater than the amount claimed and sworn to by said person as hereinbefore provided, and if in the judgment of said viewers the whole amount of said damages and compensation of viewers shall exceed the actual benefit to the specific property subject to assessment, they shall so indicate in their report. The said viewers shall make a report of their findings of benefits and damages to the Council, and the same shall be heard, considered and adopted or set aside, and the assessment of benefits shall be levied, docketed and collected, and kept in a separate fund, and appeal from said report may be taken, and the findings of the jury in such cases shall be final and conclusive, all in the same manner and with the same effect as is provided in the matter of the opening, laying out, establishing and changing of streets. When such assessment is fully collected the Council, by ordinance, may change the grade of

said street, and warrants shall be drawn upon the special fund so provided in favor of the persons entitled to damages.

### **Power of Council Extended to Boulevards, Lanes, Alleys, Etc.**

Section 371. The same power and authority granted by this act to the Council to open, lay out, establish, widen, alter, extend, vacate and close streets, and to establish and change the grade of streets within the limits of the City of Portland, and to appropriate and condemn private property therefor, are hereby granted to said Council to open, lay out, establish, widen, alter, extend, vacate and close within the same limits, boulevards, avenues, lanes, alleys, bridges, bicycle paths, squares, parks, plats and public places, and to appropriate and condemn private property therefor and to establish and change the grade of each. And like acts and proceedings as those authorized by this Charter to be done and had by said Council, the officers of the City, their agents and employes and others, in the matter of opening, laying out, establishing, altering, widening, extending, vacating and closing streets, and in establishing and changing the grades thereof, are hereby authorized to be done and had by said Council and officers and their agents and employes and others in the same manner and with the same effect and limitations in the matter of opening, laying out, establishing, widening, altering, extending, vacating or closing of boulevards, avenues, lanes, alleys, bridges, bicycle paths, squares, plats, parks and public places within said limits and in establishing and changing the grades thereof, as by this Charter provided for in the case of streets.

### **The Term "Street" Defined.**

Section 372. The term "street," as used in this Charter, shall be construed to mean any street, avenue, boulevard, alley or lane which is now, or may hereafter be opened or dedicated to public use.

### **Improvement of Streets.**

#### **Definition of Terms "Improve" and "Improvement."**

Section 373. The terms "improve" and "improvement," as used in this Chapter in reference to streets shall be construed to include all grading or regrading, paving or repaving, plank-ing or replanking, macadamizing or remacadamizing, gravel-ing or regravelling, and all manner of bridge-work and road-way improvement or repair and all manner of constructing sidewalks, crosswalks, gutters and curbs within any of the streets in the City of Portland, or any part of any such street.

\*Section 374. The Council, whenever it may deem it expedient is hereby authorized and empowered to order the whole or any part of the streets of the City to be improved, to determine the character, kind and extent of such improvement, to levy and collect an assessment upon all lots and parcels of land specially benefited by such improvements, to defray the whole or any portion of the cost and expense thereof and to determine what lands are specially benefited by such improvement and the amount to which each parcel or tract of land is benefited.

In the improvement of a street or streets with gravel or macadam, suitable tiling shall be laid for drainage and the said gravel or macadam shall be laid in such a manner that the surface of the street shall be not to exceed three (3) inches below the established grade so as to admit of a hard surface covering.

The Council, in improving any street or streets or any part or parts thereof, within a district that includes paving, shall require from the City Engineer plans, specifications and estimates for two or more kinds of appropriate improvements, at least one of which must be of a non-patentable kind, and the probable total cost of each class of improvement, and the City Engineer shall file such plans, specifications and estimates in the office of the Auditor of the City of Portland. If the Council shall find such plans, specifications and estimates to be satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and to be assessed for such improvement and the action of the Council in the creation of such assessment district shall be final and conclusive. The Council shall by resolution declare its purpose of making said improvement, describing the same and also defining the boundaries of the assessment district to be benefited and assessed therefor. The action of the Council in declaring its intention to improve any street or streets or any part or parts thereof, approving and adopting the plans, specifications and estimates of the City Engineer, and determining the district benefited and to be assessed thereby, may all be done at one and the same meeting of the Council.

Upon the passage of said resolution by the Council, the Auditor shall without delay give notice by publication for not less than five successive days in the City Official Newspaper, inviting bids for making said improvement; each bid submitted must be accompanied by a certified check equal in amount to ten per cent (10 per cent) of the amount of the bid. When such bids are received and the amount of the lowest responsible bid for each kind or class of improvement has been ascertained, the Council shall, by resolution, determine the character of the improvement to be laid and the lowest responsible bid, and direct the Auditor to publish a notice declaring its intention

of making such improvement, describing the same, defining the boundaries of the district to be benefited and assessed therefor and the amount of the lowest responsible bid submitted for such improvement. Upon the passage of said resolution, the Auditor of the City of Portland is hereby authorized to return to the respective bidders the checks submitted with their bids, except the check accompanying the bid submitted for the improvement selected, which shall be held until such time as a remonstrance is filed, sufficient to defeat said improvement, a contract and bond executed, as provided by law, or ordered returned by the Council.

Within twenty days from the date of the publication of the notice of the determination of the Council of the character of the improvement and the lowest responsible bidder, the owners of three-fifths or more in area of the property within such assessment district may make and file with the Auditor a written objection to or remonstrance against said proposed improvement, and said objection or remonstrance shall be a bar to any further proceedings in the making of such improvement for a period of six months unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor: Provided, that if any such objection, remonstrance or petition shall be signed by the agent or attorney of any property owner, there shall be filed with the Auditor within the time provided for such remonstrance or petition the written authority for such agent or attorney to sign any such remonstrance, or petition, otherwise the signature shall be disregarded.

If no such objection or remonstrance be made and filed with the Auditor within the time designated, or if any remonstrance filed is not legally signed by the owners of three-fifths of the property affected, the Council shall be deemed to have acquired jurisdiction to order the improvement to be made, and the Council may thereafter and within three months from the date of the final publication of its previous resolution by ordinance provide for making said improvement, which shall conform in all particulars to the plans and specifications previously adopted.

When the Council shall, by ordinance, provide for making an improvement, the City shall be deemed to have appropriated and acquired ownership of all earth above grade and within the street lines for said improvement and no private ownership shall thereafter be claimed in said earth.

Upon the approval of said ordinance by the Mayor, or if the same shall become valid without his approval, the Auditor shall present to the Executive Board, at its next regular meeting, a copy of said ordinance and the estimates, plans and specifications previously prepared by the City Engineer and adopted by the Council, together with the lowest responsible bid re-



ceived by the Council for the class of improvement selected; thereafter the said Executive Board without delay shall enter into a contract with the aforesaid lowest bidder, as determined by the Council. The Executive Board shall have the power to impose such conditions upon bidders with regard to bonds and securities, and guarantees of the good faith and responsibility of bidders, for insuring the faithful completion of the work in strict accordance with the specifications therefor, and to make all rules and regulations in the letting of contracts that may be considered by the said Board as advantageous to the City. It shall be the duty of the Executive Board to fix the time in which every such improvement shall be completed and it may extend such time should the circumstances warrant, and the said Board shall have the power and authority to make all written contracts, to provide for the proper inspection and supervision of all work done under the provisions of this Section and to do any other act to secure the faithful carrying out of all contracts, and the making of improvements in strict compliance with the ordinances and specifications thereof.

The Council shall have the power and authority in providing for any street improvement to provide for placing in the street, where said improvement is to be made, all necessary service pipes for water, gas, heat, power, sewerage, or any other purpose, and all conduits for electric wires or other purposes, that are or may thereafter be necessary.

The Council may also provide a certain time after any street improvement is made during which it shall not be torn up or disturbed. The Council shall also have the power and authority to provide that no opening of any street surface shall be made without first obtaining a permit therefor. Subject to the ordinances of the Council, the Executive Board shall have the power to prescribe and enforce all rules regulating the opening of street surfaces in all streets of the City, which it may deem necessary to secure the replacing of the street in good condition.

The provisions of this Section shall not apply to street improvement proceedings commenced prior to the adoption of this amendment, and all such proceedings shall be completed in accordance with the provisions of the Charter in force at the time of their commencement, and for such purpose all provisions of the Charter of the City of Portland repealed by this Section shall be in force and effect.

All Sections or parts of Sections of the Charter in conflict with the provisions of this Section are hereby repealed in so far as they conflict therewith.

\*As amended June 5, 1911.

## **City Engineer to Make Plans and Specifications; Districts; Assessment.**

\*Section 375. Whenever the Council shall deem it expedient or necessary to improve any street or streets or any part or parts thereof within a district in the City of Portland, it shall require from the City Engineer plans and specifications for an appropriate improvement and estimates of the work to be done and the probable cost thereof, and the City Engineer shall file such plans, specifications and estimates in the office of the Auditor of the City of Portland. If the Council shall find such plans, specifications and estimates to be satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and to be assessed for such improvement, and the action of the Council in the creation of such assessment district shall be final and conclusive. The Council shall by resolution declare its purpose of making said improvement, describing the same and including such Engineer's estimate of the probable total cost thereof, and also defining the boundaries of the assessment district to be benefited and assessed therefor. The action of the Council in declaring its intention to improve any street or streets or any part or parts thereof, directing the publication of notice thereof, approving and adopting the plans, specifications and estimates of the City Engineer, and determining the district benefited and to be assessed thereby, may all be done in one and the same act.

