

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

ANDREW HOAN, an individual,

Plaintiff,

v.

MARY HULL CABALLERO, City of
Portland Auditor, LOUISE HANSEN, City of
Portland Elections Officer,

Defendants.

Case No.

COMPLAINT
(Review of Election Law
Decision under ORS 246.910,
Portland City Code 2.04.055,
and ORS 250.270; Declaratory
Judgment)

Filing Fee: \$281.00
ORS 21.135(1), (2)

Claim Not Subject to Mandatory
Arbitration

Plaintiff alleges:

1.

Plaintiff Andrew Hoan ("Plaintiff") is a resident and elector of the City of
Portland, as well as the President and CEO of the Portland Business Alliance.

2.

Defendants Mary Hull Caballero and Louise Hansen ("Defendants") are the
City Auditor and the City Elections Officer for the City of Portland and are being
sued in their official capacity only.

3.

The City of Portland Charter Commission's ("Charter Commission")
proposed measure violates the single-subject requirement of Oregon's Constitution.

The Constitutional Single-Subject Requirement According to Defendants

4.

On December 16, 2020, the City Elections Officer rejected Prospective Initiative Petition ID 2020-PDX01 (“2020-PDX01”) for constitutional insufficiency.

The City Elections Officer stated:

Failure to Embrace One Subject Only

Article IV, section 1 (2)(d) requires that a proposed law “shall embrace one subject only and matters properly connected therewith.” A two-part framework governs the determination of whether a proposed law comports with the single-subject requirement. First, is there a unifying principle logically connecting all provisions in the measure? Second, if a unifying principle exists, are other matters in the proposed law properly connected to the unifying principle? Here, 2020-PDX01 seeks to, most relevantly:

- Increase the number of City Council members.
- Require mandatory town hall meetings, in addition to weekly Council meetings.
- Change Council voting requirements.
- Change Council member qualifications.
- Change the management structure of internal bureaus.
- Change term durations of City Council members.
- Change frequency of elections.
- Change at-large elections to district elections.
- Change the voting system from a simple majority to ranked-choice voting.
- Create elective council districts and a district map.

2020-PDX01 does not comply with the first part of the single-subject analytic framework because it seeks to amend multiple provisions of the City Charter, and not all the amendments are connected by a single unifying purpose. For example, changing the operations of City Council is not logically connected to changing the voting system for all elected City officials.

(bold in original; underlining added). The full decision is attached as Exhibit 1 and fully incorporated herein.

5.

The City Elections Officer’s rejection of 2020-PDX01 was legally correct.

The Charter Commission's Proposed Measure Violates the Single-Subject Requirement

6.

The Charter Commission has referred a proposed measure that suffers from similar constitutional insufficiency as 2020-PDX01, includes even more provisions that are not logically connected, and should be similarly rejected. The full measure is attached as Exhibit 2 and fully incorporated herein.

7.

As applicable to the Charter Commission's proposed measure, some of the key elements of both measures are as follows:

- Increase the number of City Council members.
- ~~Require mandatory town hall meetings, in addition to weekly Council meetings.~~
- Change Council voting requirements.
- Change Council member qualifications.
- Change the management structure of internal bureaus.
- Change term durations of City Council members.
- Change frequency of elections.
- Change at-large elections to district elections.
- Change the voting system from a simple majority to ranked-choice voting.
- Create elective council districts and a district map.

(direct quote from 2020-PDX01 decision in Exhibit 1; single element from 2020 measure that is not in 2022 proposal in strikethrough).

8.

The Charter Commission's proposed measure also has added even more key elements, which are not all logically connected to all the key elements above or to each other, including but not limited to:

- Require multi-member council districts.
- Create a new Independent District Commission.

- 1 • Require ranked-choice voting for some positions but single transferrable
- 2 voting for others.
- 3 • Create a new City Administrator position appointed by the Mayor, subject to
- 4 city council confirmation.
- 5 • Require Mayor and City Administrator to “[a]dvance the City’s core values
- 6 anti-racism, equity, transparency, communication, collaboration and fiscal
- 7 responsibility.”
- 8 • Require Mayor and City Administrator to “[a]dvance the City’s efforts to
- 9 mitigate the human-made climate crisis and prioritize environmental justice
- 10 initiatives.”
- 11 • Require Mayor and City Administrator to submit a proposed annual budget,
- 12 and periodic amendments.
- 13 • Require Mayor to “[e]ncourage programs for the physical, economic, social
- 14 and cultural development of the City.”
- 15 • Require Mayor to “[a]ctively promote economic development to broaden
- 16 and strengthen the commercial and employment base of the City.”
- 17 • Require Mayor to annually “appear before the Council to deliver a general
- 18 address on the State of the City.”
- 19 • Require Mayor to “[a]uthorize, negotiate and execute all contracts and
- 20 intergovernmental agreements, consistent with the City budget.”
- 21 • Limit the Mayor’s vote on City Council only to tiebreaking.
- 22 • Require City Administrator to prescribe rules and regulations.
- 23
- 24

1 • Require the city to undertake periodic education campaigns on the new
2 voting structure.

3 • Other unrelated changes.

4 9.

5 Just like with 2020-PDX01, the Charter Commission’s proposal for “changing
6 the operations of City Council is not logically connected to changing the voting
7 system for all elected City officials.”

8 10.

9 Under the City Elections Officer’s own analysis, the Charter Commission
10 proposal violates the constitutional single-subject requirement.

11 11.

12 The Charter Commission’s own report acknowledges that proposed measure
13 includes multiple “charter amendments” that will produce at least three “major
14 changes, including:

- 15 • Allowing voters to rank candidates in order of their preference, using ranked
16 choice voting. . . .
17 • Four new geographic districts with three members elected to represent each
18 district, expanding the city council to a total of 12 members. . . .
19 • A city council that focuses on setting policy and a mayor elected citywide to
20 run the city's day-to-day operations, with the help of a professional city
21 administrator. . . .”

22 Exhibit 3, p. 3 (bolding removed). The full report from the Charter Commission is
23 attached as Exhibit 3 and fully incorporated herein.

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Defendants’ Have a Legal Duty to Reject the Proposed Measure

12.

A city elections officer has a constitutional duty to conduct pre-election reviews of proposed measures to ensure they comply with constitutional procedural requirements, such as Article IV, Section 1(2)(d), and to reject those that do not comply. *See Bowers v. Betschart*, 313 Or. App. 294, 311-14, 496 P.3d 1034, 1044-46 (2021), *review denied*, 369 Or. 504, 506 P.3d 412 (2022) (local elections officer authority); *Foster v. Clark*, 309 Or. 464, 469–71, 790 P.2d 1, 4–5 (1990) (same); *Oregon Educ. Ass’n v. Roberts*, 301 Or. 228, 235, 721 P.2d 833, 836 (1986) (analogous pre-election duty of Secretary of State to reject constitutionally insufficient proposed measures even absent a statute so providing); *Geddry v. Richardson*, 296 Or. App. 134, 146, 437 P.3d 1163, 1170 (2019) (same).

13.

The constitutional single-subject requirement applies to any “proposed law” per Article IV, section 1 (2)(d). *See also* Article IV, Section 20.

14.

The constitutional requirements for both state and local “initiative and referendum powers” are the same per Article IV, section 5.

15.

Constitutional “initiative and referendum powers” powers include any measure referred by a governing body per Article IV, section 3(c).

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16.

Under the Oregon Constitution, a referral is a type of “initiative and referendum.”

17.

Under Portland Charter Section 2-503, the Auditor exercises authority independent of other city officers.

18.

Under Portland Charter Section 2-507(a), the Auditor is responsible for city elections as provided by state law and Chapter 3 of the Charter, as well as for other duties assigned by the Council.

19.

Under Portland Charter Section 3-106, the council adopts procedures for conducting elections by ordinance in the city code.

20.

Under Portland Charter Section 3-201, initiative and referendum rights “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.”

21.

Under Portland Charter Section 3-202, a referendum occurs when a measure is “approved by the electors of the City when submitted under the referendum.”

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22.

Under Portland City Code 2.02.010(A), (C) and 2.02.020(A), the City of Portland’s “City Elections Officer” is the City Auditor or designee.

23.

Under Portland City Code 2.02.010(C), all documents involving proposed measures, including initiatives and referendum, must be filed with the City Elections Officer.

24.

Under Portland City Code 2.02.010(B), the City Elections Officer “may accept for filing and verify elections documents.” Because the wording is “may accept,” not “must accept,” the city code anticipates that the City Elections Officer will reject constitutionally defective filings.

25.

Under Portland City Code 2.02.010(D), the City Elections Officer “shall verify the sufficiency of the content and form of [proposed measure] documents.” This “review does not include . . . verification that filings are free of substantive legal defects.”

26.

The Constitutional single-subject requirement governs the sufficiency of the content and form of a proposed measure but not a proposed measure’s substantive Constitutionality or substantive legal defects.

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27.

The Secretary of State’s analogous procedural constitutional compliance review for whether a proposed measure “embraces one subject only and matters properly connected therewith” is not a review for “substantive constitutional or legal sufficiency.” OAR 165-014-0028; *see also Geddry v. Richardson*, 296 Or. App. 134, 146, 437 P.3d 1163, 1170 (2019).

28.

For decades, the Secretary of State has performed pre-election procedural constitutional review of proposed measures and rejected those that are procedurally constitutionally insufficient based on constitutional authority rather than explicit statutory authority. *See* OAR 165-014-0028 (noting procedural constitutional compliance review for whether proposed measure “embraces one subject only and matters properly connected therewith” is not a review for “substantive constitutional or legal sufficiency”); OAR 165-014-0005 (adopting State Initiative and Referendum Manual revised 02/2022); Secretary of State, *State Initiative and Referendum*, p. 10 (Rev. 02/2022) (citing sources of authority for procedural constitutional review as “Oregon Constitution, Article IV, §1, Article XVII and OAR 165-014-0028”)

Plaintiff Attempts to Resolve this Matter Informally

29.

On July 8, 2022, Plaintiff sent Defendants a letter regarding how the Charter Commission’s proposed measure unconstitutionally combines multiple subjects and asking that the proposed measure be rejected. The full letter is attached as Exhibit 4

1 and fully incorporated herein. This letter was also posted on Defendants’ website:

2 <https://www.portland.gov/elections/petition-and-measure-log>

3 30.

4 On July 12, 2022, Defendants notified Plaintiff that they would not reject the
5 City of Portland Charter Commission proposed measure. The full notification letter is
6 attached as Exhibit 5 and fully incorporated herein. This letter was also posted on
7 Defendants’ website: <https://www.portland.gov/elections/petition-and-measure-log>

8 31.

9 Defendants’ decision is contrary to law and historical precedent.

10 32.

11 In a March 2, 2022, memo published by the Charter Commission, the
12 Portland City Attorney noted that: “Portland has historically taken the approach most
13 likely to avoid legal challenge by ensuring that ballot measures referred to voters by
14 the Portland City Council or by the Portland Charter Commission meet the full-text
15 and single-subject requirements.” The full memo is attached as Exhibit 6 and fully
16 incorporated herein.

17
18 **Plaintiff’s Goals: Supporting Good City Administration Reforms and Giving**
19 **Voters More Choices**

20 33.

21 Plaintiff believes certain elements of Portland’s proposed charter reform
22 deserve support and, simultaneously, voters deserve more choice.

23 ///

24 ///

34.

Plaintiff supports the absolute and unequivocal need to remove the legislative branch from the executive and provide the mayor and a city manager with the responsibilities and, more importantly, the accountability for the city's administration.

35.

Plaintiff is concerned that the coupling of the good and expected reforms to the city's administration will be brought down at the ballot by the improvised concepts advanced through the new form of elections that the Charter Commission has bundled together into a single proposed measure.

36.

Plaintiff wants the Charter Commission to re-submit the same charter reforms to voters in multiple measures so that Portland's voters have the choice to agree with all, none, or some of the Charter reforms.

37.

Plaintiff would vote in favor of a Charter Commission measure that only includes the good and expected reforms to the city's administration that the Charter Commission has proposed.

Many Portland Voters Support Plaintiff's Goals

38.

Upon information and belief, many other Portland voters also want to support some elements of the charter reform package but not others.

39.

Upon information and belief, there is now strong and organized opposition to the experimental election proposals within the Charter Commission's proposed measure.

40.

Upon information and belief, there is currently no strong or organized opposition to the good and expected reforms to the city's administration within the Charter Commission's proposed measure.

41.

Current City Commissioner Mingas Mapps was quoted in the Willamette Week as taking a similar position:

"When I look at this package, I see four, if not more, major reforms packed into this proposal. Some of these ideas I clearly support, some I have questions about, some I think are probably bad ideas," Mapps says. "Portlanders at least need to have a chance to vote on these ideas separately. Packing them all together literally makes it impossible for me to sort out whether this is going to help the city more or hurt." Mapps tells WW there are parts of the measure he thinks are "bad ideas." He is especially concerned by multi-member districts. "As you layer on these complications after complications...I think it actually might make our government less functional."

Sophie Peel, Willamette Week, *Two Political Action Committees Plan to Push Back Against Portland Charter Reform Ballot Measure: One of them is a PAC launched by Commissioner Mingus Mapps last fall explicitly to support charter reform*. June 28, 2022. <https://www.wweek.com/news/city/2022/06/28/two-political-action-committees-plan-to-push-back-against-portland-charter-reform-ballot-measure/>

42.

Allowing voters to express nuanced preferences is part of the very purpose of the single-subject requirement, which stops the abuse of inserting into one measure “two or more unrelated provisions so that those favoring one provision could be compelled, in order to secure its adoption, to combine with those favoring another provision, and by this process of log-rolling the adoption of both provisions could be accomplished.” *State v. Mercer*, 269 Or. App. 135, 138, 344 P.3d 109, 111–12 (2015) (citations omitted).

Prompt Action is Needed to Protect Voter Choices

43.

Promptly determining that the Charter Commission’s proposed measure violates the Constitutional single-subject requirement will leave time for the Charter Commission—before the 2022 general election—to re-submit the same reforms to the voters in multiple measures that ensure voter choice and follow single-subject requirements.

44.

Because Defendants have failed to follow legal requirements, Plaintiff must file this action so that the Court can protect voting rights for all Portland voters by ensuring they have the choice to agree with all, none, or some of the Charter reforms.

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Technical Allegations Related to Jurisdiction, Venue, and Plaintiff's Legal Standing to File this Action

45.

This Court has "jurisdiction and authority to determine whether a proposed initiative or referendum measure is one of the type authorized by Oregon Constitution, Article IV, section 1(5) to be placed on the ballot." *Foster v. Clark*, 309 Or. 464, 471, 790 P.2d 1, 5 (1990).

46.

Venue is proper in Multnomah County since Defendants' office is located in Multnomah County, as are the vast majority of the City of Portland's residents and geographic area.

47.

Plaintiff resides in Multnomah County.

48.

Plaintiff is a registered voter and an elector of the City of Portland who is adversely affected by Defendants' actions and failure to act.

49.

Plaintiff's voting rights will be prejudiced if the Charter Commission's proposed measure is placed on the ballot.

50.

Plaintiff will have to spend additional time and money on the upcoming Charter Commission measure campaign due to Defendants' conduct that Plaintiff would not otherwise have needed to spend.

51.

Defendants' conduct will have a financial impact on Plaintiff of at least \$1,
which is sufficient for standing.

FIRST CLAIM FOR RELIEF

(Review under ORS 246.910)

Plaintiff realleges and incorporates by reference all above paragraphs.

52.

There is jurisdiction, standing, and venue for this action under ORS 246.910.

53.

Defendants' conduct constitutes both acting and failing to act under an
election law.

54.

Defendants failed to act under an election law by not following their
constitutional duty to reject the Charter Commission's proposed measure.

55.

Defendants' notification to Plaintiff that they would not follow their
constitutional duty to reject the Charter Commission's proposed measure also
constituted an action under election law.

56.

This action is filed within 60 days of Defendants' failure to act, as required by
ORS 246.910.

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1 57.

2 Under ORS 246.910(4), the Court can and should exercise discretion to
3 prioritize this case on its docket due to the importance to all Portland voters.

4 58.

5 Upon prevailing, Plaintiff is entitled to recover his costs and disbursements.

6 59.

7 Upon prevailing, Plaintiff is entitled to recover his reasonable attorneys' fees
8 under the public benefit doctrine.

9 **SECOND CLAIM FOR RELIEF**

10 **(Declaratory Judgment)**

11 **(In the alternative to the first claim for relief)**

12 Plaintiff realleges and incorporates by reference all above paragraphs.

13 60.

14 This action is proper to resolve a controversy under the declaratory judgment
15 act, ORS 28.010 et seq.

16 61.

17 This action was brought within a reasonable time as it was brought prior to the
18 most similar deadline, the deadline for filing a challenge to the ballot title.

19 62.

20 Upon prevailing, Plaintiff is entitled to recover his costs and disbursements.

21 63.

22 Upon prevailing, Plaintiff is entitled to recover his reasonable attorneys' fees
23 under the public benefit doctrine.
24

THIRD CLAIM FOR RELIEF

(Review under ORS 246.910, Portland City Code 2.04.055, and ORS 250.270)

(In the alternative to the first and second claims for relief)

Plaintiff realleges and incorporates by reference all above paragraphs.

64.

If the court determines that the Charter Commission proposed measure is not a referendum, then it is an initiative under Oregon's constitution.

65.

There is jurisdiction, standing, and venue for this action under ORS 246.910, Portland City Code 2.04.055, and ORS 250.270.

66.

Defendants have failed to act under an election law by not following Portland City Code 2.04.055 and ORS 250.270 to conduct a constitutional review under section 1 (2)(d) and (5), Article IV of the Oregon Constitution.

67.

This action is brought within seven days of Defendants' determination that they will not conduct the required review.

68.

Upon prevailing, Plaintiff is entitled to recover his costs and disbursements.

69.

Upon prevailing, Plaintiff is entitled to recover his reasonable attorneys' fees under the public benefit doctrine.

///

WHEREFORE, Plaintiff requests a judgment as follows:

1. Declaring the Charter Commission's proposed measure violates the single-subject requirement of Oregon's Constitution.
2. Directing Defendants, as the City Elections Officer, to reject the Charter Commission's proposed measure and not to file the proposed measure, ballot title, or explanatory statement with county elections officers.
3. Awarding Plaintiff his reasonable attorney fees, plus his costs and disbursements.
4. Awarding any other relief the Court considers just and equitable.

DATED this 14th day of July, 2022.

SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

s/ Steve Elzinga

Steve Elzinga, OSB No. 123102

steve@shermLaw.com

Of Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of July, 2022, I served or caused to be served a true and correct copy of **COMPLAINT** on the following at their last-known addresses as shown below:

Robert L. Taylor
Portland City Attorney
1221 SW 4th Avenue
Suite 430
Portland, OR 97204
cityattorneysoffice@portlandoregon.gov
Amanda.Larson@portlandoregon.gov
Of Attorneys for Defendants

☐ **BY REGULAR MAIL:** I placed copies of the document(s) in a sealed envelope and caused such envelope to be deposited in the United States Mail at Salem, Oregon, with postage thereon fully prepaid and addressed as listed above.

☐ **BY HAND DELIVERY:** I arranged for the documents to be hand delivered to the address(es) listed above.

☒ **BY ELECTRONIC MAIL:** I served the documents by electronic mail to the electronic mail address(es) listed above.

☐ **BY FACSIMILE:** I served the documents by facsimile to the facsimile number(s) listed above.

☐ **OTHER:** _____

SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

s/ Steve Elzinga
Steve Elzinga, OSB No. 123102
Of Attorneys for Plaintiff



December 16, 2020

Gregory A. Horner
7040 SW Terwilliger Blvd
Portland, OR 97219

DELIVERED BY CERTIFIED MAIL
(Return Receipt Requested)
and
DELIVERED ELECTRONICALLY
(gregory.h.lee@gmail.com)

CONSTITUTIONALITY REVIEW DETERMINATION

City of Portland Prospective Initiative Petition
2020-PDX01: "Portland Council Reformation"

- Notice of Insufficiency -

Dear Chief Petitioner Horner:

On December 9, 2020, you filed a prospective initiative petition with the City Elections Office. As required by ORS 250.270 and City Code Section 2.04.055, I have determined Prospective Initiative Petition ID 2020-PDX01, "Portland Council Reformation," (hereinafter 2020-PDX01) does not meet the requirements of Article IV of the Oregon Constitution, section 1 (2)(d), for the following reasons:

1. Failure to Include Full Text of Proposed Regulation.

Article IV, section 1 (2)(d) requires that voters presented with a ballot measure must be provided with the full text of the statute as it would appear if amended. Here, 2020-PDX01 proposes brand new sections to the City Charter and amendments to existing sections of the City Charter. However, 2020-PDX01 does not clearly set out the changes to existing law that it proposes to make. Without the context of the present state of the law and how that law would be modified by passage of 2020-PDX01, registered voters cannot fully understand the potential impacts of the proposed measure. As a result, 2020-PDX01 does not comply with the full text requirement of Oregon Constitution Article IV.

2. Failure to Embrace One Subject Only.

Article IV, section 1 (2)(d) requires that a proposed law "shall embrace one subject only and matters properly connected therewith." A two-part framework governs the determination of whether a proposed law comports with the single-subject requirement. First, is there a unifying principle logically connecting all provisions in the measure? Second, if a unifying principle exists, are other matters in the proposed law properly connected to the unifying principle? Here, 2020-PDX01 seeks to, most relevantly:



- Increase the number of City Council members.
- Require mandatory town hall meetings, in addition to weekly Council meetings.
- Change Council voting requirements.
- Change Council member qualifications.
- Change the management structure of internal bureaus.
- Change term durations of City Council members.
- Change frequency of elections.
- Change at-large elections to district elections.
- Change the voting system from a simple majority to ranked-choice voting.
- Create elective council districts and a district map.

2020-PDX01 does not comply with the first part of the single-subject analytic framework because it seeks to amend multiple provisions of the City Charter, and not all the amendments are connected by a single unifying purpose. For example, changing the operations of City Council is not logically connected to changing the voting system for all elected City officials. Having identified one or more violations of the first part of the analytic framework, we stop our analysis there and determine that 2020-PDX01 does not comply with the single subject requirement of Oregon Constitution Article IV.

Please Note: This determination is a limited review of constitutional conformity and it does not necessarily identify all potential constitutional difficulties that would preclude the proposed measure from proceeding.

Challenge Rights: As provided in ORS 250.270(4), any elector dissatisfied with the current constitutionality determination may petition the Multnomah County Circuit Court for review within seven (7) business days.

Sincerely,



Louise Hansen
City Elections Officer

AN ACT

Pursuant to Section 13-302 of the Charter of the City of Portland, the Charter Commission submits a measure to change the structure of city government.

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

Section 1. The Charter of the City of Portland, Oregon is amended as provided in Exhibit A.

Section 2. The following amended sections in Exhibit A take effect immediately upon adoption: Section 2-202; Section 2-207; Section 3-101; Section 3-102; Section 3-105; Section 3-108; Section 3-109; and Section 3-110.

Section 3. All other amended sections in Exhibit A take effect January 1, 2025.

EXHIBIT A

CHAPTER 1 - CORPORATE EXISTENCE AND POWERS

ARTICLE 1. POWERS, RIGHTS AND LIABILITIES.

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

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

Section 1-102. Grant of General Powers.

The City of Portland shall be invested within its corporate limits and within the limits of property it holds or occupies outside its corporate limits, with authority to perform all public and private services, including those of an educational or recreational character as well as others, with all governmental powers except such as are expressly conferred by law upon other public corporations within such limits and subject to the limitations prescribed by the constitution and laws of the State, and with authority to acquire by purchase, condemnation or otherwise property within and without its limits, and to perform any function or service or to have any authority permitted by law outside its limits. [Ch. 1903, sec. 3; am. May 3, 1913, sec. 2; rev. 1914, sec. 3; 1928 pub., sec. 3; 1942 recod., sec. 1-103; rev. May 18, 1962.]

Section 1-103. Legal Proceedings.

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

Section 1-104. Alienability of Public Places and Property and Limitations Thereon.

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

The City may vacate street area if such vacation would not interfere with reasonable access to the water front or any transportation terminal. Favorable vote of at least ~~four fifths of all members of the Council shall be~~ nine (9) Councilors are required for any ordinance of vacation. The Council may impose such conditions upon the street vacation as it deems appropriate in the public interest. This Section shall not be deemed to prevent replatting of subdivisions wherever situated, nor relocation of streets.

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

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

No dedication by the City of any park, playground or public place shall be terminated unless the Council finds that such dedicated area is no longer needed for the dedication purpose, or that another public use has a greater need for such property, or that another location would further the public use. When such dedication is terminated, the property may be leased, sold or exchanged.

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

The City may sell, dispose of or exchange any buildings, structures or property, real or personal, which it owns or may acquire not needed for public use, by negotiation, bid, auction or any other method the ~~Council~~ City finds appropriate. Favorable vote of at least ~~four-fifths of all members of the Council shall be~~ nine (9) Councilors are necessary for any ordinance authorizing such sale, disposal or exchange. The City may sell property on contract for such term as the Council finds appropriate, notwithstanding any term limit elsewhere prescribed in the Charter. In cases where property to be exchanged is held by the City upon any trust (including property held as security for bond issues) the property received in exchange shall be similarly held and any net income therefrom shall be applied to such trust.

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

Section 1-105. Nonliability for Defective Sidewalks, Etc.

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

Section 1-106. Damage Claims, Insurance.

Notice of and claims for damages arising out of the alleged torts of the City and those of its officers, employees and agents acting within the scope of their employment or duties, must be presented within the time prescribed by law. The Council shall establish a Loss Reserve Fund and shall annually budget an amount sufficient to maintain such Fund on an actuarially sound basis.

The monies in such Fund may be invested and reinvested in the like manner with other City funds and the earnings from such investment and reinvestment shall be credited to the Fund. Payments may be made from the Loss Reserve Fund to pay claims against the City, its officers, employees and agents, procure insurance against such liability, and pay costs related to the payment of claims including but not limited to payment of investigative, legal and administrative expenses. In the event the ~~Council~~Mayor shall deem it advantageous to procure insurance against claims, the existence of insurance shall be considered in determining the funding necessary to maintain the Loss Reserve Fund on an actuarially sound basis. The ~~Commissioner In Charge~~Mayor may negotiate, compromise and settle any claims and may authorize the payment of any claim in an amount not to exceed ~~five~~ fifty thousand dollars (\$50,000). Payment exceeding ~~five~~ fifty thousand dollars (\$50,000) for any claim must be authorized by an ordinance. [Ch. 1903, sec. 9; rev. 1914, sec. 282; 1928 pub., sec. 282; 1942 recod., sec. 1-111; rev. May 18, 1962; rev. Nov. 2, 1976; am. May 20, 1986; amended May 15, 2012, effective June 13, 2012.]

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

To the end that the Council may provide for paying claims which it finds to be fair and moral obligations of the City but limited to claims that are barred by Charter exemption or by reason of governmental immunity or that are asserted by employees for the replacement of personal property damaged in the course of performing their employment duties, it may in its discretion direct payment or settlement, provided that an affidavit of the claimant or person representing the claimant and having knowledge of the facts is filed with the City Attorney within thirty (30) days after the event which caused the claim (unless the Council, upon proof of a good excuse, permits later filing) showing therein the name, age, and address of the claimant, the time and facts which give rise to the claim, the persons present, if any, able to substantiate the facts and circumstances, the name of the City officer or employee first contacted with reference to the claim, the name and address of the physician and/or surgeon who attended the claimant if the claim be based on personal injury treated by a physician or surgeon, a description of the injuries if personal injury was sustained, a particular statement of the damage, if real and/or personal property was damaged, the places of residence and address of the claimant during three (3) years preceding the claim, a detail of the expense constituting the claim, in so far as expense shall have been and/or probably will be incurred, and such other data as will give the City an opportunity to readily ascertain the facts, extent of injury, cost resulting therefrom and the integrity of the claimant. When insurance (covering the claimant, the City or the City employee involved) applies, the claim shall not be allowed as to any portion covered by the insurance. No claim shall be allowed the enforcement of which would be barred by the statute of limitations, and no payment shall be made unless the claimant accepts the amounts allowed as in full compromise and settlement of all amounts claimed or to be claimed against the City, its officers or employees arising from the same facts. In the event that no settlement is made, nothing herein contained or done hereunder shall prejudice the City in any defense that it may have in any suit or action. Nothing contained herein shall be construed as giving any right to institute or maintain any suit

or action which would not otherwise exist. [May 17, 1946, new sec., 1-112; recod., May 18, 1962; am. May 20, 1980; am. May 20, 1986.]

Section 1-108. Mandatory Weatherization for Existing Buildings Requires Vote of the People.

Except for the provisions of the Building Code of the City of Portland in effect on September 1, 1979, the Council of the City of Portland shall not pass or enforce any ordinance, resolution, law or program mandating weatherization for any building or structure built in the City of Portland prior to September 1, 1979, unless such ordinance, resolution, law or program is referred to the citizens of Portland for a vote. (Add. Nov. 4, 1980.)

ARTICLE 2. BOUNDARIES AND ANNEXATION.**Section 1-201. Boundaries.**

All property surrounded by the corporate limits of the City of Portland as described and officially filed from time to time as set forth in this Section is hereby embraced within the City of Portland. Within ten (10) days after this amendment becomes effective and the official canvass of votes is completed and results of election on this amendment are proclaimed, the Council shall adopt a resolution describing such boundaries. Certified copies of such resolution shall be filed with the Secretary of State and the librarian of the Supreme Court of the State of Oregon, with the County Commission or county court of each county in which a portion of the City is located, and with the Clerk, Assessor, Surveyor, Engineer, Elections Officer, and Tax Supervising and Conservation Commission, if any, of each such county, and such other official as may be required by statute. [Ch. 1903, sec. 12; rev. 1914, sec. 9; 1928 pub., sec. 9; 1942 recod., sec. 1-201; am. May 18, 1962; am. May 20, 1986.]

Section 1-202. Annexations.

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

Section 1-203. Boundary Changes.

Within ten (10) days after the effective date of any annexation or ten (10) days after the proclamation of results of any election on merger or consolidation, if such merger or consolidation is successful, the Council shall adopt a resolution describing the new boundaries, certified copies of which shall be filed as set forth in Section 1-201 of this Charter. [Ch. 1903, sec. 17; rev. 1914 sec. 14; 1928 pub., sec. 14; 1942 recod., sec. 1-206; rev. May 18, 1962.]

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 2 - GOVERNMENT

ARTICLE 1. THE COUNCIL.

Section 2-101. Municipal Powers ~~Vested in Council~~Allocation.

The municipal powers and authority given to the municipal corporation of the City of Portland hereby is are vested as follows: legislative and quasi-judicial authority is vested in a the City Council and executive and administrative authority is vested in the Mayor, 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~~ any more specific allocation set forth in this Charter. Legislative authority means the power to make appropriations, raise revenue and make laws and quasi-judicial authority means the power to apply laws and policies to a set of circumstances. Executive and administrative authority means the power to execute and administer the laws, including by adopting administrative rules. [May 3, 1913, new sec. 6; rev. 1914, sec. 20; 1928 pub., sec 20; 1942 recod., sec. 2-101; am. Nov. 6, 1962.]

Section 2-102. City Council.

The City Council of the City of Portland ~~shall consists of a Mayor and four (4)~~ twelve (12) Commissioners Councilors. There are four (4) City Council districts. Each district is represented by three (3) Councilors. The Mayor is not a member of Council. [1942 recod., sec. 2-101; rev. Nov. 6, 1962.]

Section 2-103. Boards and Commissions.

The Council may ~~create and~~ establish such boards and commissions as it may deem necessary in addition to boards and commissions established by this Charter, and the Council may abolish or alter from time to time any boards or commissions it has established or may establish. All powers and duties of abolished boards and commissions shall be exercised and performed by the Council.

The Mayor may establish such advisory boards and advisory commissions as the Mayor deems necessary, and the Mayor may abolish or alter from time to time any advisory boards or advisory commissions the Mayor has established or may establish. [1942 recod., sec. 2-102; sec. 2-103; am. Nov. 6, 1962.]

Section 2-104. General Powers.

The Council shall have and exercise ~~all~~ legislative and quasi-judicial powers and authority and the Mayor shall have and exercise executive and administrative powers and authority conferred

upon the City of Portland by this Charter or by general law, except where such power is herein expressly bestowed upon some other officer, board or commission to the exclusion of the Council or the Mayor. The Council may delegate any of its ~~nonlegislative~~ quasi-judicial functions or powers to subordinate officers, boards or commissions as it may find appropriate. The Mayor may delegate any of the Mayor's executive or administrative functions or powers to subordinate officers, boards or commissions as the Mayor may find appropriate. The Council must not exercise any of the executive and administrative powers granted to the Mayor by this Charter. [May 3, 1913, part of new sec. 56; rev. 1914, sec. 18; 1928 pub., sec. 18; 1942 recod., sec. 2-104; am. Nov. 6, 1962.]

Section 2-105. Continuation of Specific Powers.

The City ~~of Portland by its Council~~ has power and authority, subject to the provisions, limitations and restrictions contained in this Charter or in statute, to exercise any power or authority granted to the City by statute, general or special, or by this Charter, and may do any other act necessary or appropriate to carry out such authority, or exercise any other power implied by the specific power granted. [Ch. 1903, sec. 73; May 3, 1913, new sec. 34; rev. 1914, sec. 34; 1928 pub., sec. 34; 1942 recod., sec. 2-105; am. Nov. 6, 1962; Nov. 8, 1977, new sec. 65; am. Nov. 4, 1980; amended May 15, 2012, effective June 13, 2012.]

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

1. To exercise within the City and City-owned property, all the powers commonly known as the police power to the same extent as the State of Oregon has or could exercise said power within said areas, and to make and enforce within said areas all necessary or appropriate water, local, police, sanitary and safety laws and regulations.
2. To secure the protection of persons and property and to provide for the health, cleanliness, ornament, peace, safety and good order of the City.
3. To provide for entering into contracts by the City for a period not exceeding five (5) years and the extension or renewal thereof by option or otherwise, for not to exceed an additional five (5) years, except as to property contracts which may extend for more than five (5) years, or as otherwise permitted by this Charter or by statute.
4. To enter into agreements without limitation as to term, as the ~~Council~~ City finds appropriate, for cooperation, consolidation of services, joint acquisition or ownership and maintenance of facilities or services, with any other public corporation or unit of government.

5. To establish, construct, maintain, equip and alter buildings and facilities found necessary or appropriate for administration of government or for use by or for the public.
6. To purchase, or acquire by condemnation or otherwise, or to lease, for such term as the ~~Council~~City may find appropriate, which need not be limited to five (5) years, such property, real and personal, as may be needed for public use; in purchasing property, to enter into lease-purchase agreements or other contracts of purchase which may extend for more than a five (5) year period; to obtain options; and to mortgage for the term of the purchase as security for the purchase price the property being purchased. In exercising this power and authority, only the payments to be made during the year in which the purchase, condemnation, lease, lease-purchase, option, or purchase price mortgage is entered into shall be considered for purposes of applying Section 7-102 thereto. [Am. Nov. 4, 1980.]
7. To provide for the purchase of property levied upon under execution in favor of the City.
8. To purchase, take and hold real or personal property when sold for a delinquent tax or assessment levied or imposed under the authority of the City of Portland, and to sell and convey the same. But the sum bid by the City on or for any such property so sold for a delinquent tax or assessment, shall not exceed the amount of all taxes and assessments plus interest and penalties, and the necessary costs and expenses.
9. To sell by bid or public auction abandoned or impounded and unclaimed property, and property for which storage charges and removal charges, if any, have not been paid.
10. To provide a seal for the City and seals for the several boards and officers thereof.
11. To establish and regulate the fees and compensation of all officers of the City, and for all official services not otherwise provided for in this Charter.
12. To ~~fix by ordinance~~establish the hours during which all offices and departments of the City shall be kept open for business.
13. To appropriate money to pay the debts, liabilities and expenditures of the City or any part or item thereof.

14. To appropriate annually to the Mayor two thousand dollars (\$2,000) as and for a discretionary Fund and such appropriation shall be made.
15. To issue City bonds authorized by this Charter or statute or expressly authorized by vote of the City electors, certificates, warrants, checks and other evidences of indebtedness, but otherwise the City shall not have the power to issue its bonds for any indebtedness or for any purpose, or to increase the bonded indebtedness of the City in any amount or for any purpose whatsoever.
16. To fix fees for establishing street grades, surveying and marking the boundaries of streets, lots or blocks, granting permits for the opening or temporary use of street surfaces, planning of improvements, laying sidewalks, vacating street area, processing of all types of applications, erection and inspection of buildings or facilities, and any special services or functions performed by the City or bureaus thereof.
17. To grant licenses with the object of raising revenue or of regulation, or both, for any and all lawful acts, things or purposes, and to fix by ordinance the amount to be paid therefor, and to provide for the revoking of the same. No license shall be granted to continue for a longer period than one year from the date thereof.
18. To provide for the opening, laying out, establishing, altering, extending, widening, enlarging, vacating and closing, or for establishing and changing the grades, of streets, squares, parks or public places, and to provide for the improving and repairing of streets, squares, parks and public places or of any land over which any right of way has been obtained or granted for any purpose of public travel or use, by means of any kind of work, improvement or repair which the ~~Council~~ City finds necessary or appropriate.
19. To provide for lighting the streets, public grounds, buildings and places, and furnishing the City with light, heat and power, by contract or by means of its own plant.
20. To provide for surveying the blocks and streets of the City and for marking the boundary lines of such blocks and streets; to change by ordinance the number, letter or designation of any lot, block or tract of land within the City which may be conflicting or otherwise unsuitable and to give by ordinance a designation to any tract of land within the City not numbered, lettered or designated. A certified copy of such ordinance shall be transmitted by the Auditor to the recording officer of the County, who shall record the same in

the record of plats of said County and shall make a reference to the record of such ordinance upon the recorded plat on file. No charge shall be made by the recording officer.

21. To set apart as a boulevard or boulevards any street or streets, or portion thereof.
22. To regulate the numbering of houses and lots on the streets, boulevards and avenues and the naming of streets, boulevards and avenues.
23. To regulate and control for any and every purpose the use of streets, highways, alleys, sidewalks, public thoroughfares, and public places within the City and City parks and properties within or without the City, and to regulate the use of streets, roads, highways and public places for transportation or use of every description, and for installation of any kind.
24. To provide or require conduits under the streets, lanes, alleys and public places of the City or any part or parts thereof for the use of telephone, telegraph, electric light and other wires, or for other purposes, either by constructing said conduits itself or authorizing or requiring their construction by others upon such terms and conditions as the ~~Council~~City may impose, and to regulate and control the use of such conduits, and to prescribe and establish reasonable rentals to be paid by any person or company using any of said conduits by whomsoever the same may be constructed for the use thereof, and to provide for the collection of such rentals, in addition to the ordinary processes, by such summary methods as it may deem proper. If any such grant be made to any person, firm or corporation, such grantee shall not have power to sublet the same or the use of the same to any person, firm or corporation engaged in selling, hiring, leasing or otherwise receiving any income from the business or purpose for which it desires to use such conduits, without such person, firm or corporation first obtaining, as provided in this Charter, a franchise for such business, purpose or use.
25. To regulate, restrain and prevent obstructions within the public streets, sidewalks and places and to make all needful regulations to keep and maintain the public streets, sidewalks and places in a clean, open and safe condition for public use; to provide for the removal, impounding and sale or other disposition of such obstructions, and to make the cost of removal a lien upon any property from which such obstruction originated or to which such obstruction was attached, to be placed upon the lien docket and collected as the Council may direct.

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26. To control and limit traffic and classes thereof, and vehicles and classes thereof on the streets, avenues and elsewhere.
 27. To prevent and prohibit planting of trees or shrubbery which may be detrimental to sewers, streets, sidewalks, utilities lines, fire hydrants, or use thereof, or which may interfere with safe travel or vision or may constitute a nuisance, and to cause such trees or shrubbery to be cut down or removed and to make the cost of such cutting or removal a lien upon the property, to be placed upon the lien docket and collected as the Council may direct.
 28. To prescribe rates to be charged for transportation of passengers or property within the City and area outside the City over which City jurisdiction is authorized or recognized by statute, by means of vehicles of every description.
 29. To provide for the establishment of market houses and places, and transportation terminals, and to regulate the location and management thereof.
 30. To provide for the location, construction, repair and maintenance in or outside the City, of any ditch, canal, pipe or other facility for the impoundment, storage or conduct of water, and any drain, sewer or culvert or other facility in or outside the City for conduct, storage or treatment of storm or sanitary drainage or both, as it may deem necessary or convenient; for such purpose to enter upon any land for the purpose of examining, locating and surveying the line or location of such water or sewer facility, doing no unnecessary damage thereby; to appropriate said land or so much thereof as may be necessary for the construction or installation of said facility in any manner permitted by the laws of this State; to appropriate and divert from its natural course or channel temporarily or permanently, any spring or stream of water; and to compel the extension of utility connections from the main line or pipe to the curb line, property line or the sidewalks of all public streets, as the ~~Council~~City may determine.
 31. To provide for furnishing the City and its residents with water, and to sell water to or for nonresidents.
 32. To regulate the plumbing, drainage and sewerage of buildings and structures and the installation and use of appliances or facilities for heat, light, cooling and energy; to provide for the registration and qualification of specialists in trades or in installation or use of appliances and facilities; to provide inspection for such installation or use.

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33. To compel all persons erecting or maintaining privies, water closets or other toilets or cesspools, septic tanks or private sanitary sewerage systems within one hundred (100) feet or one-half block, whichever is greater, of any street in which a public sewer has or may hereafter be constructed, to connect the same therewith; and where a public sewer is not available, to prescribe disposal so as to protect the public, property, health and welfare.
 34. To regulate, restrain and prohibit use of public sewers for any substance which may be harmful or detrimental to the sewers, to sewage disposal and treatment, or hazardous to workers, to property or to the public.
 35. To regulate the construction, care, use and management of buildings and structures in the City for the better protection of the lives and health of persons dwelling in or using the same or of the public, and for the public welfare.
 36. To regulate, restrain and to provide for the exclusion from the City, or any part thereof, of trades, occupations or businesses which are offensive or may ~~in the opinion of the Council~~ create or constitute a nuisance, and to regulate uses of land and structures within the City.
 37. To prevent the erection or cause the removal, demolition or repair of buildings or structures wherever situated, found to be unsafe or dangerous to the occupants, to passers-by or to other property, or which are found to obstruct a street, and to make the cost of such removal, tearing down or repair a lien upon the property, which liens may upon the order of the Council be entered into the docket of City liens and thereafter collected in such manner as the-Council may direct.
 38. To regulate or prevent the moving of buildings or structures over City streets and limit the locations to which such buildings or structures may be moved.
 39. To define and classify the fire limits and to prohibit the erection or repair of buildings constructed of particular materials within all or any such fire limits.
 40. To regulate or limit the height, construction, size, materials, setbacks, yards, inspection and repair of all private and public buildings, structures, and fences within the City and to provide City inspection thereof.
 41. To require adequate fire escapes, apparatus and appliances for protection against fire, to be provided in buildings and structures, or in connection with specific uses.

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42. To make regulations to prevent the introduction of contagious diseases into the City, and to remove persons afflicted with such diseases to suitable hospitals which the City may designate or provide for that purpose either within or without said City; and to regulate such hospitals.
 43. To provide a standard of weights and measures and to authorize inspection of weights, measures, food, beverages, and fuel; to regulate the commodity, size, weight and ingredients of food or beverage products and fuel, and to prevent the sale of adulterated, unhealthful or unwholesome food and beverages, and to provide for the seizure and forfeiture of food or food products, beverages and fuel offered for sale or sold contrary to said regulations.
 44. To prevent and remove nuisances, to declare what shall constitute the same, to punish persons committing or suffering nuisances, to provide the manner of removal of nuisances, and to make the cost of such removal a lien upon the property where such nuisance existed; and to fill up or drain any lots, blocks or parcels of land subject to flood or where any stagnant water stands, to declare the same a nuisance, and to make the cost of filling up or draining the same a lien upon the property so filled or drained. Liens for abatement of nuisances may upon the order of the Council be entered in the docket of City liens and thereafter collected in such manner as the Council may direct.
 45. To regulate or prevent the storage, manufacture, sale, use and transportation of dangerous, explosive, radioactive or combustible materials or weapons, and to provide for the inspection of the same, and to prevent by all proper means risks of injury or damage therefrom.
 46. To regulate, prevent and prohibit loud or unnecessary noise.
 47. To prevent trespassing and punish trespassers upon real and personal property.
 48. To restrain and punish intoxication, fighting and quarreling in the City, and any disturbance, riot or riotous assemblage or participation therein, or any unlawful or indecent practice, and to define what shall constitute the same.
 49. To prevent and suppress gaming and gambling houses, lotteries or places where any game in which chance predominates is played for anything of value, and to punish any person who engages in such game, or keeps or frequents such houses or sets up or promotes lotteries or sells lottery tickets; to prevent and suppress bawdy houses or places where fornication is

practiced, and to punish any inmate, keeper or frequenter thereof; to prevent and suppress use of narcotics and dangerous drugs and houses and places kept therefor, and to punish any keeper of such house or place, or person who frequents the same.

50. To prohibit persons from roaming the streets at unseasonable hours.
51. To prohibit and prevent cruelty to children and animals; to appropriate such sums as may be paid into the treasury from fines collected on conviction of persons charged with cruelty to animals or children, and to authorize the payment of the same or any part thereof to any person or society that shall have officially aided in such conviction.
52. To provide for the punishment by fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), or by imprisonment not exceeding two (2) years, or both, of any person or persons who may injure, deface, interfere with or destroy any property belonging to the City or in which the City has any interest, right or estate, and to provide that the district court or the circuit court of the State of Oregon for the County of Multnomah shall have jurisdiction to enforce such punishment or punishments.
53. To establish, change, discontinue, or re-establish City jails, prisons, police stations, workhouses and houses of detention, punishment, confinement or rehabilitation, within or without the City.
54. To regulate and restrain the keeping of all pets, birds, fowl, reptiles, and animals of any kind, and to prevent any and all animals from running at large within the City or any part thereof, and to punish persons who allow animals to run at large or to be unlicensed; to provide for impounding, sale and disposition when found at large, or when kept against City regulations or when no license has been obtained or tax paid as provided by the Council.
55. To regulate, prevent and prohibit the erection, maintenance or display of signboards, billboards, signs, posters and advertisements designed to attract the attention of persons on sidewalks, streets or public places.
56. To regulate and prohibit the exhibition and hanging of material in or across the street or from houses or other buildings or structures.
57. To regulate and control water-borne commerce and recreational uses within the City, and uses of and activities in or upon bodies of water within the City.