\*As amended June 3, 1907.

## **Publication of Resolution; Notices.**

Section 376. The resolution of the Council declaring its purpose to improve the street shall be kept of record in the office of the Auditor and shall be published for ten consecutive publications in the City Official Newspaper. The City Engineer within five days from the first publication of said resolution shall cause to be conspicuously posted at each end of the line of the contemplated improvement a notice headed "Notice of Street Work" in letters of not less than one inch in length, and said notice shall contain in legible characters a copy of the resolution of the Council and the date of its adoption, and the Engineer shall file with the Auditor an affidavit of the posting of said notices, stating therein the date when, and places where the same have been posted.

## **Remonstrances.**

\*Section 377. Within twenty days from the date of the first publication of the notice required to be published in the preceding Section, the owners of four-fifths or more in area of the property within such assessment district may make and

NOTE—See section 374 amended June 5, 1911.

file with the Auditor a written objection to or remonstrance against said proposed improvement, and said objection or remonstrance shall be a bar to any further proceedings in the making of such improvement for a period of six months unless the owners of one-half or more of the property affected as aforesaid shall subsequently petition therefor; provided, that if any such objection, remonstrance or petition shall be signed by the agent or attorney of any property owner, there shall be filed with the Auditor within the time provided for such remonstrance or petition the written authority for such agent or attorney to sign any such remonstrance or petition, otherwise the signature shall be disregarded.

\*As amended June 3, 1907.

### **Jurisdiction of Council—When Acquired.**

\*Section 378. If no such objection or remonstrance be made and filed with the Auditor within the time designated, or if any remonstrance filed is not legally signed by the owners of two-thirds of the property affected, the Council shall be deemed to have acquired jurisdiction to order the improvement to be made, and the Council may thereafter and within three months from the date of the final publication of its previous resolution by ordinance provide for making said improvement, which shall conform in all particulars to the plans and specifications previously adopted.

When the Council shall, by ordinance, provide for making an improvement, the City shall be deemed to have appropriated and acquired ownership of all earth above grade and within the street lines for said improvement and no private ownership shall thereafter be claimed in said earth.

\*As amended June 7, 1909.

### **Executive Board to Make Contract.**

Section 379. Upon the approval of said ordinance by the Mayor, or if the same shall become valid without his approval, the Auditor shall present to the Executive Board, at its next regular meeting, a copy of said ordinances, and the estimates, plans and specifications previously prepared by the City Engineer and adopted by the Council. Thereafter the said Executive Board, without delay, shall give notice by publication for not less than five successive days in the City Official Newspaper, inviting proposals for making said improvement. The Executive Board shall have the power to award the contract or contracts for said improvement and to impose such conditions upon bidders with regard to bonds and securities, and guarantees of the good faith and responsibility of bidders, for insuring the faithful completion of the work in strict accordance with

NOTE—See section 374 amended June 5, 1911.

the specifications therefor, and to make all rules and regulations in the letting of contracts that may be considered by said board as advantageous to the City. Such contract or contracts shall be let to the lowest responsible bidder for either the whole of said improvement or such part thereof as will not materially conflict with the completion of the remainder thereof, but said board shall have the right to reject any or all proposals received. It shall be the duty of the Executive Board to fix the time in which every such improvement shall be completed and it may extend such time should the circumstances warrant. The said Board shall have power and authority to make all written contracts, to receive and approve all bonds authorized by this Section, to provide for the proper inspection and supervision of all work done under the provisions of this Article, and to do any other act to secure the faithful carrying out of all contracts, and the making of improvements in strict compliance with the ordinances and specifications thereof.

### **Notice of Completion; Acceptance.**

Section 380. Whenever any street improvement is completed in whole or in part to the satisfaction of the City Engineer, he shall file a certificate of the completion, and his approval of such work so completed, with the Auditor, who shall thereafter publish a notice of such completion for not less than five successive days in the City Official Newspaper, stating therein when the acceptance of the same will be considered by the Executive Board, and at that time or at any time prior thereto any owner of any interest in or the agent of any property within the assessment district of said improvement may appear and file objections to the acceptance of said improvement, and such objections shall be considered and the merits thereof determined by said Board, and if it appear that said work or improvement has not been completed in accordance with the specifications and contract, the Board shall require the same to be so completed before accepting it. Whenever any work or improvement is accepted, the Auditor shall endorse its approval on the certificate of the City Engineer, and after the assessment therefor is made and docketed the Mayor and Auditor shall draw warrants on the fund created for said improvement and in favor of the parties entitled thereto.

### **Improvement by Permit.**

Section 381. Whenever the grade of any street has been established, the Council may authorize the owner or owners of any property thereon to cut down or fill up such street in front of such property according to such grade, under the direction of the City Engineer, at the expense of such owner or owners, but the authority mentioned in this section cannot

be granted after notice has been given by the Council of intention to improve the street in front of such property. In giving such authority the Council may impose such terms and conditions thereon as may be necessary to secure the deposit of earth or other matter excavated from the street upon any part thereof which may need to be filled and to charge fees for said permits to cover any expense incurred by the City in the survey and inspection of the work to be done.

### **Kinds of Improvements Classified; Street Repairs.**

Section 382. The Council shall have power and authority to classify the various kinds of street improvements or pavements between the curb lines of streets, and to determine the number of years for which each class of improvement shall be maintained by the City after the same has been made. The Council shall also have power and authority to determine the class of improvement which shall be made in each and every street within the City. The class of every street improvement ordered by the Council and the number of years for which it shall be maintained by the City shall be stated in each resolution and ordinance providing for a street improvement. When such improvement is made, the City, by and through its Executive Board, shall maintain and keep in repair all the roadway between the curb lines, except the portions which railroad or street railway companies are liable to maintain or keep in repair for the full number of years stated in the ordinance providing for their improvement, and the costs thereof shall be paid for out of the "Street Repair Fund." The Executive Board shall also have power and authority to contract for the maintenance and repair of all that part of any street which the City is liable to maintain or keep in repair for the full number of years for which the City is bound, at the same time that the contract for the street improvement is made, but every contract for street maintenance and repair shall be awarded in the same manner and subject to the same conditions, so far as applicable, as may be provided for the letting of contracts for street improvements; provided, that no contracts shall be made or entered into for such maintenance and repair of streets which shall bind the City during any one year for any sum of money in excess of the revenues of the Street Repair Fund for said year.

### **Council's Power; Street Surfaces.**

Section 383. The Council shall have power and authority in providing for any street improvement requiring a concrete foundation also to provide for placing in the street where said improvement is to be made, all necessary service pipes for water, gas, heat, power, sewerage or any other purpose, and all con-

duits for electric wires or other purposes, that are or may thereafter be necessary.

The Council may also provide a certain time after any street improvement is made during which it shall not be torn up or disturbed. The Council shall also have power and authority to provide that no opening of any street surface shall be made without first obtaining a permit therefor. Subject to the ordinances of the Council, the Executive Board shall have power to prescribe and enforce all rules regulating the opening of street surfaces in all streets of the City, which it may deem necessary, to secure the replacing of the street in good condition.

### **Bonding of Street Improvements and Sewers.**

\*Section 383a. Whenever the Council of the City of Portland or other competent authority shall have proceeded to improve any street or streets or any part or parts thereof, or to lay any sewer within the corporate limits, and shall have assessed the cost of such improvement or sewer to the property benefited thereby and liable therefor according to the provisions of the Charter, it shall be lawful for the owner of any property so assessed for such improvement or sewer at any time within thirty (30) days after notice of such assessment is first published to file with the Auditor of the City of Portland a written application to pay said assessment in installments, and such written application shall state that the applicant thereby waives all irregularities and defects, jurisdictional or otherwise, in the proceedings to improve said street or lay said sewer, and in the apportionment of the cost thereof. Said application shall contain a provision that the said applicant and property owner agrees to pay said assessment in ten annual installments, with interest on all installments at the same rate as that expressed in the bonds issued to pay for such improvement or sewer. Said application shall also contain a statement by lots, blocks or other convenient description of the property of the applicant assessed for such improvement or sewer. No application as aforesaid shall be received or filed by the Auditor if the amount of such assessment, with any previous assessment or assessments for street improvement or sewer construction against the same property and remaining unpaid shall equal or exceed the valuation of said property as shown by the last tax roll of the county; provided, that application for such bonding shall be received by the Auditor in cases where the amount of the assessment, together with the previous assessments for street improvement or sewers against the property (and remaining unpaid) shall exceed the valuation of said property as shown by the last tax roll of the county, if the owner shall, before making such application, pay in cash into the Treasury of the City such excess of unpaid assessments over the valuation as shown by such last tax roll.

The Auditor shall keep all such applications for bonding in convenient form for examination. The applications received for each street improvement and each sewer shall be separate, and the Auditor shall enter in a book kept for that purpose, under separate heads, for each street improvement and each sewer, the date of filing of each application, the name of the applicant, and description of the property and the amount of the assessment as shown in the application.