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58. To provide for the removal of obstructions, debris and deleterious matter from waters within the City limits and to prohibit putting or negligently or willfully suffering the same to be put therein.
 59. To regulate the building of wharves, and the driving of piles in any body of water or watercourse within the limits of the City and to establish lines beyond which wharves shall not be built nor piles be driven.
 60. To provide for the construction and regulation of public facilities and landings at the foot of the streets terminating at a watercourse or body of water within the City.
 61. To appropriate money for the deepening, widening, docking, covering, walling, altering or changing channels, water, or watercourses within the City, and to provide for the construction and maintenance of canals, slips, public landing places, wharves, docks and levees, and all such other work as may be required for the accommodation of commerce or recreation; to control and regulate the use thereof and to provide for the acquisition by condemnation or otherwise of all such work or works by the City, and for the construction, maintenance and ownership of the same by the City.
 62. To provide for entering into contracts by the City with publicly or privately owned utilities or other governmental agencies for a period not exceeding forty (40) years for the transmission, sale or exchange of the capacity of and electric power generated by hydroelectric power generating facilities owned by the City and for operation and maintenance of the facilities.

Section 2-106. Enumeration of Powers not a Limitation.

The foregoing or other enumeration of particular powers granted to the ~~Council~~ City in this Charter shall not be construed to impair any grant of power herein contained, express or implied, nor to limit any such general grant to powers of the same class or classes as those so enumerated. The City Council may exercise any legislative or quasi-judicial power or authority, and the Mayor may exercise any executive or administrative power or authority, granted by Oregon statute to municipal corporations at any time and also to cities of a class which includes the City of Portland. [Ch. 1903, sec. 74; rev. 1914, sec. 36; 1928 pub., sec. 36; 1942 recod., sec. 2-120; rev. Nov. 6, 1962.]

Section 2-107. Punishment for Ordinance Violations.

The Council has power and authority, subject to the provisions, limitations and restrictions contained in this Charter, to provide for the punishment of a violation of any ordinance of the

City by a fine or by imprisonment, or by both. Such imprisonment shall be for a term not exceeding six (6) months. In addition to the foregoing penalties, forfeiture of property or license of any kind may be provided. The limitations as to length of sentence contained in this Section shall not apply to any offense for which different limitations are fixed elsewhere in this Charter. [Ch. 1903 subdn. 3, sec. 73; rev. May 3, 1913, effective in July; new sec. June 2, 1913; subdn. 3, sec. 73; rev. 1914; sec. 35; 1928 pub., sec. 35; 1942 recod., sec. 2-106; rev. Nov. 6, 1962; am. Dec. 14, 1971; am. May 20, 1980.]

Section 2-108. Emergency Fund.

There shall be annually appropriated and set apart the sum of five thousand dollars (\$5,000) 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. No part of such Fund shall be used as compensation or additional salary or for the personal benefit of ~~the Mayor or any Commissioner~~ Councilor. [May 3, 1913, new sec. 33; rev. 1914, sec. 31; 1928 pub., sec. 31; 1942 recod., sec. 2-117; rev. Nov. 6, 1962; amended May 15, 2012, effective June 13, 2012.]

Section 2-109. Investigations.

In aid of its legislative function, ~~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. [Ch. 1903, sec.47; rev. 1914, sec. 32; 1928 pub., sec. 32; 1942 recod., sec. 2-118; rev. Nov. 6, 1962.]

Section 2-110. Organization.

At its first regular meeting each calendar year, or oftener at its option, the Council shall elect a President and Vice President by majority vote of those present. The ~~Mayor~~ President shall preside at all meetings of the Council. In the ~~Mayor's~~ President's absence or disability, the Vice President of the Council shall perform the duties of the ~~Mayor~~ President. In the absence or disability of both President and ~~Mayor~~ Vice President, the other members of the Council shall select one of their number to perform the duties of President and ~~Mayor~~ Vice President during such absence. [May 3, 1913, new sec. 35; rev. 1914, sec. 37; 1928 pub., sec. 37; 1942 recod., sec. 2-121; rev. Nov. 6, 1962.]

Section 2-111. Rules of Procedure.

The Council shall determine its own rules of procedure, may establish Council committees and subcommittees, may punish its members for disorderly conduct, and may compel the attendance of members. Only the Council may censure one of its own members, with the affirmative votes of at least nine (9) Councilors. [May 3, 1913, new sec. 19; rev. 1914, sec. 41; 1928 pub., sec. 41; 1942 recod., sec. 2-122; am. Nov. 6, 1962.]

Section 2-112. Meetings and Journal.

All regular and special meetings of the Council shall be public. ~~It shall hold one regular legislative meeting each week, and such other meetings as it may prescribe.~~ The Council meets the first week of January following each general election and thereafter meets at the time and place fixed by ordinance. The Council shall keep a journal of its proceedings which shall be a public record. [May 3, 1913, new sec. 20; rev. 1914, sec. 42; 1928 pub., sec. 42; 1942 recod., sec. 2-123; rev. Nov. 6, 1962.]

Section 2-113. Calendar.

The Auditor shall produce for distribution at least twenty-four (24) hours before each legislative session a summary of all matters to come before the Council at the next regular legislative session. Only matters contained in said summary shall be considered at such legislative session unless ~~four (4)~~ nine (9) members of the Councilors shall vote to consider otherwise. [May 3, 1913, new sec. 30; rev. 1914, sec. 38; 1928 pub., sec. 38; 1942 recod., sec. 2-124; rev. Nov. 6, 1962; am. May 19, 1994.]

Section 2-114. Quorum.

At any meeting of the Council ~~a majority of the total number shall~~ seven (7) Councilors constitute a quorum, but a lesser number may adjourn or recess from time to time, and may compel the attendance of absent members. [May 3, 1913, new sec. 21; rev. 1914, sec. 43; 1928 pub., sec. 43; 1942 recod., sec. 2-125; rev. Nov. 6, 1962.]

Section 2-115. Privilege in Debate.

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

Section 2-116. Aye and Nay Vote.

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

Section 2-117. Transaction of Business.

In the transaction of legislative or judicial business the Council shall act only by the ordinance. In the transaction of all other business the Council shall act only by the resolution, report or order, except as otherwise required by law. The ayes and nays shall be taken upon the passage of all ordinances, resolutions, reports and orders and entered upon the journal of the proceedings of the Council. Every ~~member~~ Councilor when present must vote, unless a majority of the remainder of the Council approves the member's Councilor's excuse for disqualification, ~~and every ordinance shall require the affirmative vote of three (3) members.~~ At least seven (7) affirmative votes are required to pass an ordinance. [May 3, 1913, new sec. 22; rev. 1914, sec. 44; 1928 pub., sec. 44; 1942 recod., sec. 2-128; rev. Nov. 6, 1962.]

Section 2-118. Ordinances, Subject.

No ordinance, except one making an appropriation, shall contain more than one general subject; ordinances making appropriations shall be confined to the subject of appropriations. [May 3, 1913, new sec. 23; rev. 1914, sec. 45; 1928 pub., sec. 45; 1942 recod., sec. 2-129; rev. Nov. 6, 1962.]

Section 2-119. Ordinances, Enacting Clause.

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

Section 2-120. Ordinances, Passage.

Every ordinance except an emergency ordinance shall have two (2) public readings of its title or the effect thereof. At least five (5) days shall elapse between the introduction and final passage of any ordinance and no ordinance shall be amended within five (5) days of its final passage except in the case of an emergency ordinance. An emergency ordinance shall have one public reading of its title or the effect thereof and may be enacted upon the date of its introduction, providing that it contains the statement that an emergency exists and specifies with distinctness the facts or reasons constituting such emergency. ~~The unanimous affirmative vote of all members of the Council present, and of not less than four (4) members~~ of not less than nine (9) members Councilors shall be required to pass an emergency ordinance. [May 3, 1913, new sec. 25; rev. 1914, sec. 47; 1928 pub., sec. 47; 1942 recod., sec. 2-131; rev. Nov. 6, 1962; am. May 20, 1980.]

Section 2-121. Ordinances, Amendments and Repeals.

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

Section 2-122. Ordinances, Attestation.

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 51; 1928 pub., sec. 51; 1942 recod., sec. 2-133; rev. Nov. 6, 1962; am. May 20, 1980; am. May 18, 1994.]

Section 2-123. Ordinances, Effective Date.

Ordinances (a) making appropriations and the annual tax levy, (b) relative to local improvements and assessments thereof, and (c) emergency ordinances, shall take effect immediately upon their passage, or any special date less than thirty (30) days after passage, specifically fixed in such ordinance. All other ordinances enacted by the Council shall take effect thirty (30) days after their passage unless a later date is fixed therein, in which event they shall take effect at such later date, subject to referendum if legislative, and subject to the provisions of this Charter relating to objections. [May 3, 1913, new sec. 26; rev. 1914, sec. 48; 1928 pub., sec. 48, 1942 recod., sec. 2-134. rev. Nov. 6, 1962.]

Section 2-124. Ordinances, Objections.

At any time within ten (10) days after the passage of any ordinance which shall not take effect immediately, ~~any if three (3) member of the Council~~ Councilors may file, in writing, objections to said ordinance, ~~which shall the ordinance will~~ be considered and voted upon by the Council at its next regular meeting. ~~If a majority shall there are at least seven (7) affirmative votes to sustain such objections, the ordinance shall be deemed repealed and shall not take effect unless again passed in the same manner as a new ordinance. If a majority shall vote not to sustain such objections, the same shall have no effect on the ordinance.~~ The objections, together with the vote thereon, shall be preserved on record. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 52; 1928 pub., sec. 52; 1942 recod., sec. 2-135; rev. Nov. 6, 1962.]

Section 2-125. Ordinances, Continuance of Existing.

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

Section 2-126. Promotion of Industry.

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

Section 2-127. Consent Agenda.

Notwithstanding the provisions of Sections 2-116, 2-117, and 2-120 of this Charter, the Council by rule may publish a procedure under which any ordinance, resolution or other action may be placed on a consent agenda. At any meeting at which there is a consent agenda on the calendar, the ayes and nays shall be taken upon the passage of all items on the consent agenda by a single Council vote. It shall not be necessary that there be a reading or readings of the titles or the effect of the items on a consent agenda or that time elapse between the introduction and final passage of the items. The unanimous vote of all ~~members of the Councilors~~ present, and of not less than ~~four (4) nine (9) members~~ Councilors, shall be required to pass a consent agenda. All items to be contained in a consent agenda shall be so listed in the summary of matters to come before the Council prepared under Section 2-113 of this Charter. Items on a consent agenda shall not be subject to amendment or debate. Any item shall be removed from a consent agenda on the request of a Councilor~~member~~, or on the request of any person who wished to be heard on the item, provided the request is made prior to taking the ayes and nays on the consent agenda. An item so removed from a consent agenda shall be treated as a regular calendar item for the meeting for which it was on the consent agenda. [May 20, 1980.]

Section 2-128. City Budget.

The Mayor must submit a proposed budget to the City Council by May 5 of each year. The Council functions as the budget committee and is responsible for approving the budget. City funds may only be expended in conformance with a budget approved by Council.

ARTICLE 2. ELECTIVE OFFICES.**Section 2-201. Elective Officers.**

There shall be no elective officers of the City of Portland other than ~~the Mayor, four (4) twelve~~ (12) Commissioners Councilors, the Mayor and the Auditor. Councilors are elected to represent a geographic district of the City by the legal voters residing in said district. The Mayor and the Auditor are elected at large. All said officers shall be elected at large by the legal voters of the City of Portland and for a term of four (4) years, except as otherwise provided. [May 3, 1913, new secs. 7 and 8; rev. 1914, sec. 21; 1928 pub., sec. 21; 1942 recod., sec. 2-107; rev. Nov. 6, 1962.]

Section 2-202. Qualifications.

Each elected official shall be a citizen of the United States and of the State of Oregon, and a registered voter who shall have been a resident of the City of Portland or of an area which has become part of the City prior to filing the declaration of candidacy or petition for nomination, for a period of not less than one (1) year immediately preceding the ~~nominating~~ election. Beginning in the November 2024 election, a Councilor elected from a district must have resided in that district and been a registered voter in that district for a period of not less than one (1) year immediately preceding the election. If any officer shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. [May 3, 1913, new sec. 9; rev. 1914, sec. 22; 1928 pub., sec. 22; 1942 recod., sec. 2-108; rev. Nov. 6, 1962; am. Dec. 18, 1984.]

Section 2-204. City Business, Time Devoted to.

No official appointed or elected to elective office shall, during the official's term of service, hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party. [May 3, 1913, new sec. 14; rev. 1914, sec. 26; 1928 pub., sec. 26; 1942 recod., sec. 2-112; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-205. Oath of Office.

Every official appointed or elected to elective office before entering upon the performance of official duties, shall take an oath or affirmation that the official will support the Constitutions of the United States and of the State of Oregon, and will faithfully and honestly discharge their duties; that the official holds no other office or position of profit, and that the official is not a member of any committee of any political party. If such oath or affirmation be false in any particular, it shall be deemed a delinquency in office on the part of such official. [May 3, 1913,

new sec. 15; rev. 1914, sec. 27; 1928 pub., sec. 27; 1942 recod., sec. 2-113; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

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

- (a) A vacancy in office ~~shall exist~~s when the Mayor, a ~~Commissioner~~ Councilor or the Auditor fails to qualify by taking the oath following their election, or when any officer or employee dies, resigns, is removed from office, is convicted of a felony, is judicially declared to be mentally incompetent, is convicted of an offense which constitutes corruption, malfeasance or delinquency in office, forfeits their office under specific provisions of this Charter, or is elected or appointed to a different office, and qualifies, takes and assumes the duties of such different office.
- (b) If a vacancy occurs when less than one (1) year remains in the term of the person who held the office, the City Council may fill the vacancy by majority vote of the remaining Councilors, and the appointee will serve the unexpired term of the predecessor to the office. ~~If a vacancy occurs in an office elective under this Charter more than one hundred (100) days preceding the regular primary election to be held in the fourth year of the term of that office, or less than seventy one (71) days preceding the regular general election to be held in that year, the Council, by a single resolution, shall call for two (2) special elections not more than forty five (45) days apart. The first special election will be for the purpose of nomination. It shall be held not more than ninety (90) days after the vacancy occurs, unless the Council finds reasonable cause for delay beyond ninety (90) days. If one candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the second special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the first special election will be elected to fill the unexpired term in the second special election.~~
- (c) If a vacancy occurs when one (1) year or more remains in the term of the person who held the office or if for any reason the office is not filled and no person takes office when the term of office otherwise would have commenced, the City Council may fill the vacancy by majority vote of the remaining Councilors, and the appointee will serve until a successor to the office is duly elected and is qualified to take office. ~~If a vacancy occurs in an office elective under this Charter less than one hundred and one (101) days and more than seventy (70) days preceding the regular primary election to be held in the fourth year of the term of that office, the Council shall call for a special election to be held not more than forty five (45) days following the regular primary election. The regular primary election will be for the purpose of nomination to fill the unexpired term and nomination of candidates for the next four year term of the office to be voted upon in the regular general election. If one~~

~~candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the regular primary election will be elected to fill the unexpired term in the special election.~~

- (d) The election to fill the vacancy for the unexpired term of office must be held at the general election that is next available pursuant to state law that occurs no sooner than the one-hundred twentieth (120th) day after the date upon which the vacancy occurred. The term of office for a person elected to fill a vacancy for an unexpired term of office commences upon the certification of the election. If a vacancy occurs in an office elective under this Charter less than seventy one (71) days preceding the regular primary election, but more than seventy (70) days preceding the regular general election, to be held in the fourth year of the term of that office, and the incumbent vacating the office:

- ~~(1) — Was one of two or more candidates for the same office in the regular primary election, then if an opposing candidate was nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the vacated office until the regular general election and the candidate elected at the regular general election will fill the balance of the unexpired term. If no candidate opposing the incumbent was nominated by a majority of votes cast in that primary, the Council shall call for a special primary election as provided in paragraph (2) of this subsection.~~
- ~~(2) — Was an unopposed candidate for the same office in the regular primary election, then the Council shall call for a special primary election. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and no candidate is nominated by a majority of votes cast, the candidate elected in the regular election will fill the balance of the unexpired term. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term. If the special primary election is held more than one hundred (100) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term.~~
- ~~(3) — Was not a candidate for the same office in the regular primary election, then if a candidate is nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the balance of the unexpired term.~~

~~If no candidate is nominated by a majority of votes cast, the Council shall call for a special election in which the candidate receiving a majority of votes cast will be deemed elected to fill the balance of the unexpired term.~~

~~Any election required by this subsection, between two nominees who received the highest number of votes cast in a prior election, shall be held not more than forty-five (45) days after the prior election.~~

- (e) A person holding an elected office ~~elective~~ under this Charter may file with the Auditor a written notice of intent to resign from office on a specific future date ~~of the occurrence of a specific event~~ within the unexpired term of the office. The Council then may by resolution schedule and hold the special election or elections, as provided in subsections (b) through (d) of this Section, although no vacancy has occurred. However, no candidate elected to fill an unexpired term under this subsection may take and assume the duties of the office unless and until the vacancy occurs.
- (f) ~~If a vacancy occurs in the office of the Auditor, the Council may fill the office by appointment pending election as provided therein.~~
- (g) In the event of the death or ~~crippling~~ disability preventing the performance of ~~three (3)~~ six (6) or more ~~members of the City Councilors~~ due to natural disaster, calamity, accident or enemy attack, the following City officials in the order named ~~shall~~ succeed to the vacancies on the City Council: Chiefs of Staff of deceased or disabled Councilors, City Administrator, City Attorney, City Auditor and Mayor City Auditor, City Attorney, Chief Administrative Officer, and the Chiefs of Staff of disabled Council members in the order of their seniority as an executive assistant. In the event of the death or disability preventing the performance of the Mayor due to natural disaster, calamity, accident or enemy attack, the Mayor's Chief of Staff succeeds to the vacancy. A Councilor or Mayor may resume performance if the disability no longer prevents performance.

Any individual serving under this Section ~~shall~~ must have all qualifications required in this Charter for an elected official, except that an individual succeeding to the vacancy of a Councilor does not need to reside in the Councilor's district. Otherwise, the next qualified individual in the line of succession succeeds to the vacancy. The City Council thus constituted ~~shall~~ serve as an interim Council for the purpose of transacting necessary City business. The interim Council ~~so constituted shall~~ must as soon as practical select from among qualified citizens of the City of Portland, as defined by Section 2-202 of this Charter, persons to serve as members of the City Council or Mayor. The persons so selected ~~shall~~ serve until the next regular general election. The City Council ~~as thus constituted shall~~ must, if the regularly elected

~~Mayor Council President~~ is not a member thereof, elect one of their number as ~~Mayor Council President~~. Members of the Council as thus constituted ~~shall~~ serve as ~~City Commissioners~~ Councilors by this Charter. The Council as constituted under authority of this subsection ~~shall~~ meets in the City Hall, if possible, but may meet at an alternate location which ~~shall~~ must be designated in advance by the Council as an alternate site for the transaction of City business. In the event of martial law, the Council ~~shall be~~ is organized as provided by this subsection ~~provided~~, and it ~~shall~~ will function to the extent possible under the order establishing martial law. The provisions of this subsection ~~shall be~~ are supreme in the event it ~~shall be~~ is employed, notwithstanding any other provisions of this Charter or City ordinances of the City in conflict therewith. [May 3, 1913, new secs. 17 and 18; rev. 1914, secs. 29 and 30; 1928 pub., secs. 29 and 30; sec. 29, am. May 18, 1934; sec. 30, am. May 17, 1940; 1942 recod., secs. 2-115 and 2-116; sub. sec. 5 added to sec. 2-116, Nov. 2, 1954; secs. 2-115 and 2-116 revised and combined Nov. 6, 1962; am. May 26, 1970; am. Dec. 14, 1971; am. May 20, 1980; am. May 17, 1988; am May 18, 1994; amended May 15, 2012, effective June 13, 2012; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-207. Salaries.

The Mayor appoints members of the first Salary Commission, subject to Council confirmation. Thereafter, the City Administrator appoints members of the Salary Commission, subject to Council confirmation. The Commission consists of five (5) City residents who are qualified human resource professionals with compensation experience who represent a diversity of race, gender, age and geography. Elected or appointed City officials and employees, and candidates for elected City office who have filed and been qualified to the ballot by the City Elections Office, may not serve on the Commission.

The first Commission must be confirmed by March 15, 2023 and complete its work by August 1, 2023. Thereafter, the Commission must be confirmed by January 1 of each odd year.

The Commission sets the salaries for Councilors, the Mayor and the Auditor by the affirmative vote of at least three (3) Commissioners, documenting the basis of its decision. Adjusted salaries take effect July 1 of each odd year, except for the first Commission's adjusted salaries which take effect January 1, 2025.

ARTICLE 3. EXECUTIVE AND ADMINISTRATIVE POWERS.**Section 2-301. The ~~Departments~~Bureaus.**

The City Council establishes the bureaus and their authority by ordinance. The Mayor exercises all executive and administrative powers over the bureaus. ~~The executive and administrative powers, authority and duties, not otherwise provided for herein, shall be distributed among at least five (5) departments as follows:~~

- ~~(a) — Department of Public Affairs~~
- ~~(b) — Department of Finance and Administration~~
- ~~(c) — Department of Public Safety~~
- ~~(d) — Department of Public Utilities~~
- ~~(e) — Department of Public Works~~

~~Bureaus and their functions shall be fixed by the Council by ordinance. The distribution of the bureaus and work among departments shall be made and may be changed from time to time by the Mayor by order which shall be filed and preserved as an ordinance. The names of the departments may be changed in like manner. The Mayor may in like manner assign matters relating to any commission to a particular department. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 54; 1928 pub., sec. 54; 1942 recod., sec. 2-201; rev. Nov. 6, 1962.]~~

~~Section 2-302. Assignment and Authority of Commissioners.~~

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

Section 2-303. Assignment of Work to Subordinates.

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

Section 2-304. Codes.

The City Code is the collection of laws adopted by Council by ordinance through its legislative authority. The Mayor executes and administers the City Code. Codes providing for the administration of the powers, duties and affairs of the different departments and for their organization shall be enacted. Such codes shall provide for a uniform standard for the purchase of materials and supplies and shall provide for a purchasing agent and may provide for inspection and testing of the quality and quantity of the materials and supplies purchased to determine their exact conformity to specifications. Provision shall be made for the transfer of employees from one department to another. Methods shall be provided by which the heads of departments may determine and compare the work accomplished by the department with reference to its expenditures and a comparison with work during a prior period. A definite system of accounting shall be provided for each department showing the work performed and the material furnished compared with the cost thereof, so itemized that it can be determined whether each department is becoming more efficient or less efficient. All materials and supplies of the City shall be properly housed, segregated and tabulated and a perpetual inventory kept showing the additions and depletions thereof. Each department shall report its time and expenses for comparison with the prior month and prior year to show percentage of increase or decrease and shall also report stores and material accounts for like comparison. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 58; 1928 pub., sec. 58; 1942 recod., sec. 2-204; rev. Nov. 6, 1962.]

ARTICLE 4. THE MAYOR.**Section 2-401. Duties.**

The Mayor shall exercise a careful supervision over the general affairs of the City. The Mayor has the following responsibilities:

- (a) Advance the City's core values of anti-racism, equity, transparency, communication, collaboration and fiscal responsibility.
- (b) Advance the City's efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.
- (c) Exercise a careful supervision over the general affairs of the City.
- (d) Introduce such matters as the Mayor deems necessary to come before the Council. The Mayor has the same authority to introduce matters as a Councilor.
- (e) Vote on matters before the Council in case of a tie, when the Mayor casts the deciding vote.
- (f) Appoint the City Administrator, subject to Council confirmation, and give direction to the Administrator. The Mayor may remove the Administrator and must advise the Council before removal. The Council may remove the Administrator for cause by the affirmative vote of at least nine (9) Councilors. If the office of the Administrator is vacant, the Mayor must fulfill the duties of the Administrator until the office is filled.
- (g) Appoint, subject to Council confirmation, the City Attorney and the Chief of Police. The Mayor may remove the City Attorney and the Chief of Police.
- (h) Submit a proposed annual budget, and periodic amendments throughout the year. The Mayor must, at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as the Mayor may deem expedient and proper to accomplish such goals.
- (i) Annually, appear before the Council to deliver a general address on the State of the City.
- (j) Authorize, negotiate and execute all contracts and intergovernmental agreements, consistent with the City budget.
- (k) Encourage programs for the physical, economic, social and cultural development of the City.
- (l) Actively promote economic development to broaden and strengthen the commercial and employment base of the City.

(m) Serve as ceremonial head of the City and issue ceremonial proclamations.

(n) All other executive and administrative powers not conferred elsewhere by this Charter.

[Ch. 1903, sec. 147; rev. 1914, sec. 59; 1928 pub., sec. 59; 1942 recod., sec. 2-301; rev. Nov. 6, 1962.]

Section 2-402. Investigation of and Suits to Cancel Franchises.

The Mayor may, on the Mayor's own motion, and must, upon a resolution passed by the Council directing the Mayor 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 the Mayor's demand, must institute and prosecute the suits or actions required to enforce the provisions of this Section. Each Mayor taking office under this Charter shall cause a careful investigation to be made of the exact condition of all franchises theretofore granted by the City, and of the respective rights and obligations of the parties, and the performance of the same. [Ch. 1903, sec. 151; rev. 1914, sec. 60; 1928 pub., sec. 60; 1942 recod., sec. 2-302; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-403. Investigation of Offices.

The Mayor may at any time, with or without notice, investigate in person, or through one or more competent persons appointed by the Mayor for the purpose, the offices and accounts of any department of the City or of any employee, and the official acts and conduct of any official or employee in the administrative service of the City, and the money, securities and property belonging to the City in the possession or charge of such department, officer or employee. 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 the Mayor may deem necessary, and to compel the production of books, papers, and other evidence. Willful false swearing in such investigations and examinations shall be perjury, and punishable as such. The expense of any such investigation shall be paid out of the General Fund, in the same manner as other claims against the City are paid. The result of all such examinations and investigations shall be reported to the Council, and such report be filed with the Auditor. [Ch. 1903, sec. 152; rev. 1914, sec. 61; 1928 pub., sec. 61; 1942 recod., sec. 2-303; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-404. Suspensions Pending Investigation.

The Mayor shall have power to suspend, pending an official investigation, any officer of the City except Councilors~~members~~ or the Auditor for any official defalcation or willful neglect of duty or official misconduct. [Ch. 1903, sec. 153; rev. 1914, sec. 62; 1928 pub., sec. 62; 1942 recod., sec. 2-304; rev. Nov. 6, 1962.]

Section 2-405. Notification of Contract Violations.

It shall be the duty of every officer and person in the employ or service of the City, when it shall come to such officer's or person's 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 such officer's or person's possession concerning such matter. A willful failure so to do shall be sufficient cause for the removal of such officer or employee. The Mayor shall give a certificate on demand to any person reporting such facts and information that such person has done so, and such certificate shall be evidence in exoneration from a charge of neglect of duty in that respect. [Ch. 1903, sec. 158; rev. 1914, sec. 63; 1928 pub., sec. 63; 1942 recod., sec. 2-305; rev. Nov. 6, 1962.]

Section 2-406. The City Administrator.

The City Administrator must be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and must be chosen by the Mayor solely on the basis of executive and administrative qualifications. The Administrator's salary is fixed by the Council. The Administrator is appointed for an indefinite term and has the following responsibilities:

(a) Advance the City's core values of anti-racism, equity, transparency, communication, collaboration and fiscal responsibility.

(b) Advance the City's efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.

(c) Proper and efficient administration of all City affairs.

(d) Except for the City Attorney and the Chief of Police, appoint, reassign, discipline and remove all directors of bureaus and departments and all employees, consistent with all laws and collective bargaining agreements. The Administrator may delegate to directors the authority to appoint, discipline and remove subordinate employees.

(e) Execute and enforce all laws adopted by Council.

(f) Attend meetings of the Council, and its committees, and such meetings of boards and commissions as the Administrator chooses.

(g) Investigate affairs of the City under the Administrator's supervision, including any contract for the proper performance of obligations running to the City within the Administrator's jurisdiction.

(h) Control and administer the financial affairs of the City. The Administrator may appoint a Budget Director to act under the Administrator's direction.

(i) Prepare an annual budget under the direction of the Mayor for the Mayor's submission to the Council.

(j) Prepare and submit to the Council such reports as it may require.

(k) Keep the Council at all times fully advised as to the financial condition and needs of the City.

(l) Prescribe such general rules and regulations as the Administrator may deem necessary or expedient to the general conduct of the administrative departments under the Administrator's jurisdiction. The Administrator may delegate rulemaking authority to other bureau directors.

(m) Perform such other duties as may be directed by the Mayor or prescribed by this Charter or by City Code.

ARTICLE 5. THE AUDITOR.**Section 2-501. Office of the Auditor.**

To ensure an open and accountable City government, the Office of the Auditor is established. The Office shall be under the supervision and control of the Auditor of the City of Portland. [Section added May 16, 2017, effective June 14, 2017.]

Section 2-502. Qualifications and Restrictions on Other City Candidacy.

There shall be an Auditor of the City of Portland, ~~who shall possess the same qualifications required of a Commissioner~~. The Auditor shall have the qualifications of the Mayor, and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected. The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during the Auditor's term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing. [Ch. 1903, sec. 269; am. May 3, 1913, sec. 97; rev. 1914, sec. 64; 1928 pub., sec. 64; 1942 recod., sec. 2-401; rev. Nov. 6, 1962; am. May 15, 1984; am. May 20, 1986; am. May 18, 1994; recodified Section 2-501 May 16, 2017, effective June 14, 2017; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-503. Independent Authority.

The Auditor and the Office of the Auditor are administratively independent of the Mayor, City Administrator, City Council, and City departments, bureaus and other administrative agencies in the exercise of the Auditor's duties under this Charter. [Section added May 16, 2017, effective June 14, 2017.]

Section 2-504. Salary.

~~Effective January 1, 2019, the salary of the Auditor shall be the same as a City Commissioner set by the Salary Commission.~~ [Ch. 1903, sec. 270; am. May 3, 1913, sec. 98; rev. 1914, sec. 65; 1928 pub., sec. 65; 1942 recod., sec. 2-402; rev. Nov. 6, 1962; am. May 18, 1994; amended and recodified Section 2-502 May 16, 2017, effective June 14, 2017.]

Section 2-505. Budget.

The Auditor shall prepare a requested budget and any budget cycle reports and submit them to the Mayor and City Council in accordance with state law and on a schedule consistent with the

City's budget process. The Auditor's requested budget and budget cycle reports are not subject to review by a City department, bureau or other administrative agency prior to their submission to the Mayor and City Council. After their submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's requested budget and budget cycle reports. The Mayor or City Council may modify the Auditor's budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. [Section added May 16, 2017, effective June 14, 2017.]

Section 2-506. Administrative Powers.

- (a) **Administrative Authority.** The Auditor may establish such rules for the Office of the Auditor as the Auditor determines necessary to carry out the duties of the Auditor under this Charter. Prior to the adoption, amendment or repeal of any rule, the Auditor shall provide reasonable public notice and opportunity for comment. The Auditor may adopt interim rules without prior notice upon finding that failure to act promptly will result in prejudice to the public interest and shall be effective for a period of not more than 180 days.
- (b) **Deputies and Employees.** The Auditor may appoint and remove one chief deputy. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor, subject to funding by Council. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor shall establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, including classification and compensation, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide functionally equivalent protections as the Classified Service, including for-cause disciplinary review procedures for all Auditor's Office employees with the exception of the Chief Deputy Auditor, Ombudsman, and Audits Director; employees hired under Section 2-507(a)6. of this Charter who are designated by Council as at-will; and employees subject to a collective bargaining agreement.
- (c) **Internal Controls and Periodic Review.** The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically, but no less than every four years, with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public.

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- (d) Procurement. The Auditor has all authority granted to a contracting agency under state law to procure or supervise the procurement of goods, services and personal services the Auditor finds necessary for the proper functioning of the Office. The Auditor shall adopt administrative rules governing the Auditor's procurement practices and procedures that are consistent with City procurement policies and rules, except where the Auditor determines in writing that a City procurement policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter.
 - (e) Legal Services. The Auditor may obtain legal advice and representation from the City Attorney or may retain or employ independent legal counsel. If the Auditor retains or employs independent legal counsel, the Office of the Auditor shall be the client and is entitled to the benefits and privileges thereof.
 - (f) The Auditor may obtain advice, services and assistance from any City department, bureau, administrative agency, officer, employee or agent in the performance of the Auditor's duties under this Charter or as may be prescribed by ordinance.

[Ch. 1903, sec. 271; rev. 1914, sec. 67; 1928 pub., sec. 67; 1942 recod., sec. 2-403; rev. Nov. 6, 1962; am. Nov. 2, 1982; am. May 18, 1994; amended and recodified Section 2-503 May 16, 2017, effective June 14, 2017.]

Section 2-507. Duties in General.

- (a) The Auditor is responsible for the following activities:
 - 1. Performing financial and performance audits of the City, including audits of its boards and commissions, franchises and contracts as provided in Section 2-508 of this Charter;
 - 2. Supervising City elections as provided by state law and Chapter 3 of this Charter;
 - 3. Maintaining all official records, including records of the various bureaus, records regarding the City Charter and City Code, and all other records regarding City business;
 - 4. Providing official certifications as required by this Charter;
 - 5. Investigating the actions of a City department, bureau or other administrative agency, and the official conduct of any City officer, employee or agent as provided in Section 2-509 of this Charter; and

6. Other duties as prescribed by this Charter or as assigned by the Council with the consent of the Auditor.
- (b) Subject to the Auditor's supervision, the Auditor may delegate any of these duties to other City officials or may contract with outside service providers. The Auditor shall remain responsible for performing the duties. The Council shall provide staffing, funding, and facilities for the Auditor to carry out these duties. [Ch. 1903, sec. 272; rev. 1914, sec. 68; 1928 pub., sec. 68; 1942 recod., sec. 2-402; rev. Nov. 6, 1962; am. May, 20, 1986; am. May 18, 1994; amended and recodified Section 2-504 May 16, 2017, effective June 14, 2017]

Section 2-508. Audits.

- (a) The Auditor shall conduct financial and performance audits of City government in accordance with generally accepted governmental auditing standards, and shall appoint, coordinate and monitor the annual audit of the City's financial statements by an independent licensed public accountant.
- (b) The Auditor shall appoint and may remove the Audits Director.
- (c) City departments, bureaus and administrative agencies shall respond to audit recommendations made by the Auditor, ~~through the Commissioner In Charge,~~ through the City Administrator, to the Auditor, in writing within the time specified by the Auditor. All audit reports and responses shall be made available to the public. The Auditor shall retain workpaper files concerning all audit reports issued for at least six years.
- (d) The Auditor shall make the final determination of acceptability and legitimacy of claims for payment made against the City.
- (e) The Auditor may require at any time that any or all demands upon the City for payment of money out of the treasury be presented to the Auditor before it can be paid in order to determine whether the money is legally due and payable, and the fund from which it should be paid. Any ordinance or resolution of the City Council providing for the payment of any demand out of the treasury, whether from public funds or private funds shall be construed as allowing the auditing of the demand by the Auditor, either before payment or as part of the financial audit. The Auditor shall keep an official record of all demands audited by the Auditor showing the number, date, amount, name of the payee, the appropriation if any against which it was drawn and the fund from which it was paid.

- (f) Subject to collective bargaining obligations to the City's recognized bargaining units, the Auditor shall have timely access to all employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Auditor shall maintain the confidentiality of all confidential and legally privileged information and records except as required by state law or authorized by the City Council.

[Ch. 1903, sec. 273; am. May 3, 1913, sec. 99; rev. 1914, sec. 66; 1928 pub., sec. 66; 1942 recod., sec. 2-405; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended and recodified Section 2-505 May 16, 2017, effective June 14, 2017.]

Section 2-509. Office of the Ombudsman.

- (a) The Office of the Ombudsman is established within the Office of the Auditor. The Office of the Ombudsman shall be under the supervision and control of the Auditor, who is solely responsible for its operation and management. The purpose of the Ombudsman is to provide an impartial office, readily available to the public, that is authorized to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend changes with the goals of safeguarding the rights of persons and promoting high standards of fairness, competency, efficiency and justice in the provision of City services.
- (b) The Auditor shall appoint and may remove the Ombudsman.
- (c) The Office of the Ombudsman shall be guided by generally accepted standards for government ombudsmen offices serving the public.
- (d) Pursuant to a complaint or on the Ombudsman's own initiative, the Ombudsman is authorized to investigate any administrative act of a City department, bureau or other administrative agency, including the Office of the Auditor; recommend changes to City policy, practice or procedures; and issue public reports.
- (e) The Ombudsman shall not investigate the acts of an elected official or the official's personal staff, matters currently in litigation, matters subject to collective bargaining agreement grievance procedures, or a discrimination complaint from an employee or applicant for employment.
- (f) Subject to collective bargaining obligations to the City's recognized bargaining units, the Ombudsman shall have timely access to all employees, information and records required to investigate or otherwise perform the Ombudsman's duties, including confidential and legally privileged information and records so long as privilege is not

waived as to third parties. The Ombudsman shall maintain the confidentiality of any confidential or legally privileged information and records except as required by state law or authorized by the City Council.

- (g) A City department, bureau and agency director or manager shall respond in writing to Ombudsman recommendations within the time specified by the Ombudsman.
- (h) The powers and duties of the Ombudsman may be further prescribed by ordinance in consultation with the Auditor. The powers and duties of the Ombudsman shall not be exercised in contravention of any collective bargaining obligations of the City.

[Section added May 16, 2017, effective June 14, 2017.]

Section 2-510. Auditor's Duties as Clerk of the Council.

The Auditor shall serve as the Clerk of the Council and shall maintain a journal of its proceedings and all of the public records in connection with the Council's official business. The Auditor shall produce an agenda for all formal meetings of the Council; maintain a record of the Council's actions; and make the records available for public inspection as provided by the State Public Records laws. As Clerk of the Council, the Auditor shall maintain and make available current versions of the City Charter and Code and maintain a record of Charter and Code revisions. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; recodified Section 2-506 May 16, 2017, effective June 14, 2017.]

Section 2-511. Charter Arrangement and Corrections.

Subject to Council approval, the Auditor shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this Charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this Charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The Auditor may substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the Charter provision, in accordance with the changes of title or duties subsequently made by law. [New sec. Nov. 6, 1962; am. May 18, 1994; recodified Section 2-507 May 16, 2017, effective June 14, 2017.]

Section 2-512. Deletion of Charter Terms Referring to Masculine or Feminine Gender.

Future amendments to the City Charter shall require the use of terms which are neither masculine nor feminine, unless the context of such Charter provision shall require otherwise.

The City Auditor, with approval of the City Attorney, shall be authorized to change the provisions of the City Charter to delete use of terms which are masculine or feminine, unless the context of such Charter provisions shall require otherwise. [New sec. May 15, 1984; am. May 18, 1994; recodified Section 2-508 May 16, 2017, effective June 14, 2017.]

Section 2-513. Official Oaths and Certifications and Custodian of the City Seal.

- (a) The Auditor, and each of the Auditor's deputies, are authorized to administer an oath and certify any acknowledgement authorized or required to be taken by City ordinance, or law of this State, and the Auditor may require any person presenting for settlement an account or claim of any kind against the City to be sworn before the Auditor regarding such account or claim, and when so sworn, to answer orally or in writing as to any facts relative to the merits or justice of such account or claim.
- (b) The Auditor shall cause the Auditor's signature to be affixed to all warrants, contracts, bonds, and other official documents of the City as affirmation that the document and the action it represents have been duly authorized as required by this Charter and that the signatures of the other City officials on the document are true and duly authorized.
- (c) The Auditor shall be the custodian of the City's seal.

[New Sec. May 18, 1994; recodified Section 2-509 May 16, 2017, effective June 14, 2017; amended by Ordinance No. 190204, effective December 18, 2020.]

ARTICLE 6. OFFICERS AND EMPLOYEES.**Section 2-601. Appointive Officers.**

~~The Council shall appoint the City Attorney.~~ The Mayor shall appoint members of boards and commissions subject to Council confirmation. The Mayor appoints, subject to Council confirmation, the City Administrator, the City Attorney and the Chief of Police. Heads of other offices and bureaus ~~shall be~~ appointed by the ~~Commissioner In Charge of the department to which such office or bureau is assigned~~ City Administrator. [May 3, 1913, new sec. 102; rev. 1914, sec. 80; 1928 pub., sec. 80; 1942 recod., sec. 2-501; rev. Nov. 6, 1962; am. May 20, 1980.]

Section 2-602. Qualifications and Removals.

All officers appointed by the Council, Mayor or City Administrator shall serve during the pleasure of the ~~Council~~ appointing authority. Any may be removed for cause at any time by the appointing authority and, if the appointing body is the Council, by a majority vote of the Council. A statement of reasons for the removal shall be included in the order, and the officer removed shall have the right to make a counter statement in writing which shall be filed and preserved with the order of removal. The order of removal shall not be reviewable. Vacancies in any of such offices shall be filled by the Council appointing authority. ~~The Council may by ordinance appointing authority may~~ 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~~ The Council may fix and may change from time to time the salaries of every officer. The officers appointed ~~by the Council~~ shall at the time of their appointment be citizens of the United States.

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

Section 2-603. Subordinate Offices and Employments.

Pursuant to its legislative authority, ~~¶~~ 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. Pursuant to their executive authority, ~~¶~~ The Mayor and each Commissioner ~~City Administrator~~ shall appoint and may suspend or remove the incumbents of all subordinate offices and employments ~~in their department,~~ subject to other provisions of this Charter. The Auditor shall appoint and may

suspend or remove the incumbents of all subordinate offices and employments within the Auditor's office, or under the Auditor's supervision. The chief executive officer of any board, or commission, when authorized to do so by the board or commission, or the board or commission itself shall appoint and may suspend or remove the incumbents of all subordinate offices and employments within their offices, or under their supervision. All such appointments, suspensions and removals shall be subject to the civil service rules of this Charter except as to incumbents of positions expressly exempted therefrom. [May 3, 1913, new sec. 104; rev. 1914, sec. 82; 1928 pub., sec. 82; 1942 recod., sec. 2-503; rev. Nov. 6, 1962; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-604. Experts.

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

Section 2-605. Requirements for All Officials.

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

Section 2-606. City Contracts, Interest In.

Any officer, agent or employee of the City who executes a contract with the City other than an employment contract, any grant, privilege or franchise from the City, who seeks to acquire any City property or interest therein, who seeks to transfer any property or interest therein to the City by sale, rental, lease or legal process of any kind for compensation from City funds, or who has a direct pecuniary interest in such contract, grant, privilege, franchise, or transfer sought by another, shall be disqualified from participating on behalf of the City in any negotiations and or proceedings relating thereto, and all such negotiations and proceedings shall be carried on by the person who would have acted in such officer's, agent's or employee's stead in their absence. Subject to statutory restrictions and limitations, such contracts, grants, privileges, franchises and transfers made in accordance with the foregoing provisions of this Section shall not be void by reason of such City position, but shall be voidable by the City for cause. If any officer, agent or employee of the City shall fail to disqualify himself as aforesaid, the contract, grant, privilege, franchise or transfer shall be wholly void and unenforceable in the hands of any

person other than a bona fide purchaser for value without notice, and the position of such officer, agent or employee shall immediately be forfeited and such position shall be vacant.

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

Unless permitted by statute and notwithstanding the foregoing provisions of this Section, ~~no Council member,~~ neither an elected official nor the City Administrator shall enter into any contract with the City, seek any grant, privilege or franchise from the City, acquire any City property or interest therein, or sell or transfer to the City without legal process any property or interest therein for compensation from City funds, or have any direct pecuniary interest in any such matters. ~~No Council member,~~ Neither an elected official nor the City Administrator shall have any direct ownership interest in any public utility subject to City regulation; however, this prohibition shall not apply to ownership in another association, firm or corporation which maintains varied investments, provided such other association, firm or corporation does not own a controlling interest in such public utility. If any ~~Council member,~~ elected official or the City Administrator shall voluntarily acquire any direct pecuniary interest in any of such matters with the City while in office, such office shall at once become vacant. If ~~the Council member an elected official or the City Administrator~~ the elected official or the City Administrator shall become so interested otherwise than voluntarily, ~~the Council member~~ the elected official or the City Administrator shall within ninety (90) days divest themselves of such interest and upon failure to do so, the ~~Council member's~~ office shall become vacant upon the expiration of the said period of ninety (90) days. Any contract, grant, privilege, franchise or transfer made in violation of this paragraph shall be wholly void, and the City may recover property transferred by it or compensation paid by it and may retain any benefits received by it without right of recovery from it by quantum meruit action or otherwise. [Ch. 1903, sec. 135; rev. 1914, sec. 91; 1928 pub., sec. 91; 1942 recod., sec. 2-506; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-607. Appointments.

All appointments of officers, deputies and clerks, to be made under any provision of this Charter, must be made in writing and authenticated by the person or persons, board or officer, making the same. Any such writing must be filed with the Secretary of the Civil Service Board. [Ch. 1903, sec. 138; rev. 1914, sec. 93; 1928 pub., sec. 93; 1942 recod., sec. 2-507; rev. Nov. 6, 1962; am. May 20, 1986.]

Section 2-608. Salaries.