After the expiration of the time for filing applications for the payment of assessments for improvement of streets or laying of sewers by installments as herein provided, the Auditor shall enter in a docket kept for that purpose, under separate heads for each street or sewer, by name or number, a description of each lot or parcel of land or other property against which the assessment is made or which bears or is chargeable for the cost of such improvement or sewer, with the name of the owner and the amount of the assessment for which application to bond has been duly filed; the date of entry in each particular case to be the same as the date of entry in the original lien docket. Such docket shall stand thereafter as a lien docket as for taxes assessed and levied in favor of the City and for the amount of such unpaid assessments therein docketed with interest on the same at the rate of six per cent per annum against each lot or parcel of land or other property, until such assessments and interest are paid in the manner hereinafter provided. All unpaid assessments and interest shall be and remain a lien upon each lot or parcel of land or other property respectively in favor of the City, and such lien shall have priority over all other liens or incumbrances whatsoever, except a lien of general taxes.

When such bond lien docket shall be made up as hereinbefore provided, as to the assessments for improvement of streets or laying of sewers, the City shall by ordinance authorize the issue of its bonds in convenient denominations, not exceeding one thousand (\$1,000.00) dollars each and in all equal to the total amount of the unpaid assessment for such street improvements and sewers and for which application to pay under the provisions of this act have been filed as shown by said bond lien docket, and such bonds shall by the terms thereof mature in ten years from the date thereof and be payable in United States gold coin and bear interest not to exceed six per cent per annum, interest payable semi-annually, said interest to be evidenced by coupons attached to said bonds, provided the right to take up and cancel such bonds upon payment of the face value thereof, with the accrued interest to the date of payment at any semi-annual coupon period at or after the period of one year from the date of such bond, shall be and is hereby vested in the City and the bonds shall be redeemed consecutively by number, commencing with the lowest

outstanding number. Notice that certain bonds are to be taken up and cancelled as aforesaid and that the interest thereon shall cease at the interest paying period next following shall be published in the City Official Newspaper not less than twice during the month preceding said semi-annual period and after said semi-annual period interest upon the bonds designated in such notice shall cease. Such bonds before issuance shall be signed by the Mayor, countersigned by the Auditor and authenticated by the seal of the City attached thereto, and shall be registered consecutively by number and denomination of each in a book to be kept by the Auditor and accessible to the Treasurer, and known and designated as the Improvement Bond Register. Each of such bonds, whether issued for the improvement of streets or the laying of sewers, shall have distinctly and plainly inscribed or printed on the face thereof the registered number and the words "Improvement Bond" with the name of the City of Portland. Such bonds shall be advertised for sale and sold for the highest price obtainable, but not for less than par and accrued interest, and the proceeds thereof shall be paid by the purchaser to the Treasurer of the City, and the par value thereof shall be credited to the respective street improvement and sewer funds for which said bonds are issued, and the accrued interest and premium accruing from the sale of said bonds shall be credited to the general fund of the City, the fund from which interest is paid on street and sewer warrants or the improvement bond sinking fund, as the Council shall direct.

Thereafter there shall be due and payable annually for ten successive years to the Treasurer of the City by the owner of each lot or parcel of land assessed for the improvement of any street or streets or part of parts thereof or the laying of any sewer, whose application to pay the cost of such improvement or sewer by installments has been filed as herein provided, ten per cent of the cost of such improvement or sewer, assessed against the property of such owner as appears by the bond lien docket, with the amount of one year's interest at not to exceed six per cent per annum on unpaid assessments or installments. The first payment aforesaid shall be due and payable at the expiration of one year from the date of said assessment in the original lien docket and subsequent payments at the expiration of each year thereafter. Should such owner or owners neglect or refuse to pay such sum or sums aforesaid as the same shall become due and payable, for a period of ninety (90) days, then the whole amount of said installments remaining unpaid shall become due and payable and shall be collected in the same manner and with the same penalties as delinquent street or sewer assessments are collected. It shall be the duty of the Auditor when the installment and interest payments on any assessment in the bond lien docket are due to make and deliver to the Treasurer of the City a copy of the



docket, and the Treasurer shall thereupon make the proper extensions of installments and interest on said bond lien docket and notify the owner or owners of property that the installments aforesaid or interest are due and payable, but a failure of such owner or owners to receive such notice shall not be taken nor held to prevent the collection of installments or interest as herein provided.

The Treasurer shall issue a receipt to the person paying such installments or interest and shall file duplicates of said receipts with the Auditor and shall make proper entries of the same showing the amount of each payment and the date thereof; provided, however, that at any time after issuance of such bond any owner at the time of any such lot, parcel of land or other property against which such assessment is made and docketed may pay into the City Treasury the whole amount of such assessment for which such lien is docketed, together with the full amount of interest and costs accrued thereon to the date of payment, and upon producing to the Auditor the receipt of the Treasurer (which receipt shall not only state the amount of such payment, but also a description of the lot, parcel of land or other property upon which such payment is made), he shall enter in such lien docket opposite the entry of the lien therein the amount of such payment and the date thereof.

The Treasurer shall keep an account of funds paid upon bonded improvements separate and apart from other funds of the City and the amount of such funds paid on account of installments and interest upon unpaid installments shall be placed to the credit of funds to be known and designated as "Improvement Bond Sinking Fund" and "Improvement Bond Interest Fund," respectively. The amount placed to the credit of the Improvement Bond Sinking Fund shall from time to time, under the direction of the Council, be deposited in a bank, subject to the provisions of Section 293 of the Charter, or by investment in or used for the purchase of improvement bonds of the City at par. In the purchase of improvement bonds, accrued interest thereon shall be paid out of the Improvement Bond Interest Fund and all interest received by the Treasurer on account of coupons shall be placed to the credit of the Improvement Bond Interest Fund and interest due on improvement bonds shall be paid out of the Improvement Bond Interest Fund.

All bonds purchased by the City shall be held by the Treasurer as a sinking fund and shall be deposited by direction of the Council when required for the redemption of bonds previously issued as they shall become due and payable.

Entries of payments of installments, interest and costs made under the provisions of this act shall be made in the Bond

Lien Docket aforesaid as the same shall be received, with the date thereof, and such payments made and entered in said lien docket shall be and operate as a discharge of such lien to the amount of such payment and from the date thereof.

No obligation incurred by the City by virtue of this Section of the Charter shall be deemed or taken to be within or any part of the limitations by law as to indebtedness.

At any time after the bonds which may be issued hereunder shall become payable, the City may redeem such bonds and to that end shall redeem the same consecutively by number, commencing with the lowest outstanding number of such bonds, and shall give notice of the readiness of the City to redeem by publication in the City Official Newspaper once each week for three successive weeks, giving therein the number of the bonds which will be redeemed and the time at which such redemption will be made, and after such time so fixed for redemption no interest shall accrue or become payable on such bonds so notified for redemption.

\*As amended Nov. 2, 1912.

Section 383b. In case a tract or parcel of land is bonded for any public improvement, the Council is authorized upon a written application when such tract is afterwards subdivided to apportion the lien of indebtedness standing against the whole tract, upon the different lots and is authorized to release a lot or lots upon the payment or rebonding from all liens except the amount thus apportioned against such lot or lots.

## **SIDEWALKS.**

### **Owners to Repair Sidewalks; Notice Thereof.**

Section 384. It is hereby made the duty of all owners of land adjoining any street in the City of Portland to construct, reconstruct and maintain in good repair the sidewalks in front of said lands. The Council shall have power and authority to determine the grade and width of all sidewalks, the material to be used and the specifications for the construction thereof upon any street or part thereof or within any district in said City. If the owner of any lot or part thereof, or parcel of land, shall suffer any sidewalk along the same to become out of repair, it shall be the duty of the City Engineer to post a notice on the adjacent property, headed "Notice to Repair Sidewalk," in letters not less than one inch in length, and said notice shall in legible characters direct the owner, agent or occupant of said property immediately to repair the same in a good and substantial manner, and the City Engineer shall file with the Auditor an affidavit of the posting of such notice, stating the date when and the place where the same was posted. The Auditor shall upon receiving the affidavits of the City Engineer

send by mail a notice to repair said sidewalk to the owner (if known) of such property, or to the agent (if known) of the owner, and directed to the postoffice address of such owner or agent, when such postoffice address is known to the Auditor, and if such postoffice address be unknown to the Auditor, such notice shall be directed to such owner or agent at Portland, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property shall not render void said notice, but in such case the posted notice shall be sufficient.

### **Permit for Sidewalk Repairs.**

Section 385. The owner, agent or occupant before making said repairs shall obtain from the City Engineer a permit so to do, which shall prescribe the kind of repair to be made, the material to be used and specifications therefor, and the owner, agent or occupant shall make said repairs within twenty days from the date of posting said notice. If the owner, agent or occupant of any such lot or part thereof or parcel of land shall fail, neglect or refuse to make the sidewalk repairs within the time designated, the City Engineer shall make the same, and keep and (an) accurate account of the cost of the labor and materials in making the repairs in front of each lot or parcel of land, and shall report monthly to the Executive Board the cost of such repairs, and a description of the lot or part thereof or parcel of land fronting on the sidewalk upon which such repairs are made.

### **Executive Board Authority Over Sidewalks; Assessment for Sidewalk Repairs.**

Section 386. The Executive Board shall exercise the same general authority and supervision over sidewalk repairs that it shall have in the matter of street improvements; it shall inspect the reports of sidewalk repairs and the cost thereof made by the City Engineer, and if it deems the same to be reasonable it shall approve the same and transmit them to the Council. The Council shall at least once each year by ordinance assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired the cost of making such repairs as approved by the Executive Board and ten per cent additional to defray the cost of notice, engineering and advertising. In each case all such assessments may be combined in one assessment roll and the same shall be entered on the Docket of City Liens and collected in the same manner as is provided for special assessments for street improvements.