The salaries provided in this Charter shall be in full compensation for all services rendered to the City, and excepting such salaries, or except as specifically authorized by the Council, every officer shall pay all moneys coming into the officer's hands as such officer, no matter from what source derived or received into the treasury of the City within twenty-four (24) hours after receipt of the same. In the event an officer or employee collects damages from a third person for time lost from such officer's or employee's City service, such officer or employee shall pay to the City Treasurer the money so collected or the total amount paid to such officer or employee by the City or City pension and disability Fund for such time lost, whichever is the lesser. [Ch. 1903, sec. 139; rev. 1914, sec. 94; 1928 pub., sec. 94; 1942 recod., sec. 2-508; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-609. Bidders, Favoring of.

Any officer of the City or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies, at a higher price or rate than that proposed by any other bidder, or who shall favor one bidder over another, by giving or withholding information, or who shall willfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount of different kinds of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office, and may be required to reimburse the City for its damages. [Ch. 1903, sec. 140; rev. 1914, sec. 95; 1928 pub., sec. 95; 1942 recod., sec. 2-509; rev. Nov. 6, 1962.]

Section 2-610. City Business, Time Devoted to.

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

Section 2-611. Residence of Officials and Employees.

All elected officials receiving salary or wages from the City shall qualify as elsewhere in this Charter provided, and shall be residents of the City at the time of their election and continuously thereafter while they hold office. The Council may require by ordinance that appointed officers and employees who begin City employment after the effective date of the ordinance be or become City residents. Violation of a residence requirement enacted pursuant to this Section shall be cause for demotion, suspension, or termination of an officer or

employee, if so provided by Council. ~~The Council may provide by ordinance that applicants for appointment or promotion in the classified service of the City be given preference for appointment or promotion if they are residents of the City at the time of application.~~ [New sec. Nov. 2, 1954; am. May 20, 1960; am. Nov. 2, 1982; am. March 29, 1983; am. May 17, 1988.]

ARTICLE 7. OFFICIAL UNDERTAKINGS AND BONDS.**Section 2-701. Requirements for Undertakings and Bonds.**

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

ARTICLE 8. RECORDS.**Section 2-801. Official Public Records.**

The public records 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 or to the Auditor; and such public records may be inspected at any time by any member of the Council, by the Mayor, by the City Administrator, or by the Auditor. The Auditor shall receive and preserve in the Auditor's office all public records regarding City business filed with the Auditor according to the Public Records laws of the State of Oregon. [Ch. 1903, sec. 122; rev. 1914, sec. 84; 1928 pub., sec. 84; 1942 recod., sec. 2-701; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-802. Inspection and Certified Copies.

All public records of every office and department shall be open to the inspection of any citizen at any time during business hours subject to the provisions of the State Public Records laws, except records of bureaus charged with law enforcement relating to investigations for possible prosecutions and interdepartmental or interbureau advice and memoranda, which records shall not be opened for such inspection unless such opening is ordered by a court or specific permission is given by the Council or ~~Commissioner In Charge~~ the Mayor. Certified copies or extracts from public records which are open to inspection shall be given by the officer in custody of the record to any person demanding the record who pays or tenders the fee prescribed by the Council for such copies or extracts. [Ch. 1903, sec. 137; rev. 1914, sec. 92; 1928 pub., sec. 92; 1942 recod., sec. 2-702, rev. Nov. 6, 1962; am. May 18, 1994.]

Section 2-803. Ownership Records.

The City officers responsible for property management shall keep a record of all property owned by the City and the income derived from it. [Ch. 1903, sec. 284; rev. 1914, sec. 79; 1928 pub., sec. 79; 1942 recod., sec. 2-416; rev. Nov. 6, 1962; am. Dec. 14, 1971; am. May 20, 1986; am. May 18, 1994.]

ARTICLE 9. THE MUNICIPAL COURT.

[Sections 2-901 and 2-902, new in 1971, provided for the transfer of municipal court matters to the district court of Multnomah County. These sections were deleted in the 1984 edition of the Charter since the transfer has been completed.]

ARTICLE 10. COMMUNITY POLICE OVERSIGHT BOARD.

[Article added November 3, 2020, effective December 2, 2020.]

Section 2-1001. City of Portland Community Police Oversight Board.

A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns. The final name of this Board will be established by City Code.

Section 2-1002. Nature of the Board.

Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.

Section 2-1003. Restrictions on Board Membership.

People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.

Section 2-1004. Budget of the Board.

Funding for the Board shall be proportional to be no less than 5 percent of the Police Bureau's Annual Operational Budget.

Section 2-1005. Professional Staff of the Board.

The Board shall hire a Director to manage the professional administrative staff and professional investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees.

Section 2-1006. Independent Authority.

The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The ~~Mayor~~, City Council, Mayor, City Administrator, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.

Section 2-1007. Powers of the Board.

- (a) The Board shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.
- (b) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.
- (c) The Board shall have the authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers. The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board's activities. One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.
- (d) The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

Section 2-1008. Duties of the Board.

The board shall have the authority to investigate certain Police actions, including but not limited to;

- (a) All deaths in custody and uses of deadly force.

- (b) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
- (c) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

Section 2-1009. Severability.

For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

CHARTER OF THE CITY OF PORTLAND, OREGON

CHAPTER 3 - NOMINATIONS AND ELECTIONS

ARTICLE 1. GENERAL PROCEDURE.

Section 3-101. Time of Taking Office and Terms.

~~Beginning with elections held in 2006, if any candidate for the office of Mayor, Commissioner, or Auditor receives a majority of the votes cast in a primary election for that office, that candidate shall be elected. If no candidate for such an office receives a majority of the votes cast in the primary election, the names of the two candidates receiving the highest number of votes cast shall be declared nominees and their names shall appear on the general election ballot in that same year. The nominee receiving the highest number of votes in the general election shall be elected.~~

Except as otherwise provided in this charter, those elected ~~shall~~ take office on the ~~following~~ January 1 following the general election in which they are elected and ~~shall~~ hold office for four years. If, at the end of ~~four years~~ a term, no successor is yet elected and qualified, the incumbent shall continue to hold office until a successor is elected and qualified.

Except as otherwise provided in this charter, at the November 2024 election, the Mayor and all Councilors from District No. 1 and District No. 2 are elected for a term of four years. At the same election, the Auditor and all Councilors from District No. 3 and District No. 4 are elected for an initial term of two years. At subsequent elections, those elected hold office for four years.

~~Except as otherwise provided in this charter, the Mayor and Commissioners for positions 1 and 4 shall be elected every fourth year beginning in 2004, and the Auditor and Commissioners for positions 2 and 3 shall be elected every fourth year beginning in 2006. [May 3, 1913, new sec. 41; rev. 1914, sec. 123; 1928 pub., sec. 123; am. Nov. 8, 1932; 1942 recod., sec. 3-101; am. Nov. 6, 1962; May 18, 2004, sec. replaced.]~~

Section 3-102. ~~Primary Elections.~~ Ranked Choice Voting.

City Councilors, the Mayor and the Auditor are elected in the general election, except as otherwise provided in this Charter, using ranked choice voting. Ranked choice voting means an election method in which voters rank candidates for an office or offices in order of the voter's preference and ballots are counted in rounds. The use of ranked choice voting must commence with the November 2024 election.

The Mayor and the Auditor are elected at-large using a method of ranked choice voting known as instant runoff voting. Instant runoff voting elects the candidate who has a majority of the vote after the initial round of counting based on the number of first rankings each candidate

receives. If no candidate receives a majority of the vote in the initial round, subsequent rounds are counted in which (i) candidates retain the number of votes counted for them in the first and any subsequent rounds that already occurred; and (ii) the candidates having the fewest votes are successively eliminated in rounds and their votes are counted as votes for the candidates who are ranked next on the ballots that had been counted for the eliminated candidates. The process of eliminating candidates and transferring their votes to the next-ranked candidate on ballots repeats until a candidate has a majority of the vote.

Councilors of each district are elected using a proportional method of ranked choice voting known as single transferable vote. This method provides for the candidates to be elected on the basis of a threshold. The threshold is determined by the number of seats to be filled plus one, so that the threshold is the lowest number of votes a candidate must receive to win a seat such that no more candidates can win election than there are seats to be filled. In the initial round, the number of first rankings received by each candidate is the candidate's vote count. Candidates whose vote counts are at least the threshold are declared elected. Votes that counted for elected candidates in excess of the threshold are called surplus. If fewer candidates are elected in the initial round than there are seats to be filled, the surplus percentage of all votes for the candidates who received a surplus are transferred to the next-highest ranked candidates in proportion to the total numbers of next-highest rankings they received on the ballots that counted for the elected candidate. If, after all surpluses have been counted in a round, no additional candidates have a vote count that is at least the threshold, the candidates with the lowest vote counts are successively eliminated in rounds and their votes are counted as votes for the candidates who are ranked next highest on the ballots that had been counted for the eliminated candidates, until another candidate has a vote count that is at least the threshold or until the number of candidates remaining equals the number of seats that have not yet been filled. The process of transferring surpluses of elected candidates and eliminating candidates continues until all positions are elected.

The Council must adopt an election code for the administration of ranked choice voting. The City must conduct periodic voter education campaigns to familiarize voters with the ranked choice voting methods described above.

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

Section 3-103. General Elections.

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

Section 3-104. Special Elections.

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

Section 3-105. Nonpartisan ~~Primaries~~ Elections.

~~The elective offices of City Councilors, the Mayor and the Auditor~~ ~~Nomination of Mayor, Auditor and Commissioners, the elective officers under this Charter, shall be~~ nonpartisan and shall be made in conformity with primary methods hereinafter prescribed and provided, subject to the provisions elsewhere contained in this Charter relating to filling of vacancies. ~~The positions of the Commissioners shall be designated as Position No. 1, Position No. 2, Position No. 3, or Position No. 4. Commissioners shall be designated by the same position as the Commissioner whom they have succeeded or will succeed in office. In all proceedings for the nomination of candidates for the office of Commissioner, every petition and individual nomination certificate or declaration for nomination, nominee's acceptance and certificate of election, ballot, or other document used in connection with nominations for Commissioner, shall state the official number of the position as Commissioner, as herein designated, to which such candidate aspires, and the candidate's name shall appear on the ballot only for such designated position. At all elections each such office of Commissioner to be filled shall be separately designated on the ballot by official position number as herein provided, in addition to other matter required by law to appear thereon. In case no nomination is made at the primary election, nominations may be made at the general election as set forth in this Charter for vacancies occurring at a subsequent date.~~ [May 3, 1913, new sec. 45; rev. 1914, sec. 127; 1928 pub., sec. 127; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-105; am. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 3-106. Elections Procedures.

The Council shall adopt by ordinance procedures for conducting City elections. [Ch. 1903, sec. 23; rev. 1914, sec. 128; 1928 pub., sec. 128; am. Nov. 8, 1932; 1942 recod., sec. 3-106; am. Nov. 6, 1962; am. May 18, 1994.]

Section 3-107. Council Districts.

There are four (4) City Council districts. Each district is represented by three (3) City Councilors for a total of twelve (12) City Councilors.

Section 3-108. Independent District Commission.

The authority to adopt plans that specify the boundaries of districts for the City Council is vested in the Independent District Commission. The Commission consists of thirteen (13) residents of the City who represent a diversity of race, gender, age and geography. Elected or appointed City officials and employees, and candidates for elected City office who have filed and been qualified to the ballot by the City Elections Office, are prohibited from serving on the Commission.

The Mayor appoints members of the Commission, subject to confirmation by the City Council. The first Commission must be confirmed as soon as practicable but no later than January 31, 2023. Thereafter, the Commission must be confirmed by March 31 in every year ending in "1." The Commission's term ends upon adoption of a districting plan.

The Commission may require bureaus and departments of the City to provide technical assistance. The Commission has a budget as provided by the City Council.

Section 3-109. Powers and Duties of the Independent District Commission.

The Commission prepares and adopts a districting plan for dividing the City into four (4) districts for the election of City Councilors. The plan includes a map and a description of districts.

The vote of at least nine (9) members of the Commission is required to adopt the districting plan. A majority vote of the Commission is required for all other actions.

The Commission holds at least one (1) public hearing before it develops the districting plan to seek public comment on whether any plan criteria, in addition to the criteria set forth in Section 3-110, will be considered.

The Commission holds at least two (2) public hearings in each proposed district not less than one (1) month before it votes to adopt the plan. The Commission makes its plan available to the public for inspection and comment not less than one (1) month before the public hearings in each proposed district. The first Commission adopts its plan by September 1, 2023. Thereafter, the Commission adopts its plan by September 1 in every year ending in "1." If the Commission adopts a plan, no further action by Council is required and the plan is final. If the Commission has not adopted a plan after taking two votes, the most recent version of the plan voted on by the Commission passes to the City Council for its consideration and adoption. The plan is effective when the Commission or the City Council files it with the City Elections Officer.

No change in the boundary of a district caused by annexation to the City or withdrawal of an area from the City may terminate the office of any Councilor. Upon an annexation or withdrawal, the Mayor may, but need not, initiate the creation of an Independent District Commission to redraw district boundaries. Upon an annexation with no adjustment to a district boundary, the annexed area becomes part of that existing district with which it is most contiguous.

Section 3-110. District Plan Criteria.

The Commission, or the City Council if the Commission is unable to adopt a plan, ensures that each district, as nearly as practicable, will be contiguous and compact, utilize existing geographic or political boundaries, not divide communities of common interest, be connected by transportation links, and be of equal population. No district may be drawn for the purpose of favoring any political party, incumbent elected official or other person. No district may be drawn for the purpose of diluting the voting strength of any language or ethnic minority group. Additional criteria may be considered, consistent with state and federal law.

ARTICLE 2. INITIATIVE, REFERENDUM AND RECALL.**Section 3-201. Exercise of Rights.**

The initiative, referendum and recall ~~shall be~~ exercised within the City of Portland in the manner provided by the Constitution and general laws of the State, and ordinances of the City of Portland, enacted in pursuance thereof. Notwithstanding the above, a recall petition for a Councilor may only include signatures of registered voters from the district the Councilor represents and the recall petition may be voted on only by voters from within that district. [May 3, 1913, part of new sec. 56; rev. 1914, sec. 19; 1928 pub., sec. 19; 1942 recod., sec. 3-201.]

Section 3-202. Effective Date of Measures.

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

ARTICLE 3. CAMPAIGN FINANCE IN CANDIDATE ELECTIONS.

[Article added November 6, 2018, effective December 5, 2018.]

3-301. Contributions in City of Portland Candidate Elections.

- (a) An Individual or Entity may make Contributions only as specifically allowed to be received in this Article.
- (b) A Candidate or Candidate Committee may receive only the following Contributions during any Election Cycle:
 - (1) Not more than five hundred dollars (\$500) from an Individual or a Political Committee other than a Small Donor Committee;
 - (2) Any amount from a qualified Small Donor Committee;
 - (3) A loan balance of not more than five thousand dollars (\$5,000) from the candidate;
 - (4) No amount from any other Entity, except as provided in Section 3-304 below.
- (c) Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

3-302. Expenditures in City of Portland Candidate Elections.

- (a) No Individual or Entity shall expend funds to support or oppose a Candidate, except those collected from the sources and under the Contribution limits set forth in this Article.
- (b) An Entity shall register as a Political Committee under Oregon law within three (3) business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of Portland Candidate Election.
- (c) Only the following Independent Expenditures are allowed per Election Cycle to support or oppose one or more Candidates in any particular City of Portland Candidate Election:
 - (1) An Individual may make aggregate Independent Expenditures of not more than five thousand dollars (\$5,000).

- (2) A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section 3-301 above.
- (3) A Political Committee may make aggregate Independent Expenditures of not more than ten thousand dollars (\$10,000), provided that the Independent Expenditures are funded by means of Contributions to the Political Committee by Individuals in amounts not exceeding five hundred dollars (\$500) per Individual per year.

3-303. Timely Disclosure of Large Contributions and Expenditures.

- (a) Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:
 - (1) The names of any Political Committees and other Entities that have paid to provide or present it; and
 - (2) For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
 - a) The name of the Individual or Entity providing the Contribution.
 - b) The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
 - (3) For each of the largest five Dominant Independent Spenders paying to provide or present it:
 - a) The name of the Individual or Entity providing the Independent Expenditure.
 - b) The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
- (b) If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit

organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

- (c) The disclosure shall be current to within ten (10) days of the printing of printed material or within five (5) days of the transmitting of a video or audio communication.

3-304. Coordination with Public Funding of Campaigns.

A candidate participating in a government system of public funding of campaigns (including the Public Election Fund established under Portland City Code Chapter 2.16) may receive any amount that such system allows a participating candidate to receive.

3-305. Implementation and Enforcement.

- (a) The provisions of this Article shall be implemented by ordinance to be operative not later than September 1, 2019.
- (b) Each violation of any provision in this Article shall be punishable by imposition of a civil fine which is not less than two nor more than twenty times the amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue.
- (c) Any person may file a written complaint of a violation of any of the Provisions with the City Auditor.
- (d) The City Auditor, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- (e) Upon receipt or issuance of a complaint, the City Auditor:
 - (1) Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
 - (2) Within two business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
 - (3) Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
 - (4) Shall render a decision on the complaint within 10 business days of the close of the material submission period.

- (f) If the complaint is received or issued within 30 days of the date of the election involving the object of the complaint, then all time periods stated in subsections (e)(3) and (e)(4) above shall be reduced by one-half.
- (g) The City Auditor may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Article.
- (h) Upon finding a violation of the requirement for timely disclosure set forth in Section 3-303 above, the City Auditor shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 3-303 above.
- (i) The complainant or any person who is the object of the complaint may, within 30 days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.
- (j) The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of Portland. If the decision is not enforced within thirty (30) days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of Portland, and for any appropriate equitable relief.

3-306. Adjustments.

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

3-307. Severability.

For the purpose of determining constitutionality, every section, subsection, and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections, and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection, and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

3-308. Definitions.

Unless otherwise indicated by the text or context of this Article, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Article.

- (a) "Candidate" has the meaning set forth at ORS 260.005(1).
- (b) "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."
- (c) "City of Portland Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of City of Portland.
- (d) "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper stickers, Small Signs, or a distribution of five hundred (500) or fewer substantially similar pieces of literature within any 10-day period.
- (e) "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include
 - (1) funds provided by government systems of public funding of campaigns or
 - (2) providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.
- (f) "Dominant Contributor" means any Individual or Entity which contributes more than one thousand dollars (\$1,000) during an Election Cycle to a Candidate Committee or Political Committee.
- (g) "Dominant Independent Spender" means any Individual or Entity which expends more than one thousand dollars (\$1,000) during an Election Cycle to support or oppose a particular Candidate.
- (h) "Election cycle" means:
 - (1) Generally, the period between an election at which a candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.

- (2)** For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
 - (3)** For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (i)** "Entity" means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.
- (j)** "Expenditure" has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:
 - (1)** It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.
 - (2)** The exception in ORS 260.007(7) does not apply.
- (k)** "General Election Period" means the period beginning the day after the biennial primary election and ending the day of the biennial general election.
- (l)** "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Article expresses a limitation or prohibition, "Individual" means any human being.
- (m)** "Membership Organization" means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.
 - (1)** It cannot have commercial enterprises as members.
 - (2)** It can transfer to one and only one small donor committee not more than forty percent (40%) of the amount paid to the organization by each Individual member, with a limit of one hundred dollars (\$100) transferred per Individual member per calendar year.
 - (3)** It shall within thirty (30) days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member's amount paid to the organization. Such notice may be provided by

regular mail or electronic mail to each affected member or by posting the information on the organization's main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying Individual members.

- (n)** "Primary Election Period" means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.
- (o)** "Prominently Disclose" means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:

 - (1)** any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;
 - (2)** any video disclosure remaining readable on the regular screen (not closed captioning) for a not less than 4 seconds;
 - (3)** any auditory disclosure spoken at a maximum rate of five words per second;
 - (4)** any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;
 - (5)** any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.
- (p)** "Small Donor Committee" means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to one hundred dollars (\$100) per Individual contributor per calendar year.
- (q)** "Small Sign" means a sign smaller than six (6) square feet.

CHAPTER 4 - CIVIL SERVICE

[Charter 1903, sections 306 - 327; 1914 sections 306 - 327 revised, sections 97 - 121; 1928 published, sections 97 - 121; November 6, 1934 amended, section 97; 1942 sections 97 - 121 recodified, sections 4-101 to 4-126; sections 4-101 to 4-126 amended and revised at subsequent elections; November 2, 1982 amended, section 4-101; November 4, 1986, effective July 1, 1987 repealed sections 4-102 to 4-129 and enacted in lieu sections 4-102 to 4-701; November 7, 2000 amended section 4-101; May 15, 2007, effective January 1, 2008, repealed sections 4-101 to 4-701 and enacted in lieu sections 4-101 to 4-601.]

ARTICLE 1. MERIT PRINCIPLE

Section 4-101. Merit Principle.

All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other objective evidence of competence. Such appointments and promotions shall provide fair and equal opportunity without regard to race, religion, gender, marital and family status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, and such other criteria as determined by the City Council by ordinance. The goal of the merit system is a workforce that reflects the aspirations and values of the City it serves.

ARTICLE 2. MERIT SYSTEM.**Section 4-201. Merit System.**

Consistent with all applicable federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies and rules necessary for effective administration of the employees of the City's offices, bureaus, and agencies, other than the Office of the Auditor, including but not limited to classification and pay plans, recruitment, examinations, disciplinary actions, types of appointments, relationships with employee organizations, and appeals and hearings. Such ordinances shall be consistent with the merit principles in Article 1. Employees in the Office of the Auditor shall be subject to the policies and rules established by the City Auditor under Chapter 2, Article 5 of this Charter. [Amended May 16, 2017, effective June 14, 2017.]

ARTICLE 3. CLASSIFIED SERVICE.**Section 4-301. Classified Service.**

The classified service in the City shall consist of all positions in the government of the City except all officers chosen by popular election or by appointment by the City Council, all administrative staff of the Mayor and each City Council member, employees in the Office of the Auditor, the deputies of the City Attorney, members of all boards and commissions, and all bureau directors hired after December 31, 2000. In addition, at the recommendation of the person responsible for administration of personnel issues, and with approval of Council by ordinance, employees may be excluded from classified service if they are in a classification with a major role in the formulation of policy that requires the exercise of independent judgment and are hired after the effective date of such ordinance.

The Mayor ~~shall~~ appoints, subject to Council confirmation, and may remove the Chief of Police. [Amended May 16, 2017, effective June 14, 2017.]

ARTICLE 4. CIVIL SERVICE BOARD.**Section 4-401. Civil Service Board.**

There shall be a Civil Service Board consisting of three members appointed by the Mayor and confirmed by Council. The appointments shall ensure that the perspectives of labor, management and the general public are reflected. Members of the board shall act impartially. The Mayor may remove any Civil Service Commissioner at any time and shall within five days of the removal notify Council of the reasons for dismissal. The term of office of each member of the Board shall be three years with the term of one Board member expiring every year. Board members may be reappointed for up to two additional terms. Each member of the board shall be a resident of the City.

Section 4-402. The Duties of the Board.