## **Advances From Street Repair Fund.**

Section 387. Moneys to repair sidewalks when the repair shall be made by the City Engineer under this Charter, may, at the discretion of the Council, be advanced from the Street Repair Fund to be reimbursed by the special assessment when collected.

## **Damages for Negligence.**

Section 388. It is not only the duty of all owners of land within the City to keep in repair all sidewalks, constructed or existing in front of, along or abutting upon their respective lots or parts thereof and parcels of land, but such owners are hereby declared to be liable for all damages to whomsoever resulting, arising from their fault or negligence in failing to put any such sidewalk in repair, after the owner or agent thereof has been notified as provided in this Charter so to do; and no action shall be maintained against the City of Portland by any person injured through or by means of any defect in any sidewalk.

## **Sewers and Drains.**

### **Council May Order Construction of Sewers.**

Section 389. The Council is hereby authorized and empowered whenever it may deem that the public health, interest or convenience may require, to order to be constructed and laid all sewers and drains, with all necessary man-holes, lamp-holes, catch-basins and branches, and to repair or re-lay the same, and to levy and collect an assessment upon all lots and parcels of land specially benefited by such sewers and drains, to defray the whole or any portion of the cost and expense thereof, and to determine what lands are specially benefited by such sewer and the amounts to which each lot or parcel of land is benefited.

### **City Engineer to Make Plans and Specifications; Districts; Assessments.**

\*Section 390. Whenever the Council shall deem it expedient or necessary to construct or re-lay any sewer or drain, it shall require from the City Engineer plans and specifications for an appropriate sewer or drain with all necessary catch basins, manholes, lampholes and branches; and pursuant thereto, the City Engineer shall prepare two or more sets of plans and specifications for an appropriate sewer or drain, each set of which shall specify a separate and distinct class or kind of sewer pipe, and estimates of the work to be done and the probable total cost of each style of construction and the City En-

gineer shall file such plans, specifications and estimates in the office of the Auditor; provided, however, that if there shall be specified in any portion of said sewer or drain a type of construction other than sewer pipe, the City Engineer may prepare only one or more sets of plans and specifications and estimates of separate and distinct styles of construction for such portion of said sewer or drain. If the Council shall find said sets of specifications, plans and estimates to be satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and to be assessed for such sewer or drain and the action of the Council in the creation of such assessment district shall be final and conclusive. The Council shall, by resolution, declare its purpose to construct said sewer or drain, describe the location thereof and include therein the City Engineer's estimate of the probable cost thereof according to each of said plans and specifications, and define the boundaries of the assessment district to be benefited and assessed therefor. The action of the Council in declaring its intention to construct or relay a sewer or drain, directing the publication thereof, approving and adopting the sets of plans, specifications and estimates of the City Engineer and determining the district benefited thereby and to be assessed therefor, may be done in one and the same resolution.

Within twenty (20) days from the date of the first publication of the notice of the Council declaring its intention to construct said sewer or drain, the owner or owners of any property within the assessment district may file with the Auditor a written remonstrance against said proposed sewer or against the adoption of any particular sets of plans or specifications, and the Council, upon hearing said remonstrance may, in its discretion, discontinue proceedings in said matter, but the Council may overrule any and all remonstrances and shall have the power and authority to order the construction of said sewer or drain or for the repair or relaying of the same, and within three months from the date of the final publication of this previous resolution may, by ordinance, provide for the same, which shall substantially conform to the sets of plans and specifications previously adopted. Upon the approval of said ordinance by the Mayor, or if the same shall become valid without his approval, the Auditor shall present to the Executive Board, at its next regular meeting, a copy of said ordinance and a copy of the sets of plans, specifications and estimates previously prepared by the City Engineer and adopted by the Council, and thereafter, the Executive Board without delay, shall give notice by publication of not less than five successive days in the City Official Newspaper, inviting proposals for the construction, repair or relaying of said sewer in accordance with the City Engineer's sets of specifications, plans and estimates. The Executive Board shall have power and authority to specify the kind or class of sewer to be constructed and shall

exercise the same power, authority and supervision in the advertising for bids, awarding of contracts, and the supervision and accepting of the work as is delegated to said Board in the matter of street improvements so far as consistent with the provisions of this Section of the Charter.

The provisions of this Section shall not apply to proceedings for the laying of any sewer commenced prior to the adoption of this amendment, and all such proceedings shall be completed in accordance with the provisions of the Charter in force at the time of their commencement, and for such purpose all provisions of the Charter of the City of Portland repealed by this Section shall be in force and effect.

All Sections or parts of Sections of the Charter in conflict with the provisions of this Section are hereby repealed in so far as they conflict therewith.

\*As amended June 5, 1911.

### **Publication of Resolution; Notices.**

Section 391. The resolution of the Council declaring its purpose to construct or re-lay such sewer or drain shall be kept of record in the office of the Auditor and shall be published for ten consecutive publications, excluding Sundays, in the City Official Newspaper. The City Engineer within five days from the first publication of said resolution shall cause to be posted conspicuously on the street or streets along the line of the contemplated sewer or drain, at least two notices headed "Notice of Sewer Work," in letters not less than one inch in length, and said notices shall contain in legible characters a copy of the resolution of the Council and the date of its passage, and the City Engineer shall file with the Auditor an affidavit of the posting of such notices, stating therein the date when, and places where, the same have been posted.

### **Remonstrances.**

Section 392. Within twenty days from the date of the first publication of the notice required to be published in the preceding section, the owner or owners of any property within the assessment district may file with the Auditor a written remonstrance against said proposed sewer, and the Council upon hearing said remonstrance, may, at its discretion, discontinue proceedings in said matter, but the Council may overrule any and all remonstrances, and shall have power and authority to order the construction of said sewer or drain, or the repair or re-laying of the same, and within three months from the date of the final publication of its previous resolution, may by ordinance provide for the same, which shall substantially conform to the plans and specifications previously adopted.

## **Executive Board to Make Contracts.**

Section 393. Upon the approval of said ordinance by the Mayor, or if the same shall become valid without his approval, the Auditor shall present to the Executive Board, at its next regular meeting, a copy of said ordinance and the plans, specifications and estimates previously prepared by the City Engineer and adopted by the Council, and thereafter the Executive Board shall exercise the same power, authority and supervision in the advertisement for bids, awarding contracts, the requiring of bonds, supervising and accepting the work as is delegated to said board in the matter of street improvements.

## **SPECIAL ASSESSMENTS.**

### **Estimate of Cost and Apportionment; Notice.**

\*Section 394. Whenever any street improvement, or the construction, reconstruction, or repair of any sewer, or any part of the cost of which is to be assessed upon the property benefited thereby, is completed in whole, or in such part that the cost of the whole can be determined, the City Engineer shall certify to the Auditor the accuracy of the original estimate of the work to be done, or if, in progress of the work it has been found necessary to make any alteration in said estimated work for any cause whatsoever, the City Engineer shall file a corrected estimate in detail of such work, and the Auditor shall apportion the cost thereof (except the share to be paid in case of street improvement by railroad or street railway companies, by reason of their use of the streets) upon the lots, parts of lots, and parcels of land benefited thereby and within the assessment district. The contract price based upon the estimate of the City Engineer, the costs of rights of way and expenses of condemning land, and a sum not to exceed five per cent of the contract price as the cost of advertising, engineering, and superintendance, shall be deemed to be the cost of every sewer or street improvement. When the Auditor has ascertained what he may deem a just apportionment of said cost, in accordance with the special and peculiar benefits derived by each lot, or part thereof, and parcel of land, the same shall be a proposed assessment, and the Auditor shall give notice of the same by publication for five consecutive insertions in the City Official Newspaper, therein specifying the improvement or sewer for which said proposed assessment is apportioned, the whole cost of such improvement or sewer, the boundaries of the district to be assessed therefor, that said proposed assessment has been apportioned and is on file in the office of the Auditor and subject to examination, and also that any objection to such apportionment that may be made in writing to the Council and filed with the Auditor within ten

days from the first publication of such notice will be heard and determined by the Council before the passage of any ordinance assessing the cost of said improvement or sewer. It shall also be the duty of the Auditor forthwith to send by mail, post-paid, a notice of the share so apportioned to each lot or part thereof, or parcel of land, stating the time within which objections to such apportionment may be made in writing to the Council and filed with the Auditor, to the owner (if known) of each lot, or part thereof, or parcel of land, or to the agent of such owner, directed to the postoffice address of such owner or agent, when such postoffice address is known to him, and if such postoffice address be unknown to him, then such notice shall be directed to such owner or agent at Portland, Oregon.

\*As amended June 5, 1905.