The Board shall:

1. Review classification actions alleged by employees in the classified service to have been made without rational basis, contrary to law or rule or taken for political reason(s) and as necessary, remand back to the person responsible for the administration of personnel issues for further review and action.
2. Review suspension, demotion or discharge of permanent employees in the classified service when employees allege discipline was not for cause. If an employee's allegations are found to be correct, reinstatement may be ordered under terms and conditions as may be deemed appropriate by the Board.
3. Review appeals of candidates for appointment or promotion to positions within the classified service when applicants allege that rules promulgated under this Chapter were not followed, were contrary to law or made for political reasons. If the Board finds an allegation to be correct, it shall order such actions necessary to fulfill the purpose and principles of this Chapter.
4. An appeal to Board of any of the actions listed in this subsection must be filed with the Board, in writing, within 21 days of the action or decision being appealed.
5. On at least an annual basis, the Board shall review any administrative rules and policies being considered or adopted by City Council or other City officials concerning the duties of the Board as listed in this section, and provide input to City Council and the person responsible for the administration of personnel issues.
6. The Board shall meet at least quarterly and shall report annually to City Council on its activities for the prior year.

Section 4-403. Judicial Review.

The final decision of the Board or any appeal to the Board shall be subject to review by a court of competent jurisdiction in the manner provided by statute for review of quasi-judicial decisions of lower tribunals.

ARTICLE 5. RIGHT TO BARGAIN COLLECTIVELY.**Section 4-501. Right to Bargain Collectively.**

The right of City employees to bargain collectively, through representatives of their own choosing, shall not be abrogated by the City, provided that no provision of a collective bargaining agreement shall abrogate the provisions of this Charter.

ARTICLE 6. EFFECTIVE DATE AND RULES.**Section 4-601. Effective Dates and Rules.**

These amendments shall take effect on January 1, 2008. All Civil Service Rules and Human Resources Administrative Rules in effect on the effective date of this Chapter 4 will remain in force until such rules are changed by the appropriate official or officials.

CHAPTER 5 - FIRE AND POLICE DISABILITY, RETIREMENT AND DEATH BENEFIT PLAN

[Chapter 5 am. June 2, 1913; am. June 2, 1914; am. June 7, 1915; am. Nov. 5, 1918; 1928 pub.; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod.; am. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 2, 1954; am. May 18, 1962; rev. Nov. 3, 1964; am. May 20, 1986; amended and restated Nov. 7, 1989, effective July 1, 1990; amended and restated November 7, 2000, effective July 1, 2001; amended and restated November 7, 2006, effective January 1, 2007; amended by Ordinance No. 180917, effective May 26, 2007; amended November 6, 2007, effective December 5, 2007; amended by Ordinance No. 185140, effective March 9, 2012; amended and restated November 6, 2012, effective January 1, 2013.]

ARTICLE 1. FUNDING

Section 5-101. Creation of Fund.

The Fire and Police Disability and Retirement Fund originally created and established for the benefit of the sworn employees of Portland Fire & Rescue (hereinafter Bureau of Fire) and the Bureau of Police of the City of Portland (hereinafter Bureau of Police) and for the benefit of the Surviving Spouses and Dependent Minor Children of deceased sworn employees, by this Chapter on March 11, 1942 and revised in part by subsequent amendments through November 7, 2000 is hereby amended effective January 1, 2007 for the benefit of sworn employees of the Bureau of Fire and Police and their Surviving Spouses and Dependent Minor Children.

When used alone in this Chapter, the word "Fund" shall mean the Fire and Police Disability and Retirement Fund. References in this Chapter to the "Bureau of Fire" shall mean Portland Fire & Rescue or any bureau, department or agency, howsoever designated, hereafter succeeding to the functions of Portland Fire & Rescue. References in this Chapter to the "Bureau of Police" shall mean the Bureau of Police or any bureau, department or agency, howsoever designated, hereafter succeeding to the functions of the Bureau of Police.

Beginning January 1, 2007, the Fund shall have three programs.

- (a)** FPDR One consists of those sworn employees of the Bureau of Fire and Bureau of Police who pursuant to Section 5-401(b) and (c) of this Chapter receive benefits under Sections 5-113 through 5-123 and 5-126 of this Chapter.
- (b)** FPDR Two consists of sworn employees of the Bureau of Fire and Bureau of Police who are not FPDR One Members and were sworn before January 1, 2007, except as specifically excluded in Section 5-301. FPDR Two Members shall have retirement benefits as provided in Article 3 of this Chapter; service connected and occupational disability benefits as provided in Sections 5-306 and 5-308 of this Chapter; and non-

service connected disability benefits as provided in Sections 5-307 and 5-309 of this Chapter.

- (c) FPDR Three consists of sworn employees of the Bureau of Fire and Bureau of Police first sworn on or after January 1, 2007. Notwithstanding any other provision of this Chapter, FPDR Three Members shall have the following benefits: FPDR Three Members shall be enrolled in the Public Employees Retirement System of the State of Oregon (PERS) and shall have benefits as provided by PERS or any successor state program; service connected and occupational disability benefits as provided in Sections 5-306 and 5-308 of this Chapter; and non-service connected disability benefits as provided in Sections 5-307 and 5-309 of this Chapter. Employee contributions, employer contributions, payroll taxes, benefit payments and other costs of the retirement and disability plan provided to FPDR Three Members shall be paid from the Fund. Such costs shall be requirements levied under Section 5-103.
- (d) Unless otherwise specified, the term Member in Articles 1, 2, 3, and 4 refers to members of FPDR One, FPDR Two and FPDR Three.

Section 5-102. Sources of Fund.

The Fund shall consist of the following:

- (a) Existing Fund. All moneys, property and investments held in the Fire and Police Disability and Retirement Fund under the provisions of the Charter of the City of Portland, as in effect prior to the amendments effective in January 1, 2007, and all moneys hereafter earned by or paid into the Fund in accordance with Sections 5-103 and 7-110(5).
- (b) Member Contributions. Compulsory contribution to the Fund from each FPDR One Member who, as a result of Section 5-401, is subject to the provisions of Sections 5-113 through 5-123 and 5-126 of this Chapter, set out in Article 5, amounting to seven percent of such Member's then current salary but not to exceed seven percent of the then current salary of a First Class Fire Fighter, or whatever name said position shall hereafter bear, for Members employed in the Bureau of Fire, and not to exceed seven percent of the then current salary of a First Class Police Officer, or whatever name said position shall hereafter bear, for Members employed in the Bureau of Police and the contribution required by the Supplementary Retirement Program described in Subsection 5-401(d) from Members described in that Subsection.
- (c) Extraordinary Amounts. All bequests, fees, gifts or other emoluments paid or given on account of any extraordinary service of any Member (except when specifically allowed to be retained by such Member by the ~~Council~~ Mayor.)

- (d) Other Moneys. All other moneys herein made available and all other moneys which may be hereafter made available by law, including loans from the General Fund and advances from the Reserve Fund created in this Article.

Section 5-103. Levy by Council.

- (a) Statement by Board. The Board of Trustees created in Article 2 shall annually, on or before the date set for such purpose by the ~~Council~~ Mayor, prepare and transmit to the Council and the Mayor a statement containing the following items:
1. The amount of money required for the next succeeding fiscal year to pay and discharge all requirements of the Fund, including employee contributions, employer contributions, payroll taxes, benefit payments, repayment of authorized loans and advances, and other costs, for such succeeding fiscal year.
 2. The estimated revenue to the Fund during the next succeeding fiscal year from all sources except the levy in this Section provided plus the estimated balance in the Fund at the beginning of said year.
 3. A statement of all payments made and estimated to be made from the Fund during the current fiscal year.
 4. The total amount paid into and estimated to be paid into the Fund from all sources except loans from the General Fund and advances from the Reserve Fund created by Section 5-104 of this Article, during the current fiscal year plus the balance in the Fund at the beginning of said year.
 5. A statement setting forth in dollars and cents the total amount of money required by the Fund to discharge its requirements, including employee contributions, employer contributions, payroll taxes, benefit payments, and other costs for the next succeeding fiscal year and the current fiscal year. This amount of money shall be computed by adding the amount that item 1 exceeds item 2, if any, to the amount that item 3 exceeds item 4, if any.
- (b) Levy. The Council shall levy each year, at the same time and in the same manner that other taxes are levied, a tax upon all taxable property within the City of Portland not exempt from taxation, not to exceed two and one-half (2-1/2) mills on each dollar valuation plus that amount provided under Chapter 7-110(5), sufficient to produce and provide a sum equal to said required amounts so prepared and transmitted by the Board.

- (c) Minimum Levy. Said levy shall in no event be less than one (1) mill on said dollar valuation, unless the Reserve Fund created in the following Section will as a result of said minimum levy exceed seven hundred-fifty thousand dollars (\$750,000) in which event said levy shall only be sufficient to provide the amount required and to maintain said Reserve Fund at seven hundred-fifty thousand dollars (\$750,000).
- (d) Status and Use of Levy. The additional tax herein provided for hereby is specifically authorized and shall not be computed as a part of the revenue raised by taxation which is subject to the tax limitation of Section 11, Article XI of the Constitution of the State of Oregon, and said tax levy hereby authorized shall be in addition to all other taxes which may be levied according to law. The proceeds of said tax levy to the extent of the amount required by the Fund shall be paid into the Fund. Any balance shall be paid into the Reserve Fund created in Section 5-104.

Section 5-104. Reserve Fund.

There is hereby created and established a Reserve Fund which shall consist of all moneys paid into it as provided in Section 5-103. Advances may be made by the Board of Trustees hereinafter created from said Reserve Fund to the Fire and Police Disability and Retirement Fund in cases where said Fund is depleted to the extent that it cannot meet its current obligations. The City Treasurer shall have the same powers of investment of the Reserve Fund that such officer has with the Fire and Police Disability and Retirement Fund. If the balance in the Reserve Fund exceeds \$750,000, the excess shall be transferred to the Fire and Police Disability and Retirement Fund.

Section 5-105. Salary Deductions.

It shall be the duty of the City officer responsible for accounting, in making out regular salary warrants or checks, to deduct and withhold from the salary of each Member described in Subsection 5-102(b) the amount provided during all the time such Member may be in the employ of the Bureau of Fire or the Bureau of Police. It shall be the duty of the City officer responsible for accounting to draw a warrant or check for the total amount so withheld, payable to the Fund at the times regular salaries are paid.

Section 5-106. Investments.

The assets of the Fund shall be deposited with the City Treasurer. The City Treasurer shall invest the Fund and the Reserve Fund in such investments as are lawful for the investment of public funds of cities in the State of Oregon.

ARTICLE 2. ADMINISTRATION**Section 5-201. Board of Trustees.**

- (a) **Composition.** This Chapter shall be administered by a Board of Trustees, which also shall supervise and control the Fire and Police Disability and Retirement Fund and the Reserve Fund. The terms of the existing eleven-member Board shall terminate on December 31, 2006, but members shall remain in office until the new Board is sworn in. Beginning January 1, 2007, the Board of Trustees shall be composed of five members who shall be the following: The Mayor or the Mayor's designee approved by the City Council (who shall act as Chairperson); one Active Member serving in the Bureau of Fire, to be elected to the Board by the Active Members in the Bureau of Fire; one Active Member serving in the Bureau of Police, to be elected to the Board by the Active Members in the Bureau of Police, and two citizens of the City of Portland who shall have relevant experience in pension or disability matters and shall be nominated by the Mayor and approved by the City Council. Neither the Mayor nor the Mayor's designee nor either of the citizen members shall be an active or past Member or a beneficiary of the Fund or have been employed by the City of Portland Bureau of Fire or Bureau of Police. Notwithstanding the change in Board memberships, the Board of the Fund shall continue in existence without interruption. All members of the Board shall receive orientation to the Board and serve without compensation. References in this Chapter to the "Board" shall mean the Board of Trustees created by this Section. The Chairperson shall designate another member of the Board who shall act as Chairperson in the event of the Chairperson's absence. At least three members of the Board must be present in order to constitute a quorum. An affirmative vote of at least three members of the board shall constitute an action of the Board. The Board shall keep a record of all of its proceedings and shall hold regular meetings at a time to be set by the Board.
- (b) **Election of Board Members.** Elections of the Board members representing the Members of the Bureau of Fire and Bureau of Police shall be under the supervision of the City Auditor and shall be held in the month of December, at which election one Active Member from the Bureau of Fire and one Active Member from the Bureau of Police shall be elected to the Board for three-year terms to succeed the members whose terms expire the month following the time of said election. Members so elected in December shall take office the following January. Similar elections for unexpired terms shall be held to fill other vacancies within thirty days after they occur. Elections shall be held in a manner prescribed by the rules and regulations adopted by the Board, which must be in writing and filed with the Administrator of the Fund. A Board member who ceases to be an Active Member may complete the remainder of the Board member's term.

- (c) Appointment of Board Members. The appointments of the two citizen members shall be as follows: one for an initial one year term and every three years thereafter and the other for an initial two year term and every three years thereafter. The appointments shall be made in the month of January.
- (d) New Board members shall be appointed or elected for terms to begin January 1, 2007 or as soon thereafter as they are elected or approved by the City Council. Appointments or elections for unexpired terms shall be made to fill vacancies within thirty days after they occur. The Board may set rules for attendance and any member may be removed by the Board for failure to abide by the attendance rules of the Board.
- (e) Indemnity. The members of the Board and the Fund Administrator appointed under Subsection 5-202(f) shall be indemnified by the Fund from any claim or liability, including the cost of legal defense by counsel approved by the City Attorney, that arises from any action or inaction in connection with their functions under this Chapter subject to the following:
 - 1. Coverage shall be limited to actions taken in good faith that the person reasonably believed were not opposed to the best interest of the Fund.
 - 2. Coverage shall be reduced by the extent of any insurance coverage.

Section 5-202. Powers of Board and Fund Administration.

- (a) As to Benefits. The Board shall not decide applications for disability benefits provided by this Chapter. The Board shall have the power to prescribe rules and regulations for administration of this Chapter and to provide for enforcement of the same by forfeiture of any benefit payment or by denial of any claim, if such rules and regulations are not followed. The rules may provide for suspension or reduction of any disability benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment. The rules may provide for the designation of one or more licensed physicians or psychologists to act at any time with the physicians appointed by the City Personnel Director in the mental and physical examinations of applicants for membership in the Bureau of Fire or Bureau of Police. The rules may require applicants for benefits from the Fund and persons receiving benefits from the Fund to submit to and undergo mental and physical examinations by one or more licensed physicians or psychologists designated by the Fund Administrator for that purpose. The Board is hereby authorized and empowered to administer oaths, subpoena and examine witnesses, and to require the production and examination of papers and documents for the purpose of rulemaking.

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- (b) The Board shall retain one or more independent hearings officers who shall be members of the Oregon State Bar, have relevant disability training and experience, and who shall not be a Member or beneficiary of a Member. The Board shall establish rules of evidence and procedure for the conduct of hearings.
 - (c) The Board shall establish an independent panel to consider appeals from the hearings officer's decisions. One panel member shall be appointed for an initial one year term and then every three years thereafter; the second panel member shall be appointed for an initial two year term and every three years thereafter and the third panel member shall be appointed for an initial three year term and every three years thereafter. Panel members shall be members of the Oregon State Bar, shall have relevant disability training and experience, and shall not be a Member or beneficiary of a Member. Panel members may be removed by the Board for cause.
 - (d) The Board shall pay from the Fund the expenses of vocational rehabilitation of disabled Members established in a vocational rehabilitation plan approved by the Fund Administrator to reduce disability benefits. The Board may, but has no obligation to, pay other financial incentives that demonstrate a reduction in disability costs.
 - (e) The Board may pay its administrative expenses from the Fund and may borrow from the General Fund. The Board may purchase bonds or insurance covering any act or failure to act.
 - (f) The Fund shall have a Fund Administrator. The Fund Administrator shall be appointed by the ~~MayerCity Administrator~~, approved by the Board and confirmed by the City Council. The Fund Administrator shall be a qualified disability expert. The Fund Administrator shall have the position of a bureau director and shall report to the ~~MayerCity Administrator~~, and the Board. The ~~MayerCity Administrator~~ may remove the Fund Administrator, for any reason, after seeking the advice of the Board. The Board and the Fund Administrator may appoint other agents or advisers to assist the Board or Fund Administrator, including actuaries and attorneys.
 - (g) The Fund Administrator shall have the authority to settle and discharge all or part of the Fund's future obligations to any Member or Member's eligible beneficiaries for disability, retirement or death benefits as to any and all claims or entitlements to disability, retirement or death benefits as part of a settlement. The Board shall adopt Administrative Rules regarding the maximum amount that the Fund Administrator may expend to discharge all or part of the Fund's future obligations to any Member or Member's eligible beneficiaries for disability, retirement or death benefits as to any and all claims or entitlements to disability, retirement or death benefits as part of a settlement without the approval of the Board of Trustees. Any amount

exceeding the maximum amount set by Administrative Rule shall require approval of the Board.

(h) Disability Claims Processing.

1. Restoring injured workers physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable is an important aspect of any disability system.
2. All claims by FPDR Two and FPDR Three Members for service connected and occupational disability benefits under Sections 5-306 and 5-308, for nonservice connected disability benefits under Sections 5-307 and 5-309, benefits on service connected or occupational death before retirement under Section 5-308 and benefits for non service connected death before retirement under Section 5-309 shall be adjusted, administered and decided by the Fund Administrator. The decision of the Fund Administrator shall be made in accordance with this Charter and the rules and regulations adopted by the Board.
3. A FPDR Two or FPDR Three Member or a Surviving Spouse or Dependent Minor Child adversely affected by a determination of the Fund Administrator may appeal that decision to a hearings officer within 60 days of the date of the decision of the Fund Administrator. The hearings officer shall conduct an evidentiary hearing under the rules of procedure and evidence established by the Board. The hearings officer shall have the power to administer oaths, subpoena and examine witnesses, and require the production and examination of papers and documents. The decision of the hearings officer shall be in writing and shall be issued within 30 days after the close of the evidentiary record. The decision shall be based on the evidence presented at the hearing.
4. The decision of the hearings officer shall be final unless an appeal to the independent panel is filed by the Member, Surviving Spouse, Dependent Minor Child or the Fund Administrator with the Fund within 30 days of the hearings officer's decision. The decision of the independent panel shall be de novo on the record and shall be the final decision of the Fund and may be appealed to the circuit court as provided by state law.

(i) Subrogation.

1. By filing a claim for disability benefits the Member or the beneficiary of a Member agrees to be bound by the subrogation provisions of this Chapter.

2. If injury, death or medical condition of a Member is due to the negligent, intentional or wrongful action of a third party or product manufactured by a third party, the Member or beneficiary of the Member shall bring a cause of action or other claim against that third party or assign the cause of action or claim to the Fund. As used in this Chapter, "third party" includes any provider of medical care or vocational assistance to the Member and does not include any City employee acting in the course and scope of their employment.
3. In the event a Member or the beneficiary of a Member collects damages from a third person for injury, death or medical condition inflicted on such Member for which benefits are paid or payable by the Fund, the Member or beneficiary shall pay to the Fund the money so collected or the total amount paid to such Member for any benefits paid or payable by the Fund that are authorized to be recovered by any law or this Chapter. The amount so collected by the injured Member shall be distributed as provided in the Oregon Workers' Compensation statutes governing similar damage recoveries.
4. The Fund shall have a lien on any recovery equal to the value of all benefits paid or payable by the Fund, including but not limited to, disability payments, vocational rehabilitation expenses paid on behalf of a Member, and medical expenses for the injury or medical condition. The Fund lien shall include the present value of the Fund's reasonably expected future benefit payments.
5. No compromise or settlement of a cause of action or claim described in this Subsection (i) by a Member or the beneficiary of a Member shall be valid without the approval of the Fund Administrator. In the event the Member, beneficiary or third party fails to obtain the approval of the Fund Administrator for the compromise or settlement, the Fund Administrator retains the right to pursue any causes of action against the third party.
6. The Fund Administrator shall have the right to offset disability payments in the amount that is the lesser of the Fund's unsatisfied lien or the amount recovered by the Member or beneficiary of the Member from the third party.
7. The Fund Administrator shall have the authority to suspend, offset or reduce benefits if a Member or the beneficiary of a Member does not pursue or assign to the Fund the Member's or beneficiary's cause of action against a third party who causes the injury, death or medical condition of a Member for which the Fund pays or is obligated to pay benefits, or does not pay a Fund lien on recoveries from such third parties. Benefits so suspended or

reduced shall not be payable to the Member or beneficiary at any time unless the Fund lien has been satisfied.

8. The Board's right to bring a cause of action against a third party in the name of the Member or Member's beneficiaries shall be separate and independent of any other cause of action the City or Board may have.

[Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-203. Custodian and Disbursing Officer.

The funds created in Sections 5-101 and 5-104 shall be in the care and custody of the City Treasurer, and shall be paid out by the Treasurer on warrants or checks signed by the Mayor and countersigned by the Fund Administrator and not otherwise; provided, however, that no warrants or checks shall be drawn upon either of said funds except by order of the Board, which order shall be duly entered upon the record of the proceedings of the Board.

Section 5-204. Books and Accounts.

The books and accounts of the Fund, shall, at all times, be subject to the inspection of any person interested, and shall be audited annually at the expense of the Fund by a licensed public accountant or firm of accountants approved by the City. The City Auditor may audit the activities of the Fund. All securities, moneys and properties of the Fund which have come into the possession of the Treasurer shall be delivered at the expiration of the Treasurer's term to the Treasurer's successor.

Section 5-205. Claims Recordkeeping and Assessment of the Fund.

The Fund shall keep disability claims records in a manner comparable to the City's Workers' Compensation records. The Board shall retain an outside independent expert in disability management to conduct an initial audit to create benchmarks for comparison of the Fund going forward. The initial audit shall be conducted not later than nine (9) months after January 1, 2007. Twelve (12) months after the initial baseline audit, a subsequent audit shall be conducted.

Section 5-206. Legal Adviser.

It shall be the duty of the City Attorney to give advice to the Board of Trustees and Fund Administrator in all matters pertaining to their duties and the management of either of the Fund or the Reserve Fund whenever required by the Board or the Fund Administrator, and the City Attorney shall represent and defend the Board and the Fund Administrator as their attorney in all suits or actions at law or in equity that may be brought against them, and institute all suits and actions in their behalf that may be required or determined upon by said Board or Fund

Administrator; provided that the foregoing shall not prevent the Board or Fund Administrator from retaining other legal counsel to advise or represent them as provided in Section 5-202.

Section 5-207. Monthly Payments.

All benefits and allowances payable out of the Fund and hereinafter provided for and allowed by the Board shall be paid monthly out of the Fund by warrants or checks as herein provided, except where a different schedule of payment is provided in Article 3.

Section 5-208. Applications.

All applications under this Chapter except applications for FPDR Three retirement benefits or other benefits provided by PERS shall be made within such time and in such form as may be fixed by the rules and regulations of the Board. Applications for FPDR Three retirement benefits or other benefits provided by PERS shall be made within such time and in such form as may be fixed by PERS statutes, rules and regulations.