### **Assessment of Benefits and Damages.**

\*Section 395. After the time specified in said notice has elapsed, the Council shall consider said proposed assessment and all objections made thereto, and shall have the power, at its discretion and without any further notice, to consider, ascertain, and determine the amount of the special and peculiar benefits accruing to each lot, or part thereof, or parcel of land so assessed, by reason of the construction, reconstruction, or repair of said sewer, or of the improvement of said street or part thereof, and if the amount apportioned by the Auditor to any lot or part thereof, or parcel of land shall not be in just proportion to such benefits, the assessment against such lot, or part thereof, or parcel of land shall be so reduced or increased by the Council that it shall be in just proportion to such benefits; but in no case shall any such assessment exceed such benefits. The assessment roll shall then be numbered and the Council shall declare said assessment by ordinance, which shall designate the improvement or sewer for which the assessment is levied, the number of the assessment roll, and the whole cost of said improvement or sewer, but such assessment need not be set out at large in said ordinance.

\*As amended June 5, 1905.

### **Assessments Confirmed.**

Section 396. Each lot or part thereof or parcel of land shall be deemed to be benefited by the sewer construction, reconstruction or repair or street improvement, as the case may be, to the full amount of the assessment levied thereon.

### **Mistakes in Proceedings.**

Section 397. No such assessment shall be held invalid by reason of failure to enter the name of the owner of any lot or



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

### **Assessment for Deficit.**

Section 398. If, upon the completion of any improvement of a street or construction of a sewer, it is found that the sum assessed therefor is insufficient to defray the cost thereof and the amount charged to any lot or part thereof or tract of land is less than the benefits accruing thereto, the Council must ascertain the deficit and by ordinance re-assess the land so benefited in excess of the original assessment. When the assessment for said deficit is so levied the Auditor must enter the same in the Docket of City Liens in a column reserved for that purpose in the original entry, with the date thereof, and such deficit shall thereafter be a lien upon such lot or part thereof, or parcel of land, in like manner and with like effect as in case of the sum originally assessed, and shall also be payable and may be collected in like manner and with like effect as the original assessment.

### **Surplus.**

Section 399. If, upon the completion of any improvement of a street or construction of a sewer, it is found that the sum assessed upon any lot or part thereof, or parcel of land, is more than the amount properly chargeable thereto, the Council must ascertain and declare the surplus in like manner as in the case of a deficit; when so declared it must be entered as in case of a deficit in the Docket of City Liens. Thereafter the person who paid such surplus, or his legal representative, heirs or assigns, is entitled to repayment of the same by warrant on the City Treasury, payable out of the fund raised for such improvement.

### **Reassessment.**

Section 400. Whenever an assessment for the opening, altering or grading of any street, or construction, reconstruction or repair of any sewer, or for any local improvement which has been or may hereafter be made by the City, has been or shall hereafter be set aside, annulled, declared or rendered void, or its enforcement refused by any court of this State, or any Federal Court, having jurisdiction therein, whether directly or by virtue of any decision of such court, or when the

Council shall be in doubt as to the validity of such assessment or any part thereof, the Council may, by ordinance, make a new assessment or re-assessment upon the lots, blocks or parcels of land which have been benefited by such improvement to the extent of their respective and proportionment shares of the full value thereof. Such re-assessment shall be based upon the special and peculiar benefit of such improvement, to the respective parcels of land assessed, at the time of its original making, but shall not exceed the amount of such original assessment. Interest thereon from the date of delinquency of the original assessment may be added at the discretion of the Council. Such re-assessment shall be made in an equitable manner, as nearly as may be in accordance with the law in force at the time it is made. But the Council may adopt a different plan of apportionment of benefits when in its judgment essential to secure an equitable assessment. The proceedings required by this Charter to be had prior to the making of the original assessment shall not be required to be taken or had within the intent of this Section. Such re-assessment shall be made and shall become a charge upon the property upon which the same is laid, notwithstanding the omission, failure or neglect of any officer, body or person to comply with the provisions of this Charter connected with or relating to such improvement and assessment and notwithstanding the proceedings of the Council, Executive Board, Board of Public Works, or any officer, contractor or other person connected with such work may have been irregular or defective, whether such irregularity be jurisdictional or otherwise. Such re-assessment shall not be made in case of a street improvement wherein a remonstrance sufficient in law to defeat the same shall have been filed. The Council shall by resolution declare the district that will be benefited by the improvement for which the re-assessment is made and shall direct the Auditor or City Engineer to prepare a preliminary assessment upon the property included therein within a time to be fixed by said resolution. Upon the passage of such resolution the Auditor shall, as soon thereafter as such re-assessment is prepared, give notice by ten successive publications in the City Official Newspaper that such assessment is on file in his office, giving the date of the passage of the resolution directing the making of the same and the time at which the Council will hear and consider objections to said assessment by parties aggrieved thereby, and warning such persons not to depart until such re-assessment has been completed. The Auditor shall forthwith mail to the owner of each lot or part thereof or tract of land affected by such assessment, or to his agent, if the postoffice address of either be known to the Auditor, a notice of such assessment; and if such postoffice address be unknown, then such notice shall be directed to such owners or agent at Portland, Oregon. The owner or owners of any property which is assessed on such assessment, or any person having an interest therein, may within ten days from the last publication

herein provided, file with the Auditor their objections in writing to such assessment. At the time appointed in such notice the Council shall hear and determine all objections which have been filed by any party interested. The Council shall have power to adjourn such hearing from time to time and shall have the power, in its discretion, to revise and correct, or to set aside and order the remaking of such assessment, and shall pass an ordinance approving and confirming such re-assessment as corrected and remade by it, and such decision shall be a final determination of the regularity, validity and correctness of the re-assessment, except as herein otherwise provided. When said re-assessment is completed and confirmed it shall be entered in the Docket of City Liens and shall be enforced and collected in the same manner that other assessments for local improvements are enforced and collected under this Charter and the laws governing the City. All sums paid upon the former assessment shall be credited to the property on account of which the same were paid, as of the date of such payment. And when it has been attempted to sell property for any assessment and such sale is found or declared void, upon the making of the re-assessment the property shall be resold and the proceeds of such sale shall be paid to the purchaser at the former void sale or his assigns. But no proceedings shall be instituted for such re-assessment unless within ten years of the passage of the resolution of intention for the making of the original work, improvement or repair.

### **Appeal Therefrom.**

Section 401. Any person who has filed objections to such new assessment or re-assessment which have not been satisfied by the amendments made by the Council may appeal to the Circuit Court of the State of Oregon for the County of Multnomah from the assessment against any property owned by him, or in which he has an interest. An appeal shall be taken by serving notice of appeal within twenty days from the passage of the ordinance adopting the assessment as amended, upon the Mayor, Auditor or City Attorney, and filing the same, with the proof of service, together with an undertaking with one or more sureties, who shall have the qualifications of sureties on appeal from the Circuit Court to the Supreme Court, and if excepted to shall justify in like manner, conditioned that such appellant will pay all costs and disbursements that may be awarded against him on appeal, not exceeding five hundred dollars. Such bond and notice of appeal shall be filed within twenty days from the service of such notice in the office of the Clerk of said Circuit Court, together with a copy of the re-assessment, so far as the same affects the property of the appellant. Any number of persons may join in such appeal, and the only question to be determined therein shall be the amount of special benefits equitably to be assessed against

the property of each person joining in said appeal. The jury shall view the property assessed, and its verdict shall be a final and conclusive determination of the question. On such appeal the fact that one called as a juror is a taxpayer of the City of Portland shall not disqualify him from acting as such juror. The City shall be considered the plaintiff and such appeal shall be conducted and be heard and determined as far as practicable in the same manner as an action at law.

### **Judgment; Cost and Fees.**

Section 402. If the amount assessed by the jury against any appellant be not less than that fixed in the assessment appealed from, the judgment, in addition to declaring the assessment found, shall be entered against such appellant and his sureties for his proportion of the costs of such appeal. The same fees and costs shall be taxed and paid upon such appeal as are allowed in other actions.

### **Proceedings Under Previous Curative Clause.**

Section 403. No actions, suits or proceedings pending at the time of the enactment of this Charter, brought or depending upon Section 156 of "An Act to Incorporate the City of Portland and to Provide a Charter Therefor and to Repeal all Acts or Parts of Acts in Conflict Therewith," filed in the office of the Secretary of State, October 17, 1898, shall be in anywise affected by the repeal of said Section, or its omission from this Charter, but said Section shall be deemed still in effect as to such actions, suits or proceedings so pending until the final determination thereof.

### **Proceedings Presumed Regular.**

Section 404. In any action, suit or proceeding in any court concerning any assessment of property or levy of taxes authorized by this Charter, or the collection of such tax or proceeding consequent thereon, such assessment, levy, consequent proceeding, and all proceedings connected therewith shall be presumed to be regular and to have been duly done or taken until the contrary is shown.

### **Docketing and Publication of Assessment.**

\*Section 405. When an assessment has been declared by ordinance it shall be the duty of the Auditor to enter a statement of said assessment in the Docket of City Liens, to furnish a copy of said assessment to the City Treasurer, and to give notice of said assessment by publishing for five consecutive insertions in the City Official Newspaper, a notice which shall specify the improvement or sewer for which said assessment is

levied, the whole cost of said improvement or sewer, the boundaries of the district assessed, the number and title of the ordinance declaring the said assessment, that the same is due and payable, the time when said assessment shall bear interest, and the time when the same shall be delinquent, and to send by mail to each person whose property is assessed, or to his agent, a notice of said assessment, when the postoffice address of such person or his agent is known to the Auditor, and if such postoffice address be unknown to the Auditor, such notice shall be directed to such person or agent at Portland, Oregon.

\*As amended June 5, 1905.

### **Docket of City Liens.**

Section 406. The Docket of City Liens is a book in which must be entered the following matter in relation to special assessments for local improvements: The date of the entry, the number or letter of each lot assessed and the number or the letter of the block of which it is a part, and a description of each unplatted tract or parcel of land, the sum assessed upon each lot or part thereof, or tract of land, and the name of the owner, or that the owner is unknown; provided, that failing to enter the name of the owner or mistake in the name of the owner, or the entry of a name other than that of the true owner in such lien docket, shall not render void any assessment, nor in any way affect the lien of the City of Portland on the property described in such lien docket.

### **Lien of Assessment; Payment.**

Section 407. The Docket of City Liens is a public writing, and from the date of the entry therein of an assessment the sum as entered is hereby declared to be a tax levied and a lien upon such lot, part thereof, or tract of land, which liens shall have priority over all other liens and incumbrances whatsoever thereon, and the sum or sums of money assessed for any local improvement, entered upon such lien docket, shall be due and payable from the date of such entry, and if not paid, or bonded as provided by law, within ten days from the date of such entry, thereafter the same shall be deemed to be delinquent and shall bear interest at the legal rate.

### **Payment by Lien Creditor.**

Section 408. When an assessment upon any lot or part thereof becomes delinquent, any person having a lien thereon by judgment, decree or mortgage, or having purchased the same for any delinquent tax or assessment, may at any time before the sale of such lot or part thereof, pay the same, and

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

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

#### **Owner—What Is.**

Section 409. Whenever any lot or part thereof, or tract of land is sold for a delinquent assessment for a street improvement, and afterwards sold for a deficit in such assessment, as in this Charter provided, to any person other than the purchaser at the first sale, or his successor in interest, said purchaser at such first sale is to be deemed an owner within the meaning of this Charter.

#### **Assessment—Where Paid.**

Section 410. All such assessments shall be paid to the Treasurer, who shall file duplicate receipts therefor with the Auditor, and the Treasurer shall keep all money collected upon each assessment in a separate fund, and the same shall not be used for any purpose other than that for which it is levied and collected.

#### **Delinquents.**

Section 411. If within thirty days from the date of the entry of an assessment in the Docket of City Liens, the sum assessed upon any lot or part thereof or tract of land is not wholly paid to the Treasurer, and a duplicate receipt filed therefor with the Auditor or bonded as provided by law, the Auditor shall thereafter prepare and transmit to the Treasurer a list in tabular form, made up from the Docket of City Liens, describing each assessment which is delinquent, the name of the person to whom assessed, and a particular description of

the property, the amount of the assessment due, and other facts necessary to be given.

### **Sale for Unpaid Assessments.**

\*Section 412. The Treasurer shall thereupon proceed to collect the unpaid assessments named in such list by advertising and selling such lots or tracts in the manner now provided by law for the sale of real property on execution except as herein otherwise provided. Each piece or tract of land shall be sold, separately, and for a sum equal to but not exceeding the unpaid assessment thereon and the interest and cost of advertising and sale; and where there shall be more than one bid the land shall be sold to the bidder offering to take the same for the least amount of penalty and interest. Competition shall be, first, upon the penalty for the first period; second, upon the penalty for the succeeding periods; third, upon the rate of interest. A sale of real property under the provisions of this Charter conveys to the purchaser subject to redemption as herein provided, all estates, interests, liens or claims therein or thereto of any person or persons whomsoever, together with all rights and appurtenances thereunto belonging. No levy upon such lots or parcels of land shall be required except that a notice shall be posted four weeks before said sale upon every lot or parcel assessed to an unknown owner.

\*As amended June 3, 1907.

### **Receipts of Treasurer.**

Section 413. The Treasurer shall enter in columns provided for that purpose in the list transmitted to him by the Auditor the date of the sale, the name of the purchaser, the amount paid for each parcel of property sold. The Treasurer shall give a receipt to each person paying an assessment on said delinquent list prior to the sale thereof, and such receipt must state separately the assessment, interest and costs collected, and a duplicate of said receipt shall be filed with the Auditor.

### **Payments in Lawful Money.**

Section 414. Real property when sold for, or to satisfy a delinquent assessment or tax, must be sold for lawful money of the United States, and not otherwise; and any one applying or seeking to redeem property so sold as in this Charter provided, must pay or offer to pay the sum necessary in such lawful money, and not otherwise.

## **Certificate of Sale.**

Section 415. The Treasurer shall immediately after having sold any real property upon such list, make and deliver to the purchaser a certificate of sale of the property so sold, setting forth therein the object for which the sale was made, a description of the property sold, a statement of the amount it sold for, the improvement for which the assessment was made, the year in which the tax was levied, the amount of such tax or assessment, the name of the purchaser, and that the sale is made subject to redemption within three years from the date of the certificate, and then deliver such certificate to the purchaser.

## **Treasurer's Return; Unsold Property.**

Section 416. The Treasurer shall within three days after sale return to the Auditor the said delinquent list with all collections and sales noted thereon, and the Auditor shall thereupon make proper entries thereof in the Docket of City Liens. Thereafter no transfer or assignment of any certificate of purchase of real property sold under the provisions of this Charter shall be deemed valid unless an entry of such transfer or assignment shall have been noted by the Auditor in said lien docket. In case any property shall remain unsold upon such sale, the same may be again, at the discretion of the Auditor, offered for sale in like manner, but not sooner than three months after the expiration of any sale, except that in the matter of an assessment for the opening, widening, laying out or establishing of a street, proceedings for such sale may be taken immediately.

## **Redemption.**

Section 417. The owner, or his legal representatives, or his successor in interest, or any person having a lien by judgment, decree or mortgage, or owner of a tax lien, on any property so sold may redeem the same upon the conditions provided as follows:

Redemption of any real property sold for a delinquent assessment under the provisions of this Charter may be made by paying to the Auditor at any time within three years from the date of the certificate of sale the purchase price and ten per cent thereof as penalty, and interest on the purchase price at the rate of ten per cent per annum, from the date of such certificate. Where redemption shall be made by the holder of a tax lien he shall have the right to have such redemption noted upon the record of his lien in like manner and with like effect as hereinafter prescribed. Provided, however, that if redemption be made within three months from the date of



sale, the penalty to be paid shall be five per cent. Such redemption shall discharge the property so sold from the effect of such sale and, if made by a lien creditor, the amount paid for the redemption shall thereafter be deemed a part of his judgment, decree, mortgage or tax lien, as the case may be, and shall bear like interest, and may be enforced and collected as a part thereof.

### **Deed; Effect Thereof.**

Section 418. After the expiration of three years from the date of such certificate, if no redemption shall have been made, the Treasurer shall execute to the purchaser, his heirs or assigns, a deed of conveyance, containing a description of the property sold, the date of the sale, a statement of the amount bid, of the improvement for which the assessment was made, of the year in which the assessment was levied, that the assessment or tax was unpaid at the time of sale, and that no redemption has been made, and need contain no further recital of the proceedings prior to the sale. And the effect of such deed shall be to convey to the grantee therein named the legal and equitable title in fee simple to the real property in such deed described. And such deed shall be prima facie evidence of title in such grantee, and that all proceedings and acts necessary to make such deed in all respects good and valid have been had and done, and such prima facie evidence shall not be disputed, overcome, or rebutted, or the effect thereof avoided, except by satisfactory proof of either—

1. Fraud in making the assessment, or in the assessment or collection of the tax.
2. Payment of the assessment or tax before sale, or redemption after sale.
3. That payment or redemption was prevented by fraud of the purchaser, or
4. That the property was sold for an assessment or tax for which neither said property nor the owner thereof, at the time of sale, was liable, and that no part of the assessment or tax was assessed or levied upon the property sold.

### **Limitation of Actions Thereon; Tender of Tax.**

Section 419. Every action, suit or proceeding which may be commenced for the recovery of land which shall have been sold by the Chief of Police or by the City Treasurer of said City, or by the Chief of Police of the late City of Albina, Oregon, or by the City Marshal of the late City of East Portland, Oregon, for any assessment or tax, or to quiet the title of the former owner, or his successors in interest against such

sale, or to set aside such sale, or to remove the cloud thereof, except in cases where the assessment or tax for which the land has been sold was paid before the sale, or the land redeemed as provided by law, shall be commenced within three years from the time of recording the deed executed by the Chief of Police or by the City Treasurer or Marshal, and not thereafter. And in any such action, suit or proceeding, whether before or after the issuance of the deed, the party claiming to be the owner as against the party claiming under such sale, must tender with his first pleading in such case and pay into court at the time of filing such pleading the amount of the purchase price for which the lands were sold by the Chief of Police or City Treasurer or Marshal, together with the penalties prescribed by law at the time of such sale, and of all taxes and assessments levied or made upon or against the land, or any part thereof, which shall have been paid after such sale by the purchaser at such sale, or his heirs or assigns, together with interest thereon at the rate of ten per cent per annum from the respective times of the payment of such purchase price, taxes and assessments by said purchaser, or his heirs or assigns, as the case may be, up to the time of the filing of such pleading to be paid to such purchaser, his heirs or assigns, in case the right or title of such purchaser at such sale shall fail in such action, suit or proceeding.