ARTICLE 3. FPDR TWO AND THREE BENEFITS**Section 5-301. Member, Surviving Spouse, Dependent Minor Child.**

- (a)** Member. Retirement, termination and disability benefits shall be paid to Members in accordance with this Chapter. Members shall consist of those persons who are permanently appointed as sworn employees in the Bureau of Police or Fire, except as follows:

 - 1.** Persons other than FPDR Three Members who participate in the Public Employee Retirement System of the State of Oregon, or will so participate after a waiting period, shall not be Members.
 - 2.** The chief of the Bureau of Police or of the Bureau of Fire shall be a Member unless the terms of employment of such chief provide otherwise.
 - 3.** Persons first sworn on or after January 1, 2013 shall be a Member upon completion of six (6) consecutive months of employment as a permanently appointed sworn employee in the Bureau of Police or Fire.
- (b)** Active Member. An Active Member is a person who is actively employed as a Member in the Bureau of Fire or Police and does not include a Member receiving disability or retirement benefits under this Chapter.
- (c)** Surviving Spouse. Death benefits shall be paid to the Surviving Spouse of a deceased FPDR Two or FPDR Three Member in accordance with this Chapter. The Surviving Spouse is a person to whom the Member was legally married throughout the 12-month period preceding death and from whom the Member was not judicially separated or divorced by interlocutory or final court decree at the time of death. Death benefits paid to a Surviving Spouse of a FPDR Three member shall be adjusted in accordance with the offset provisions in this Chapter.
- (d)** Dependent Minor Child. Death benefits shall be paid to a Dependent Minor Child of a deceased FPDR Two and FPDR Three Member in accordance with this Chapter. A Dependent Minor Child is a child, natural or adopted, of a FPDR Two or FPDR Three Member who is substantially supported by the FPDR Two or FPDR Three Member, the FPDR Two or FPDR Three Member's Surviving Spouse or the FPDR Two or FPDR Three Member's estate and is under 18 years of age and unmarried. Death benefits paid to a Dependent Minor Child of a deceased FPDR Three member shall be adjusted in accordance with the offset provisions in this Chapter.

- (e) More Than One Status. No person shall receive more than one survivor benefit under this Chapter at the same time, despite qualifying under both of Subsections (c) and (d), or qualifying under Subsection (c) or (d) with respect to more than one Member. A person so qualifying shall receive in any month the greatest of the benefits payable for that month.

Section 5-302. Years of Service.

- (a) Generally. A FPDR Two or FPDR Three Member shall be credited with Years of Service for periods of service as an Active Member. One Year of Service shall be credited for each completed 12 months in such periods and 1/12th of a Year of Service shall be credited for each additional completed month. A FPDR Two or FPDR Three Member shall not be credited with more than 30 Years of Service. FPDR Three service is equivalent to FPDR Two service for purposes of determining eligibility for disability and death benefits.
- (b) Military Service. A FPDR Two Member who leaves active duty in the Bureau of Fire or Police to enter the military service of the United States and returns to active duty in one of those Bureaus with reemployment rights protected by federal law shall be credited with Years of Service on the same basis as though the military service had been service described in Subsection (a), if the FPDR Two Member pays the FPDR Two Member contributions, as determined under rules established by the Board, for any period of such service preceding July 1, 1990.
- (c) Disability Service. A FPDR Two Member receiving disability benefits under Section 5-306 or 5-307 shall be credited with Years of Service for the period such benefits are received. The amount credited for each year shall be a fractional Year of Service equal to the FPDR Two Member's disability benefits received during the year divided by 75 percent of the Base Pay for the year for the position held by the FPDR Two Member at disability.

Section 5-303. Base Pay and Final Pay.

- (a) Base Pay. As used in this Chapter, Base Pay means the base pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation or sick leave.
- (b) Final Pay. As used in this Chapter, Final Pay means the highest Base Pay received by the FPDR Two Member for any of the three consecutive 365-day, or 366-day in a leap year, periods where the most recent day is the last day for which pay was received in the calendar month preceding the calendar month in which the FPDR Two Member retires, dies, or otherwise terminates employment with the Bureau of Fire

or Police. Final Pay for any such period does not include any retroactive payments received by the Member for days preceding such 365-day or 366-day period but does include adjustments to the Base Pay of the FPDR Two Member's position in the Bureau of Fire or Police that would have been received had the Member's applicable collective bargaining agreement been in effect during such 365-day or 366-day period.

Final Pay for any FPDR Two Member who retires, dies or otherwise terminates employment with the Bureau of Fire or Police and has either received FPDR disability benefits or who was employed in a part-time status by the Bureau of Fire or Police during any such 365-day or 366-day period shall be based on the Base Pay for a full-time employee in the FPDR Two Member's position in the Bureau of Fire or Police at the time of retirement, death or termination from employment.

Section 5-304. Retirement Benefits.

- (a) **Eligibility.** A FPDR Two Member shall be eligible to receive a retirement benefit upon termination of employment with the Bureau of Fire or Police on or after attaining age 50 if the FPDR Two Member has 25 or more Years of Service or on or after attaining age 55. A FPDR Two Member receiving disability benefits under Section 5-306 or 5-307 shall be eligible to receive a retirement benefit at Disability Retirement Age, which shall be the earlier of the date the FPDR Two Member earns 30 Years of Service under Section 5-302 or the date the FPDR Two Member attains social security retirement age. For purposes of this Subsection, social security retirement age means the retirement age provided in Section 216(l)(1) of the Social Security Act.
- (b) **Amount of Benefit.** The retirement benefit shall be 2.2 percent of the FPDR Two Member's Final Pay times the FPDR Two Member's Years of Service. The amount shall not exceed the maximum benefit permissible under Section 415 of the Internal Revenue Code of 1986 or any successor provision, and regulations issued thereunder, as they may be amended from time to time. The provisions of such Section 415 or its successor, and such regulations, are incorporated by this reference.
- (c) **Form of Benefit.** One-twelfth of the retirement benefit shall be payable monthly for the life of the FPDR Two Member, commencing with the month following retirement. The benefit shall be adjusted as provided in Section 5-312.
- (d) **FPDR Three retirement benefits** shall be provided as set out in the Oregon Public Employees Retirement System, as amended, and funded in accordance with this Chapter. The Fund shall pay the employee contribution required by the Public Employee Retirement System statutes. A FPDR Three Member shall also be credited with a contribution of three percent (3%) of salary, as defined in the PERS statute

and accompanying rule and regulations, to the Individual Account Plan, or successor defined contribution plan established under the Public Employees Retirement System. If the City of Portland is required by law, or the Members elect to enter the federal Social Security system, the three percent (3%) of salary contribution to the Individual Account Plan, or successor defined contribution plan under the Public Employees Retirement System in this Subsection shall cease as to those affected Members.

Section 5-305. Retirement Benefits Upon Termination.

- (a) **Eligibility.** A FPDR Two Member whose employment with the Bureau of Fire or Police terminates after completing five Years of Service shall be eligible to receive the benefit on vested termination. A FPDR Two Member whose employment with the Bureau of Fire or Police terminates after completing one-half Year of Service and before completing five Years of Service shall be paid the benefit on unvested termination. A FPDR Two Member who fails to return to work upon recovery from disability shall be treated as terminating employment on the date of recovery.
- (b) **Amount of Benefit on Vested Termination.** The benefit on vested termination shall be the FPDR Two Member's retirement benefit accrued under Section 5-304 to the date of the FPDR Two Member's termination of employment with the Bureau of Fire or Police based on Final Pay at such termination.
- (c) **Form of Benefit on Vested Termination.** The benefit on vested termination shall be payable monthly for the life of the FPDR Two Member commencing on Earliest Retirement Date which shall be the date the FPDR Two Member would have been eligible to receive a retirement benefit under Section 5-304 assuming continued service as an Active Member. The benefit shall be adjusted as provided in Section 5-312.
- (d) **Amount and Form of Benefit on Unvested Termination.** The benefit on unvested termination shall be a lump sum, payable at termination, equal to the sum of the following:
 - 1. The FPDR Two Member's contributions to the Fund prior to July 1, 1990, if any.
 - 2. Seven percent of the FPDR Two Member's Base Pay received after June 30, 1990, disregarding Base Pay received during the first six months after becoming a Member.

- (e) Reappointment. A FPDR Two Member who has received the benefit on unvested termination and is later reappointed as an Active Member may repay to the Fund the amount received within 60 days after such reappointment and have Years of Service before the earlier termination restored. If the Member does not make such repayment, the Member shall be a FPDR Three Member.

Section 5-306. Service-Connected and Occupational Disability Benefits.

- (a) Interim Disability Benefits. An Active Member may receive Interim Disability Benefits beginning with the payroll period when the Fund Administrator receives the required application for Service-Connected and Occupational Disability benefits, including a written statement from the Member's attending physician that the Member is unable to perform the Member's required duties because of an injury or illness arising out of and in the course of the Member's employment in the Bureau of Police or Fire. Interim Disability Benefits may be payable until the claim is approved, denied or withdrawn. If the Fund Administrator determines the Member is eligible for service-connected or occupational disability and approves the Member's application for benefits, disability benefits under Subsections (b), (c) or (d) of this Section will be payable during the period the Member continues to be eligible. If the application for benefits is denied or withdrawn by the Member, Interim Disability Benefits will cease immediately, and the Member shall repay the Fund the total amount of Interim Disability Benefits paid. The Board of Trustees shall provide by Administrative Rule the method of payment and repayment of Interim Disability Benefits.
- (b) Eligibility for Service-Connected Disability Benefit. An Active Member shall be eligible for the service-connected disability benefit when unable to perform the Member's required duties because of an injury or illness arising out of and in the course of the Member's employment in the Bureau of Police or Fire. The Fund Administrator shall determine the existence of a disability and whether it arises out of and in the course of such employment. A Member shall not be eligible for the service-connected disability benefit based on an injury suffered in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties or incurred while engaging in, or as the result of engaging in, any recreational or social activities solely for the Member's personal pleasure.
- (c) A Member shall not be eligible for the service-connected disability benefit on the basis of a condition of stress or mental disorder unless:
 - 1. The employment conditions producing the stress or mental disorder exist in a real and objective sense;

2. The employment conditions producing the stress or mental disorder are conditions other than conditions generally inherent in police or fire employment or reasonable disciplinary, corrective, or job performance evaluation actions by the employer, or cessation of employment;
 3. There is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community;
 4. There is clear and convincing evidence that the stress or mental disorder arose out of and in the course of employment as an Active Member; and
 5. The Member's employment conditions are the primary cause of the stress or mental disorder.
- (d) Eligibility for Occupational Disability Benefit. An Active Member shall be eligible for the occupational disability benefit when unable to perform the Member's required duties because of heart disease, hernia of abdominal cavity or diaphragm, AIDS, AIDS-related complex, tuberculosis, hepatitis B, or pneumonia (except terminal pneumonia). A Member shall not be eligible for an occupational disability benefit because of heart disease unless the Member has five or more Years of Service when the disability arises. The Fund Administrator shall deny an occupational disability benefit if the Fund Administrator determines, by a preponderance of the evidence, that the disability was not contracted as a result of service as a police officer or fire fighter. No Member shall be eligible to receive a benefit for an occupational disability incurred while receiving benefits under Section 5-307, unless such occupational disability is incurred within two years after such Member had commenced and continued to receive benefits under Section 5-307, or unless such occupational disability is a recurrence of an occupational disability which became disabling and was compensated for under this Section.
- (e) Amount of Benefits. During the period the Member continues to be eligible under Subsection (a), (b), (c) or (d) benefits shall be paid as follows:
1. During the first year from the date of disability, the Member shall be paid 75 percent of the Member's rate of Base Pay in effect at disability, reduced by 50 percent of any wages earned in other employment during the period the benefit is payable.
 2. The Member shall continue to be paid the benefit described in Paragraph 1 after one year from the date of disability until the earliest date on which the Member is both medically stationary and capable of Substantial Gainful Activity. If not medically stationary sooner, the Member shall be treated as

medically stationary for purposes of this Section on the fourth anniversary of the date of disability, regardless of the Member's condition. The Member is capable of Substantial Gainful Activity if qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at disability.

3. After the date described in Paragraph 2, the Member shall be paid 50 percent of the Member's rate of Base Pay at disability, reduced by 25 percent of any wages earned in other employment during the same period.
 4. The minimum benefit shall be 25 percent of the Member's rate of Base Pay, regardless of the amount of wages earned in other employment.
 5. The Fund Administrator may suspend or reduce the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.
 6. Notwithstanding any other provision of the Chapter or the City Charter, a disabled Member receiving or eligible to receive Service-Connected and Occupational Disability Benefits under Section 5-306, or Non-Service Connected Disability Benefits under Section 5-307, shall not receive any such benefit for periods of time during which the member is incarcerated subsequent to and for the conviction of a crime. One-half of such benefit, however, shall be payable to the Member's spouse, if not incarcerated, or Member's minor children, during such periods of incarceration.
- (f) Form of Benefits. The service-connected and occupational disability benefits shall be paid on the same schedule as the Member's regular payroll during the first year from the date of disability and paid monthly thereafter. The Board may adopt administrative rules which allow exceptions to the Form of Benefits in accordance with this Subsection. The benefits shall be adjusted to reflect changes in the rate of Base Pay of the position held by the Member at disability.
- (g) Service-connected or occupational disability benefits to a FPDR Two Member shall cease at Disability Retirement Age under Subsection 5-304(a) unless the Fund Administrator determines that the service-connected or occupational disability is temporary. If the service-connected or occupational disability is determined by the Fund Administrator to be temporary, a FPDR Two Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Disability Retirement Age, whichever is later. At the end of such period, the disabled Member shall be entitled to receive only a retirement benefit. Service-connected or occupational disability benefits to a FPDR Three Member shall cease at Normal

Retirement Age under PERS unless the Fund Administrator determines that service-connected or occupational disability is temporary. If the service-connected or occupational disability is determined by the Fund Administrator to be temporary, a FPDR Three Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Normal Retirement Age, whichever is later.

(h) Medical and Hospital Expenses.

1. For members who are retired as of January 1, 2007, in addition to the benefits described above, a Member with a service-connected or occupational injury or illness shall be reimbursed from the Fund for reasonable medical and hospital expenses arising from the injury or illness, as determined by the Fund Administrator. Such reimbursement shall be allowed for expenses incurred while serving as an Active Member, while the FPDR Two Member's disability benefits under this Section continue and, if the FPDR Two Member continues to receive such benefits until Disability Retirement Age while retirement benefits under Section 5-304 continue to the FPDR Two Member. A FPDR Three Member shall receive a reimbursement for such reasonable medical and hospital expenses while serving as an Active Member, while the FPDR Three Member's disability benefit under this Section continue and, if the FPDR Three Member continues to receive such benefits until Normal Retirement Age under PERS while retirement benefits continue under PERS to the FPDR Three Member. The Fund Administrator may limit reimbursement to particular medical and hospital service providers with which it has made fee arrangements and may join in the purchase of services and administration of claims for other employees of the City of Portland.
2. For members who are not retired before January 1, 2007, in addition to the benefits described above, a Member with a service-connected or occupational disability accepted before retirement shall be reimbursed from the Fund for reasonable medical and hospital expenses arising from the injury or illness, as determined by the Fund Administrator. The Fund Administrator may limit reimbursement to particular medical and hospital service providers with which it has made fee arrangements and may join in the purchase of services and administration of claims for other employees of the City of Portland.
3. If the Fund Administrator determines by a preponderance of the evidence that a claim under Subsection 2 from a retired Member,

- a. is for medical or hospital expenses related to an injury or illness that was based upon fraud, misrepresentation, an omission, or illegal activity by the Member, or
- b. is for medical or hospital expenses related to an injury or illness that was accepted in good faith, in a case not involving fraud, misrepresentation, an omission, or illegal activity by the Member, and within two (2) years of the initial acceptance the Administrator obtains evidence that the claim is not a service-connected or occupational injury or the Fund is not responsible for the injury or illness, or
- c. that the medical or hospital expenses are not related to the service-connected injury or illness,

the Fund Administrator shall deny the claim for medical or hospital expenses pursuant to Subsection 2. Nothing in this Subsection shall limit the Fund's ability to recover costs, fees, and other remedies for other benefits previously received by the Member based upon fraud, misrepresentation, an omission, or illegal activity.

- (i) Waiver of Other Remedies. By applying for and accepting service-connected or occupational disability benefits, a Member waives any right to recover any other compensation or damages from the City of Portland as a result of such disability.
- (j) Offset. The monthly amount of service-connected or occupational disability benefits under this Charter shall be reduced by any monthly disability benefit payment made by PERS up to the amount provided in Subsection (e) of this Section. The Fund Administrator shall reduce any service-connected or occupational disability benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this Subsection.

Section 5-307. Nonservice-Connected Disability Benefits.

- (a) Eligibility. An Active Member shall be eligible for the nonservice-connected disability benefit if the Member has 10 or more Years of Service and is unable to perform the Member's required duties because of an injury or illness that does not qualify as service-connected or occupational under Subsection 5-306(a), (b), (c) or (d). No Member shall receive benefits under this Section as a result of the following: willful injuries; injuries sustained while, or illness contracted as a result of, willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from the habitual excessive use of or addiction to use of alcoholic beverages or illegal drugs.

- (b) Amount of Benefit. The benefit shall be 50 percent of the Member's Base Pay at disability, reduced by 50 percent of any wages the Member earns in other employment during the period the benefit is payable. The Fund Administrator may reduce or terminate the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.
- (c) Form of Benefit. The nonservice-connected disability benefit shall be payable monthly from the date of disability. The Board may adopt administrative rules which allow exceptions to the Form of Benefit in accordance with this Subsection. The amount shall be adjusted to reflect changes in the rate of Base Pay of the position held by the Member at disability. The benefit shall cease when the Member reaches Disability Retirement Age under Subsection 5-304(a).
- (d) Nonservice-connected disability benefits to a FPDR Two Member shall cease at Disability Retirement Age under Subsection 5-304(a) unless the Fund Administrator determines that the nonservice-connected disability is temporary. If the nonservice-connected disability is determined by the Fund Administrator to be temporary, a FPDR Two Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Disability Retirement Age, whichever is later. At the end of such period, the disabled FPDR Two Member shall be entitled to receive only a retirement benefit. Nonservice-connected disability benefits to a FPDR Three Member shall cease at Normal Retirement Age under PERS unless the Fund Administrator determines that nonservice-connected disability is temporary. If the nonservice-connected disability is determined by the Fund Administrator to be temporary, a FPDR Three Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Normal Retirement Age, whichever is later.
- (e) Offset. The monthly amount of nonservice-connected disability benefits under this Charter shall be reduced by any monthly disability benefit payment made by PERS up to the amount provided in Subsection (b) of this section. The Fund Administrator shall reduce any nonservice-connected disability benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this Subsection.

Section 5-308. Benefits on Service-Connected or Occupational Death Before Retirement.

- (a) Eligibility. A Surviving Spouse of a Member who dies before retirement as a result of an illness or injury that qualifies as service-connected or occupational under Subsection 5-306(a), (b), (c) or (d) shall be eligible to receive a death benefit. A Dependent Minor Child of such a Member shall be eligible to receive the benefit if the Member has no Surviving Spouse. If the Member has more than one Dependent

Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be minor and then paid to the Surviving Spouse.

- (b) Amount of Benefit. The benefit on service-connected or occupational death before retirement shall be 75 percent of the Member's rate of Base Pay at death until the earliest date on which the Member would have been eligible for retirement benefits under Section 5-304 if the Member had survived and continued in service as an Active Member. After such date, the benefit shall be 50 percent of the Member's Final Pay, as adjusted as provided in Section 5-312.
- (c) Form of Benefit. A Surviving Spouse shall be paid the benefit monthly starting with the month following the Member's death and continuing for the spouse's life. A Dependent Minor Child shall be paid the benefit until ceasing to be a minor. The benefit shall be adjusted as provided in Section 5-312.
- (d) Offset. The monthly amount of service-connected or occupational death benefits under this Charter shall be reduced by any monthly death benefit payment made by PERS up to the amount provided in Subsection (b) of this section. The Fund Administrator shall reduce any service-connected or occupational death benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this Subsection.

Section 5-309. Benefits on Nonservice-Connected Death Before Retirement.

- (a) Eligibility. A Surviving Spouse of a Member who has one or more Years of Service and dies before retirement not as a result of a cause described in Subsection 5-308(a), shall be eligible to receive a death benefit. A Dependent Minor Child of such a Member shall be eligible to receive the benefit if the Member has no Surviving Spouse or if the spouse is under age 55. If the Member has more than one Dependent Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be minor and then paid to the Surviving Spouse.
- (b) Amount on Death Before 5 Years of Service. If the Member had less than 5 Years of Service, the benefit on nonservice-connected death before retirement shall be a lump sum equal to the amount of the Member's contributions as provided in Paragraph 5-305(d)1, less any benefits paid to the Member under this Chapter.

- (c) Amount on Death After 5 Years of Service. If the Member had 5 or more Years of Service, the benefit on nonservice-connected death before retirement shall be an annuity equal to 50 percent of the Member's accrued retirement benefit under Section 5-304, based on 2.6 percent of the Member's Final Pay instead of 2.2 percent.
- (d) Form of Benefit. A benefit payable under Subsection (b) shall be paid in a lump sum. A benefit payable under Subsection (c) to a Surviving Spouse shall be paid monthly commencing with the month after the Member's death if the spouse is age 55 or over and otherwise with the month after the spouse attains age 55 and shall continue for the spouse's life. A benefit payable under Subsection (c) to a Dependent Minor Child shall be paid monthly commencing with the month after the Member's death and shall continue until the child ceases to be a minor. A benefit payable under subsection (c) shall be adjusted as provided in Section 5-312.
- (e) Offset. The monthly amount of nonservice connected death benefits under this Charter shall be reduced by any monthly death benefit payment made by PERS up to the amount provided in Subsection (b) and (c) of this section. The Fund Administrator shall reduce any nonservice connected death benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this subsection.

Section 5-310. Benefits on Death After Retirement.

- (a) Eligibility. The Surviving Spouse of a FPDR Two Member who dies after retirement shall be eligible to receive a death benefit, except as provided in Subsection (b). The Dependent Minor Child of the FPDR Two Member shall be eligible to receive the benefit if the Member has no Surviving Spouse. If the Member has more than one Dependent Minor Child, the benefit shall be divided equally among them. If the FPDR Two Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be a minor and then paid to the Surviving Spouse. Eligibility for death benefits after retirement shall be based on status as a Surviving Spouse or Dependent Minor Child at the date of the FPDR Two Member's death and without regard to a person's status at the time of the FPDR Two Member's retirement.
- (b) Certain Disabled Members. If the FPDR Two Member retired after a nonservice-connected disability and had less than 10 Years of Service, including service recognized by the Public Employee Retirement System of the State of Oregon for accrual of benefits or as a waiting period before such accrual begins, no death benefit shall be paid.

- (c) Amount of Benefit. The benefit on death after retirement shall be 100 percent of the Member's retirement benefit. A FPDR Two Member may make an irrevocable election at the time of retirement under rules established by the Board to be covered by a reduced death benefit and receive a retirement benefit under Section 5-304 based on a larger percentage of Final Pay as follows:
1. With a death benefit equal to 100 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.2 percent of Final Pay.
 2. With a death benefit equal to 75 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.4 percent of Final Pay.
 3. With a death benefit equal to 50 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.6 percent of Final Pay.
 4. With a death benefit equal to 25 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.8 percent of Final Pay.
- (d) No Spouse or Children. If a FPDR Two Member has no Surviving Spouse or Dependent Minor Child at death, no death benefit shall be paid except for the benefit based on return of FPDR Two Member contributions provided in Section 5-311, if any. In no event shall a FPDR Two Member receive a retirement benefit based on more than 2.8 percent of Final Pay regardless of not having a Surviving Spouse or Dependent Minor Child.
- (e) Form of Benefit. The benefit shall be paid monthly commencing with the month after death and shall continue until the later of the death of the Surviving Spouse or the date the last Dependent Minor Child ceases to be a minor. The benefit shall be adjusted as provided in Section 5-312.