#### **Notices—Failure In not Fatal.**

Section 420. No record need be kept of the mailing of any notice in this Chapter prescribed, and the failure to mail or a mistake in the mailing of, or a mistake in, any such notice shall not be fatal when notice is posted or published as herein required.

#### **Liability of the City and its Officers for Expense of Street Work.**

Section 421. Neither the City of Portland nor any Officer thereof shall be liable for any portion of the cost or expense of any street work or improvement, or the construction or repair of any sewer or drain, which is assessed upon the property benefited thereby, by reason of the inability of the City of Portland to collect assessments levied for the payment of such work, improvement, sewer or drain, but the contractors doing such work shall be required to rely solely upon the fund accruing from the property benefited, assessed and liable therefor; and the said contractor shall not require nor compel the City of Portland by any legal process or otherwise to pay the same out of any other fund, except in cases where for any reason such assessment shall be invalid.

## **County Roads in City Limits; Relinquishment for Improvement to County.**

Section 422. All county roads lying within the limits of the City of Portland, which have not been laid out or accepted as streets by the authority of said City, shall remain and be county roads until they shall be laid out or accepted by said authorities as streets, and be under the jurisdiction of the County Court of Multnomah County, Oregon, and shall be worked, maintained and improved as county roads outside the limits of said City are worked, maintained and improved.

The Council may by resolution, upon order of the County Court signifying its willingness to accept the same, relinquish for the purpose of working or improving the same, to the county, control of all that part between curb lines of any street connecting with the county road. Thereupon such street shall, to that extent, be under the control of the County Court and shall be worked and improved in like manner as county roads until such time as the County Court relinquishes jurisdiction of the street.

## **Pending Proceedings; How Proceeded With.**

Section 423. Nothing in this Charter shall affect in any way the validity of any proceedings pending at the time that it shall take effect for the opening, widening, laying out and establishing of any street, or for the change or establishing of any grade thereon, or making any kind of a street improvement, or for the construction of any drain or sewer, and the levy and collection of assessments therefor, but such proceedings that shall have been taken shall be deemed to be regularly and legally taken and all such proceedings thereafter, of whatever nature, shall be proceeded with and enforced in accordance with and by virtue of the provisions of this Charter.

## **General Provisions.**

### **General Park Act not to Apply.**

Section 424. The act of the Legislative Assembly of the State of Oregon entitled "An Act to Provide for Park Commissioners and the acquisition of land for parks and the management thereof, approved February 17, 1899," shall not nor shall any of its provisions apply to the City of Portland incorporated under this act.

### **Bonding Act to Apply.**

Section 425. The act of the Legislative Assembly of the State of Oregon entitled "An Act to provide for the issuance

of bonds for the improvement of streets and laying of sewers in incorporated cities and for the payment of the costs of such improvements, and the laying of sewers by installments," filed in the office of the Secretary of State February 22, 1893, and its amendments, is not in any way or degree affected hereby, and said act and its amendments shall apply and be in force in the City of Portland hereby incorporated.

\*Section 425 $\frac{1}{2}$ . The Council of the City of Portland is hereby authorized in the name of and under the corporate seal of said City to issue and dispose of bonds of said City of Portland to an amount not exceeding one hundred and fifty thousand dollars (\$150,000), of the denomination of five hundred dollars (\$500) or one thousand dollars (\$1,000), as the Council may determine, and in such form as said Council shall select, with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of said City of Portland, and each of said coupons shall have the signatures of the Mayor and the Auditor of said City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise in consideration of the premises to pay to the bearer of each of said bonds the sum named therein in gold coin of the United States, in ten equal annual installments from the general fund of the City of Portland, together with interest thereon in like gold coin at the rate of five per cent per annum, payable half yearly as provided in said coupons. The first annual installment to mature July 1, 1910

The bonds issued in pursuance of the authority hereby granted shall be known as "Crematory Bonds" of the City of Portland and shall be paid from the general fund.

The bonds herein provided for and authorized to be issued shall be advertised and sold to the highest responsible bidder. The Council may reject any and all bids tendered for such bonds and proceed to re-advertise the same when the bids are not satisfactory. The Treasurer of the City of Portland, Oregon, shall have the care and custody of all moneys received from the sale of said bonds or otherwise, and shall pay out the same on the warrants of the Mayor, countersigned by the Auditor, and not otherwise.

The proceeds of the sale of the bonds herein provided for shall be expended by the Council in the payment of the expenses of advertising and issuing said bonds, and in the acquisition of land for incinerating plants, either in the direct purchase thereof or in pursuance of condemnation proceedings in the manner provided by the statutes of the State of Oregon for the appropriation of land for corporate purposes; and by the Board of Health in pursuance of appropriations therefor, in the purchase, construction, installation, improvement and re-

pair of incinerating plants and their necessary accessories. Said incinerating plants shall be under the management, control and supervision of the Board of Health.

The Council is hereby authorized to provide a rate to be charged for the collection and removal of garbage.

\*Adopted June 7, 1909.

### **Auditorium Commission — Bonds — Construction and Maintenance of Auditorium, Etc.**

\*Section 425¾. That there is hereby created a Public Auditorium Commission. Said Commission shall be composed of five members who shall be appointed by the Mayor. Within ten days after the adoption of this act the Mayor shall appoint five persons as members of said Commission, who are qualified voters and have been residents of the City of Portland for three years. Such persons shall determine by lot among themselves the length of their terms, for one, two, three, four and five years, respectively. On the expiration of the term of any member his successor shall be appointed by the Mayor. 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 of any nature. Within ten days after their appointment the Commission shall meet and organize by the election of a Chairman and the Auditor of the City of Portland shall be ex-officio Clerk of said Commission, without extra compensation.

The Commission shall have power and authority to make all necessary rules and regulations for its government.

In the construction of said Public Auditorium, the Commission shall proceed only after public notice asking for proposals based upon the plans and specifications previously submitted and filed with the Commission by its architect, and approved by it: Provided, that when, in the judgment of the Commission, the bids are excessive, or otherwise unsuitable, the Commission may proceed to do the work directly. The Commission shall in all cases have the right to reject any and all bids. In the event that it shall perform the work directly or without contract, it shall make no purchase of materials in amounts exceeding two hundred fifty (\$250.00) dollars, except by public letting, or in case of failure to receive bids after reasonable notice in a public newspaper of the City of Portland, or in case of extreme emergency where the delay of public letting might cause serious loss or injury to the work. And it is further provided that open competition shall be had in the letting of all contracts for said construction including contracts of architects in drawing plans and designs for said

construction work which shall be in pursuance of the rules of the American Institute of Architects.

The Commission shall have the authority to permit the Oregon Historical Society to occupy such portion of such Public Auditorium as it may designate and upon such terms and conditions as said Commission shall prescribe and said Commission shall have exclusive charge and control of said Auditorium property subject to the provisions herein contained.

The Commission shall have the power to employ such officers, employes and agents as may be necessary in the efficient and economical carrying out of its duties and to fix and provide for their compensation, but such officers, employes and agents shall not be subject to the Civil Service provisions of the City Charter. The Commission shall have exclusive authority to fix the rates to be charged for the use of said Auditorium; to enter into any contract with theatrical or other companies for the use of said Auditorium for a term not exceeding two years, and shall also have power and authority to allow said Auditorium to be used by the general public, free of charge, at such times and upon such occasions as it, in its judgment, may determine.

The Commission shall annually make to the Council of the City of Portland a full report of its doings for the year, including an itemized account of its estimated receipts and expenditures for the ensuing year. Such report shall be made at the same time as reports of the other departments of the City are submitted.

The Commission is hereby authorized, in the name and under the corporate seal of said City, to issue and dispose of bonds to an amount not to exceed six hundred thousand dollars, with interest coupons thereto attached, of the City of Portland, in such amounts and in such denominations as the Council may determine: Provided, however, that said issue of bonds shall be subject to the limitations provided in Section 88 of the Charter of the City of Portland. Said bonds shall be signed by the Mayor and countersigned by the Auditor of said City, and each of said coupons shall bear the fac simile signatures of the Mayor and of the Auditor of said City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of thirty (30) years from the date thereof, the sum named therein in gold coin of the United States, together with interest thereon in like gold coin at the rate of four (4%) per centum per annum, payable semi-annually as provided in said coupons. Said bonds and interest are to be paid from taxes to be assessed, levied and collected upon real and personal property in the

City of Portland, not exempt from taxation, and the Council shall, each year, at the same time the other levy or levies of taxes are made, as provided by Section 114 of the Charter, have power and authority to levy an additional tax of such fraction of a mill on each dollar of valuation of the property in said City that will yield not less than the sum of three thousand (\$3,000.00) dollars nor more than four thousand (\$4,000.00) dollars, which sum will be apportioned to a fund to be known as a "Sinking Fund" for the retirement of the bonds herein authorized to be issued and said sinking fund shall be invested by the Commission in interest-bearing bonds of the United States, the State of Oregon, the City of Portland, or any city of the first class, preference, however, to be given in all instances to interest-bearing bonds of the City of Portland, and all such securities shall be deposited with the City Treasurer.

The said bonds issued in pursuance of the authority hereby granted shall be known as "Public Auditorium Bonds of the City of Portland, Oregon," and the same shall be advertised and sold to the highest responsible bidder. The Commission may, in its discretion, reject any and all bids tendered for such bonds, and proceed to readvertise the same when the bids are not satisfactory to said Commission. All moneys derived from the sale of such bonds, and all revenues of every nature whatsoever derived from said Public Auditorium shall constitute the "Public Auditorium Fund of the City of Portland," and shall be in the care and custody of the Treasurer of the City of Portland. Disbursements shall be made by him on warrants of the Chairman and Clerk of the Commission, in pursuance of its general purposes and after express authority by resolution of the Commission. The books of the Commission shall, from time to time, be audited by the Auditor of the City of Portland, under the direction of the Council, in such manner and at such time as it may prescribe.

In case the revenues from said Auditorium for any preceding year are insufficient to pay for the maintenance and operation of said Auditorium, then the Council shall have authority to pay such deficit out of the general fund.

From the fund herein provided for, the Commission is hereby authorized and empowered to expend the same, first in the payment of the expense of the issuance and sale of said bonds, and in the acquisition of land for a site for said Auditorium, either in the direct purchase thereof or in pursuance of condemnation proceedings in the manner provided by the statutes of the State of Oregon for the appropriation of land for corporate purposes, and second, for the construction, maintenance, operation and management of the said Public Auditorium.

\*Adopted June 5, 1911.

## Repealing Clause.

Section 426. The act entitled "An Act to incorporate the City of Portland and to provide a Charter therefor, and to repeal all acts or parts of acts in conflict therewith," filed in the office of the Secretary of State October 17, 1898, and all acts and parts of acts in conflict with this Charter are hereby repealed.

This Act to take effect and be in force from and after its approval by the Governor.

Section 427. Whereas, there are several bridges upon important thoroughfares and car lines in the City of Portland, now old and in a dilapidated and ruinous condition, dangerous to life and property; and,

Whereas, there is an immediate necessity for the construction of new bridges in the place of said old ones in order to provide for the safety of the people of said City; and,

Whereas, there are no ways or means by which under the present Charter of said City new bridges can be constructed in place of the old ones; and,

Whereas, the foregoing Act provides ways and means available at once for the construction of new bridges; and,

Whereas, there is otherwise a necessity for the immediate adoption of the foregoing Act to insure the health, peace and safety of the people of Portland,

Therefore, this Act shall take effect and be in force from and after its approval by the Governor.

## Municipal Jail—Bonds—Construction.

\*Section 428. The Council of the City of Portland is hereby authorized in the name of and under the corporate seal of said City to issue and dispose of bonds of said City of Portland to an amount not exceeding two hundred thousand (\$200,000.00) dollars of such denomination as the Council may determine, and in such form as said Council shall select, with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of said City of Portland, and each of said coupons shall have the signatures of the Mayor and of the Auditor of the City of Portland engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of thirty years from the date hereof, the sum named therein in gold coin of the United States of America, together with interest thereon



in like coin at the rate of four per centum per annum payable half yearly as provided in said coupons. The bonds issued in pursuance of the authority hereby granted shall be known as "Municipal Jail Bonds of the City of Portland, Oregon," and shall be payable by general taxation as provided by Section 114 of the Charter. The bonds herein provided for and authorized to be issued shall be advertised and sold to the highest responsible bidder. The Council may, in its discretion, reject any and all bids tendered for such bonds and proceed to readvertise the same when the bids are not satisfactory. The Treasurer of the City of Portland, Oregon, shall have the care and custody of all moneys received from the sale of said bonds, or otherwise, and shall pay out the same on warrants of the Mayor, countersigned by the Auditor, and not otherwise.

The proceeds of the sale of the bonds herein provided for shall be expended by the Council in the payment of the expenses of advertising and issuing said bonds, and in the acquisition of land for, and in the construction and erection of a building to be used for a municipal jail, municipal courthouse, headquarters for the Police Department, and for an emergency hospital. The Council of the City of Portland is hereby authorized and empowered to acquire, either by direct purchase or in pursuance of condemnation proceedings as provided by the Charter of the City of Portland and the statutes of the State of Oregon, an appropriate site for said municipal jail building, or to appropriate and use any property now owned by the City of Portland available for such purpose.

From the fund herein provided for, the Executive Board of the City of Portland, Oregon, and its successors in office is hereby authorized and empowered to construct and furnish a suitable building to be used for the purposes herein designated, and to enter into all the necessary contracts therefor. Said building, when completed, shall be under the supervision and control of said Executive Board.

\*Adopted June 5, 1911.

### Garbage Collection—Bonds, Etc.

\*Section 429. (a) The Council of the City of Portland is hereby authorized in the name of and under the corporate seal of said City to issue and dispose of bonds of said City of Portland to an amount not exceeding seventy-five thousand (\$75,000.00) dollars of such denominations as the Council may determine, and in such form as said Council shall select, with interest coupons attached thereto. The said bonds shall be signed by the Mayor and countersigned by the Auditor of said City of Portland, and each of said coupons shall have the signature of the Mayor and Auditor of the City of Portland

engraved thereon, whereby the City of Portland shall be held and considered in substance and effect to undertake and promise, in consideration of the premises, to pay to the bearer of each of said bonds, at the expiration of thirty years from the date thereof, the sum named therein in gold coin of the United States of America, together with interest thereon in like coin at the rate of four per centum per annum payable half-yearly as provided in said coupons. The bonds issued in pursuance of the authority hereby granted shall be known as "Municipal Garbage Collection Bonds," and the interest and principal of said bonds shall be paid out of the Municipal Garbage Collection Fund, but the same shall be considered as a general obligation of the City. The bonds herein provided for and authorized to be issued shall be advertised and sold to the highest responsible bidder. The Council may, in its discretion, reject any and all bids tendered for such bonds and proceed to readvertise the same when the bids are not satisfactory. The Treasurer of the City of Portland, Oregon, shall have the care and custody of all moneys received from the sale of said bonds, or otherwise, which shall be credited to the Municipal Garbage Collection Fund, and shall pay out the same on warrants of the Mayor countersigned by the Auditor of the City of Portland, and not otherwise,

(b) The proceeds of the sale of said bonds may be expended by the Council in the payment of the expenses of advertising and issuing said bonds; and the Board of Health may, in pursuance of appropriations therefor, establish a Municipal Garbage Collection System, and purchase all the necessary accessories therefor. The Council shall have the right to fix the rates which shall be charged for the collection of garbage. The Board of Health shall have power and authority to employ, hire and discharge from time to time, subject to the Civil Service Rules of this Charter, all agents, workmen, laborers and servants, as it may deem necessary or requisite in the conduct, operation and management of said Municipal Garbage Collection System, and to make all needful rules and regulations for the conduct and management of the same, and to provide for the payment of rates monthly in advance, or otherwise, and to discontinue the service from any house, tenant or place when said garbage rate is not duly paid, or when any rule or regulation is disregarded or disobeyed, and to do any other act or make any other regulation necessary and con-

venient for the carrying out of the power and authority given by this Charter in conducting said Municipal Garbage Collection System.

(c) The Board of Health shall annually make, before the first day of January, a written estimate of the probable expense of maintaining and conducting said Garbage Collection System during the ensuing year, and also the cost of any contemplated alteration, improvement or extension thereof. Said Board of Health shall ascertain and prescribe, as nearly as it conveniently can, a garbage collection rate for the ensuing year which will insure a sufficient income from the collection of garbage to pay such expenses and costs, together with the interest on said bonds, and a sum not exceeding three per cent of the principal of the bonds issued under this act to be used as a sinking fund to redeem said bonds, and said sinking fund shall be invested in interest bearing bonds, preference to be given to bonds issued by the City of Portland. Said estimate shall thereupon be submitted to the Council. The Council shall not increase the expenditures proposed nor decrease the garbage collection rate set out therein, but it may reduce or omit any proposed items of expenditure or increase the rate to be charged for the collection of garbage. The Council shall, by ordinance, authorize the proposed expenditures to be paid only out of said Municipal Garbage Collection Fund and shall likewise fix the garbage collection rates for the ensuing year. In case of any unforeseen or great emergency, the Council may, by ordinance, at any time on recommendation of the Board of Health, authorize further expenditures to be made out of the Municipal Garbage Collection Fund. All moneys collected or received by the Board of Health for the collection of garbage shall be deposited with the City Treasurer, who shall keep the same separate and apart from the other funds of the City in a fund to be known as the Municipal Garbage Collection Fund.

\*Adopted June 5, 1911.

Section 430. "The Auditor of the City of Portland is hereby authorized to renumber the foregoing Sections, providing for a commission form of government, and insert the same in proper place in the Charter of 1903, and thereafter have the same published in pamphlet form.

"Immediately after this Charter goes into effect the Coun-

cil shall revise, codify and arrange in appropriate chapters, articles and sections, the Charter and general ordinances of the City of Portland."

Passed the House January 19, 1903.

L. T. HARRIS,

Speaker of the House.

Passed the Senate January 20, 1903.

GEO. C. BROWNELL,

President of the Senate.

Approved January 23, 1903.

GEO. E. CHAMBERLAIN,

Governor.

This Charter shall go into effect on the first day of July, 1913, except that the provisions hereof for election shall be in effect immediately upon its adoption and an election shall be held pursuant to such provisions on the first Monday in June, 1913.

All nominations made under the Charter of 1903 shall become void and of no effect on the adoption of this Charter.