Section 5-311. Return of Member Contributions.

If a FPDR Two Member's contributions under Paragraph 5-305(d)1 exceed the total of all benefits paid under this Chapter to the FPDR Two Member and to the FPDR Two Member's Surviving Spouse and Dependent Minor Children at the time the last of such benefits ceases to be paid, the excess shall be paid as an additional benefit. The additional benefit shall be paid in a lump sum to the person who was formerly a Dependent Minor Child of the FPDR Two Member receiving benefits under this Chapter or, if there is more than one such person, divided equally among

them. If there are no such persons, the additional benefit shall be paid to the estate of the FPDR Two Member's Surviving Spouse. If there was no Surviving Spouse, the additional benefit shall be paid to the FPDR Two Member's estate.

Section 5-312. Benefit Adjustments.

Benefits payable under this Chapter shall be adjusted, where so indicated in the Section of this Article in which each benefit is described, in accordance with this Section after payment commences. The Board shall determine the amount and timing of such adjustments in its discretion, except the percentage rate of change shall not exceed the percentage rate applied to retirement benefits payable to police and fire employees by the Public Employee Retirement System of the State of Oregon.

Section 5-313. Limits on Time and Form of Payment.

- (a) Payment to FPDR Two Members. Payment of benefits to a FPDR Two Member shall comply with the following restrictions:
 - 1. Payment shall begin no later than the April 1 following the calendar year in which the FPDR Two Member attains age 70 1/2 or retires, whichever is later.
 - 2. Payment shall be made over a period no longer than the lives or joint life expectancy of the FPDR Two Member and any designated beneficiary.
 - 3. The benefit form shall be limited so that the benefit payable after death is incidental to the plan's primary purpose of providing retirement benefits.
- (b) Payment to Beneficiaries. Payment of death benefits shall begin no later than one year after the FPDR Two Member's death and shall be made over a period no longer than the beneficiary's life or life expectancy.
- (c) Applicable Regulations. The restrictions of this Section shall be complied with by payments in accordance with Treasury Regulation Sections 1.401(a)(9)-1 and 1.401(a)(9)-2, or any successor provisions, as they may be amended from time to time. This Section shall override any inconsistent distribution options provided in this Chapter.

Section 5-314. Funeral Benefit.

A funeral benefit shall be paid on death of any Active Member or Member actively receiving disability or retirement benefits. The funeral benefit shall be one-half of the monthly salary at the date of death payable to the civil service classification of fire fighter if the Member was employed in the Bureau of Fire, or of police officer if the Member was employed in the Bureau

of Police. If such classifications cease to exist, the benefit shall be based on the salary of comparable successor positions. The funeral benefit shall be paid to the Member's Surviving Spouse or, if there is no Surviving Spouse, to the Member's estate.

ARTICLE 4. MISCELLANEOUS.**Section 5-401. Amendment of Chapter.**

- (a) Effective Date. Chapter 5 shall be amended and restated as set forth herein, effective January 1, 2013. These amended provisions shall apply after the effective date.
- (b) FPDR One Benefits. The benefit rights of Members, Surviving Spouses and Dependent Minor Children actively receiving pensions or benefits on January 1, 1990 shall be controlled by Sections 5-113 through 5-123 and 5-126, set out in Article 5 of this Chapter, and by the Supplementary Retirement Program described in Subsection (d), instead of by Article 3, except as follows:

 - 1. Death benefits payable to a spouse shall continue to be paid regardless of whether the spouse remarries.
 - 2. The Surviving Spouse of a Member who dies after June 30, 1990 and after retirement and who has been married to the Member continuously for the 12-month period prior to death shall receive the death benefit provided by Section 5-118 regardless of not having 5 continuous years of marriage before retirement.
 - 3. The Surviving Spouse of a Member who had a nonservice-connected disability, retired and then dies after June 30, 1990 shall receive the death benefit provided by Section 5-118 if the Member had 10 or more Years of Service.
 - 4. The Board may permit a Member receiving disability benefits on January 1, 1990 to make the election described in Subsection (c) at the same time as other Members if the Member's disability is expected to be of less than one year in duration.
 - 5. A Member receiving disability benefits on January 1, 1990 who was not permitted an election under Paragraph 4, who subsequently returns to service as an Active Member in the Bureau of Fire or Police capable of performing full duty without limitation and who earns two more Years of Service under Subsection 5-302(a) shall be given the opportunity, upon completing such two Years of Service, to make the election described in Subsection (c). Upon making such election, the Member shall receive a refund of the Member contributions paid during such two Years of Service.

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- (c) Election. The provisions of Article 3 shall apply to persons who became Members before the date of enactment and who are not described in Subsection (b) only if such Members made an irrevocable election to have them apply. The election shall be made on forms and under procedures established by the Board. Benefits for a Member who made the election, and for the Surviving Spouse and Dependent Minor Children of such a Member, shall be determined under Article 3 and not Article 5. Benefits for a Member who did not make the election, and for the Surviving Spouse and Dependent Minor Children of such a Member, shall be determined under Article 5, as modified by Subsection (b), and by the Supplementary Retirement Program described in Subsection (d), and not under Article 3. A Member who retired between January 1, 1990 and June 30, 1990 chose at retirement the level of death benefit after retirement under Section 5-310, which applied starting July 1, 1990 unless the Member did not make the election described in this Subsection. A Member who made the election and started receiving retirement or disability benefits between January 1, 1990 and June 30, 1990 shall receive benefits determined under Article 3 effective July 1, 1990.
- (d) Supplementary Retirement Program. The benefits provided by the Supplementary Retirement Program created by Ordinance No. 136977, and amended by Ordinance No. 152182, of the City of Portland shall be paid from the Fund pursuant to this Chapter effective July 1, 1990 to:
1. FPDR One Members;
 2. Members described in Subsection (c) who did not make the election provided therein, and the Surviving Spouses and Dependent Minor Children of such Members.
- (e) Continuity of Rules and Regulations. The rules and regulations adopted prior to January 1, 2007 shall remain in effect until changed by the Board.
- (f) Notwithstanding any other provision of law or this Chapter, Chapter 5 shall be amended and restated as set forth herein, effective January 1, 2007, and said amendments shall apply to all matters existing or arising on or after January 1, 2007, regardless of the date of injury or the date the matter is presented. This amendment is intended to be fully retroactive so as to apply to all Members whenever sworn, except that the amendments shall not apply to any matter which has received Board approval on or before the date these amendments are approved by the voters and shall not be applied or operate in such a manner as to reduce FPDR One or FPDR Two benefits provided.

Section 5-402. Tax Qualification.

The benefits provided by this Chapter are intended to constitute a tax qualified pension plan that satisfies the requirements of Section 401(a) of the Internal Revenue Code of 1986, or any successor provision, as it may be amended from time to time.

Section 5-403. Changes ~~by Council~~.

- (a) **Mandated Benefits.** If the City of Portland is required by law to extend to the Members additional benefits not described by this Chapter, the Council may provide for such benefits by ordinance and such additional benefits shall be paid from the Fund. Such ordinance may include reductions in corresponding benefits described in this Chapter, which shall override inconsistent provisions of this Chapter.
- (b) **PERS, Social Security and Workers' Compensation.** If the City of Portland is required by law to cover all, or substantially all, of its police officers and fire fighters under one or more of the programs described in Paragraph 1, 2 or 3 below, or if the ~~Council~~ City acts voluntarily to do so and such action is ratified by the affirmative vote of a majority of the Active Members, the corresponding benefits provided by this Chapter, as determined by the Council, shall cease to be provided and the City's employer contributions, taxes, benefit payments or other costs of the newly extended program for police officers and fire fighters shall be paid from the Fund. Such costs shall be requirements levied under Section 5-103. The programs are:
 - 1. The Public Employee Retirement System of the State of Oregon;
 - 2. The federal Social Security system; and
 - 3. The workers' compensation benefits required by statutes of the State of Oregon.
- (c) **Tax Qualified Status.** The Council is authorized to change the benefits provided by this Chapter by ordinance to the extent necessary to comply with changes in the requirements for tax qualified status as described in Section 5-402.
- (d) **Advice by Board.** The Council shall not take action under this Section without seeking the advice of the Board on the action proposed to be taken.
- (e) **Savings Clause.** The Council is authorized to modify the provisions of this Chapter by ordinance to the extent necessary to provide a substantially equivalent benefit if any one or more sections, clauses, sentences or parts of this Chapter shall for any reason be adjudged unconstitutional or invalid, or the use of the levy to pay and discharge

any requirement, employee contributions, employer contributions, payroll taxes, benefit payments, or other costs of the Fund as provided in Section 5-103, is invalidated. In order to prevent payment of dual benefits, such ordinance shall require that the total benefits received by any Member do not exceed those provided in this Chapter before the 2007 amendments.

Section 5-404. Exemption from Execution.

All pensions, allowances or benefits due or paid under this Chapter shall be exempt from attachment, execution, garnishment or other process issued out of any court for the payment or satisfaction, in whole, or in part, of any debt, damage, claim, demand or judgment against the beneficiary thereof. The rights of Members and of their Surviving Spouses and Dependent Minor Children are personal and cannot be assigned or transferred to any other party in any way.

Section 5-405. Waiver of Benefits.

A person entitled to benefits under this Chapter may, before the beginning of the fiscal year, file a written notice with the Fund Administrator waiving such benefits or a portion thereof, for the ensuing fiscal year. Such waiver once filed and accepted by the Fund Administrator shall be irrevocable, except death of such person during the term of the waiver shall automatically terminate the effectiveness of the waiver. Any benefits, or portion thereof, so waived shall be forever forfeited.

Section 5-406. Invalidity.

If any part or section of this Chapter shall be declared invalid or unenforceable for any reason, it shall only void that part or section so declared and the remainder shall remain in full force and effect.

ARTICLE 5. FPDR ONE BENEFITS.**Section 5-113. Retirement, Resignation, and Discharge.**

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

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

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

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

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

Any member who shall resign after five (5) years of active service shall receive at that time a refund of all the member's contributions made as a regular member during the member's entire

service in their Bureau, less the amount of non-service connected disability benefits paid to the member from the Fund or previously established pension funds.

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

Contributions made by a member while such member was a temporary employee shall not be included in computing contributions made by the member for funds. Any member who shall resign or be discharged before completing five (5) years of active service shall not be entitled to refunds of any contributions paid. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-114. Compulsory Retirement.

Any member who has reached their sixty-fourth (64th) birthday anniversary shall be retired by the Board forthwith, subject to the provisions of the following Section relating to retirement of members receiving benefits upon service-connected or occupational disabilities; provided, however, that the Chief Engineer of the Bureau of Fire (Chief of the Bureau of Fire) and the Chief of the Bureau of Police who hold such positions on the effective date of this Act shall not be retired under the provisions of this Section prior to August 1, 1968. Any member retired under the provisions of this Section having any service less than thirty (30) years, shall be retired at the member's earned portion of the maximum pension. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-115. Benefits for Service-Connected Disability or Occupational Disability.

Upon duly verified application of a member and a finding by the Board that through injury suffered in line of duty, or sickness caused by the performance of duty, the member is or has been unable to perform the member's required duties, said member shall be paid service-connected disability benefits equal to but not in excess of the member's full salary from the Fund until such member recovers or for a period of one (1) year, whichever period is shorter. A member accepting service-connected disability benefits waives any right such member may have against the City of Portland as a result of said disability. In the event that said member has not recovered at the end of one (1) year, the member shall receive after said first year and until the member recovers, but for a period of not to exceed three (3) additional years, service-connected disability benefits from the Fund equal to but not in excess of the member's full salary but in no event in excess of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be. If the service-connected disability continues after the end of four (4) years, the member shall be paid benefits from the Fund in an amount equal to sixty percent of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, until the

member recovers or if the member does not recover until the member reaches compulsory retirement age. Upon reaching compulsory retirement age, said member shall be retired by the Board and shall receive the member's maximum earned pension. In the event a member, disabled from an injury in line of duty or sickness caused by the performance of duty, reaches compulsory retirement age before the expiration of one (1) year from the date of such disability, said member shall be paid benefits equal to the member's full salary from the Fund until the member recovers or for one (1) year from the date of such disability, whichever event first occurs, at which time the member shall be retired at the member's maximum earned pension. A member receiving service-connected disability benefits upon reaching compulsory retirement age, shall not receive any payments from the Fund in excess of such member's maximum earned pension except as hereinbefore provided plus such medical and hospital expenses as are authorized in this Article.

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

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

In the event of recovery of any member from service-connected disability or occupational disability prior to retirement, as attested by the member's attending physician, and the concurring approval of the Board's physician, the chief in charge of the respective bureau shall authorize return to work of such member, subject to the subsequent certification by the Board, which shall be retroactive to the time the member returns to work. Such return to work shall not

be subject to other time limitations on such return contained elsewhere in this Charter. Said member returning to service shall be restored to service in the rank the member occupied at the time of the member's disability and the member's disability benefits shall cease upon restoration to service.

In the event a member is unable to perform the member's required duties from a recurrence of a prior service-connected disability, the period of such recurrence or periods of successive recurrences from the same original sickness or injury shall be added to the period or periods of prior disability for the purpose of computing total disability benefits to which the member is entitled, provided, however, if one (1) year or more lapse from the date of recovery from such original sickness or injury, the subsequent period of such recurrence or periods of successive recurrences of such disability shall be treated as a new disability for the purpose of computing benefits.

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

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

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

No member shall be eligible to receive benefits under this section, in lieu of benefits under Section 5-116, for an occupational disability incurred while receiving benefits under Section 5-116, unless such occupational disability is incurred within two (2) years after such member had commenced and continued to receive benefits under Section 5-116, or unless such occupational

disability is a recurrence of an occupational disability which became disabling and was compensated for under Section 5-115. [Amended by Ordinance No. 190204, effective December 18, 2020.]

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

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

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

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

No member shall receive benefits under this Section as a result of the following: willful injuries; injuries sustained while willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from immoral practices or the habitual excessive use of or addiction to use

of alcoholic beverages or narcotic drugs. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-117. Benefits and Pensions to Surviving Spouses and Children in Service-Connected or Occupational Disability Deaths.

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

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

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

If any member shall die prior to retirement from any causes specified in the first paragraph of this Section, leaving a Dependent Minor Child or children of a former marriage or marriages and a qualified Surviving Spouse, then the qualified Surviving Spouse's benefits or pension, as the case may be, plus children's allowances to which the Surviving Spouse might be entitled were all the children of the Surviving Spouse, shall be divided with the Dependent Minor Child or children of all marriages, fifty percent to said qualified Surviving Spouse, and fifty percent to the Dependent Minor Child or children of all the marriages to be divided equally among said children. Any Dependent Minor Child's interest in said benefits or pension plus allowances, if any, shall cease when the child is no longer a Dependent Minor Child as defined herein, and any qualified Surviving Spouse's right to an additional allowance for a Dependent Minor Child shall cease under the same conditions.

A Surviving Spouse is disqualified and the Surviving Spouse's right to any benefits or pension from this Fund is thereafter and forever terminated when the Surviving Spouse remarries.

All persons deriving benefits from the death of any one member under the provisions of this Section may elect, if the Board after hearing finds it to be financially beneficial to the Fund, to receive collectively a five thousand dollar (\$5,000) cash settlement from the Fund in lieu of all further claims to benefits and/or pension. Said cash settlement shall not be paid if the deceased member was at the time of the member's death or within (1) one year thereafter would have been eligible for a maximum pension or would have reached compulsory retirement age. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-118. Benefits and Pensions to Surviving Spouses and Children on Deaths of FPDR One Members After Retirement or on Non-Service Connected Deaths Before Retirement. Deaths of FPDR One Members After Retirement.

Upon the death of any member who retires under the provisions of this Article, other than a member who retired prior to July 1, 1947, the Surviving Spouse of said deceased member until such Surviving Spouse's death or remarriage shall receive a monthly pension to be computed from the "Survivor Annuity Table," set forth below, and in accordance with this Section; provided, however, that as to any member relieved from service by the Board under Section 5-113 for a nonservice connected disability or retiring under Section 5-116 of this Act, the provision of this Section shall apply only to a member having twenty (20) years or more active service. Said table below shows the basis for computing the pension to which the Surviving Spouse shall be entitled. In using the table the difference between the member's and Surviving Spouse's ages shall be determined to the closest year. If at the time of said retired member's death, there be no Surviving Spouse, the Dependent Minor Child or children while so remaining shall receive the Surviving Spouse's pension as set forth in the "Survivor Annuity Table" below, computed on the basis of a member and Surviving Spouse of the same age, and said pension shall be divided equally among them, if there be more than one. If at the time of said retired

member's death, the Surviving Spouse fails to qualify for a pension under this section, but the deceased member leaves a surviving Dependent Minor Child or children, the Dependent Minor Child or children while so remaining shall receive a pension as set forth below in the "Survivor Annuity Table" computed as though the Surviving Spouse had qualified as a for a pension. If the Surviving Spouse qualifies for a pension under this Section and later dies or remarries and there is a surviving Dependent Minor Child or children of the member, the Dependent Minor Child or children while so remaining shall receive said Surviving Spouse's pension and said pension shall be divided equally among them, if there be more than one.

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

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

Non-Service Connected Deaths Before Retirement. If a member has less than one (1) year of active service and dies before retirement for any cause not in line of duty, the member's Surviving Spouse and/or Dependent Minor Child or children shall have no rights under this Fund.

If a member has at least one (1) year but less than twenty (20) years of active service and dies before retirement from any cause not in line of duty, the member's Surviving Spouse, if said Surviving Spouse has been married to the member for at least one (1) year, shall be entitled to an option to either: (1) the return of the member's contributions made to the Fund and previously established pension funds less the amount of nonservice-connected disability benefits paid to the member from the Fund and any previously established pension funds, or (2) a cash settlement of fifteen hundred dollars (\$1,500) plus an additional one hundred dollars (\$100) for every year of the member's active service up to twenty (20) years. If at the time of said member's death, there be no Surviving Spouse who has been married to the member for at least one (1) year, the deceased member's surviving Dependent Minor Child or children, if any, shall have the same rights of a qualifying Surviving Spouse as set forth above in this paragraph.

If a member has twenty (20) years or more of active service and dies before retirement from any cause not in line of duty, the member's Surviving Spouse, if said Surviving Spouse has been married to the member for at least one (1) year, shall be entitled to a pension to be computed from the "Survivor Annuity Table" set forth above, based upon the maximum earned pension of the deceased member; or said Surviving Spouse may elect at their option within one (1) year after the member's death, if the Board, after hearing so permits, to receive in lieu of further pension payments either: (1) a return of the member's contributions made to the Fund and previously established pension funds, less the amount of nonservice-connected disability benefits paid to the member from the Fund and any previously established pension funds; or (2) a cash settlement of thirty five hundred dollars (\$3,500). If at the time of said member's death there be no Surviving Spouse who has been married to the member for at least one (1) year, the deceased member's surviving Dependent Minor Child or children, if any, while so remaining shall be entitled to the same pension to which a qualifying Surviving Spouse of the same age as the member would have been entitled under the provisions of this paragraph. If a Surviving Spouse qualifies for and is receiving a pension under this paragraph and later dies or remarries, the surviving Dependent Minor Child or children of the deceased member while so remaining shall receive, in lieu of the Surviving Spouse, said Surviving Spouse's pension, and said pension shall be divided equally among them, if there be more than one.

Notwithstanding the above, if the member shall die before retirement from any cause not in the line of duty, leaving a Dependent Minor Child or children by a former marriage or marriages and

the Surviving Spouse qualifies to receive a pension under this Section, then the Surviving Spouse's pension shall be shared with the Dependent Minor Child or children of all marriages, fifty percent to the said Surviving Spouse and fifty percent to the Dependent Minor Child or children of all marriages, to be divided equally among said children, if there be more than one. No Dependent Minor Child shall share in such division of the fifty percent last named, after such child has ceased to be a Dependent Minor Child as that term is defined in this Article. When there is no longer a Dependent Minor Child, the entire Surviving Spouse's pension shall be paid to the qualified Surviving Spouse until the Surviving Spouse's death or remarriage. If the Surviving Spouse remarries or dies while there remain Dependent Minor Child or children, the entire Surviving Spouse's pension shall be paid to the Dependent Minor Child or children while they so remain, to be divided equally among said children, if there be more than one.

In the event a cash settlement option is available and exercised pursuant by this Section, the election to accept it must be by or on behalf of all persons deriving or possibly entitled to derive benefits therefrom. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-119. Pensions for Previously Retired FPDR One Members and Their Surviving Spouses and Children.

The pension of any retired member of the pension or a Surviving Spouse or Dependent Minor Child or children of a deceased member, being paid as of July 1, 1947, shall be increased one-third ($\frac{1}{3}$) over and above the amount being paid on said July 1, 1947, and the total amount of such pension shall be paid from the Fund established by this Act, and not otherwise. The minimum pension for any person covered by this Section and on pension before July 1, 1947, shall be fifty dollars (\$50.00) per month after the above-mentioned one-third ($\frac{1}{3}$) increase has been effected. Effective July 1, 1962, the Board shall determine the percentage which the actual pension paid under this Section on July 1, 1949, is of the full salary of a First Class Police Officer or First Class Fire Fighter, as the case may be, as such salary was fixed on July 1, 1947; commencing July 1, 1962, and thereafter, increases or decreases shall be made annually at the beginning of each fiscal year of the pensions to be paid under this Section, subject to the minimum fixed above, by applying the percentage determined above to the full salary established by the City for a First Class Police Officer or First Class Fire Fighter, as the case may be, on July 1, 1962, and July 1 of each year thereafter, provided, however, in no event shall the amount paid as so computed, be less than the pension paid immediately prior to July 1, 1962. If a member who retired prior to July 1, 1947 dies or died after July 1, 1947, such member's Surviving Spouse or any Dependent Minor Child or children of such deceased member must qualify in the same manner as Surviving Spouse and children receiving a pension as of July 1, 1947, and those Surviving Spouses and children who qualify shall be paid a pension computed in the same manner as Surviving Spouses and children receiving a pension as of July 1, 1947.

Previously retired members of the Bureau of Police or Fire and their Surviving Spouses and Dependent Minor Children, by accepting any benefits provided herein, shall thereby waive any and all alleged, asserted or claimed rights under the provisions of any previous retirement and/or relief act in effect before the passage of this article.

Section 5-120. Variation in Amount of Benefit or Pension Payments.

All benefits and pensions granted and paid under this Act shall vary annually and shall be based upon the current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, computed annually at the beginning of the fiscal year. A person entitled to benefits or pension under this Act may, before the beginning of the fiscal year, file a written notice with the Board waiving said benefits or pension or a portion thereof, for the ensuing fiscal year. Said waiver once filed and accepted by the Board shall be irrevocable, except death of said person during the term of the waiver shall automatically terminate the effectiveness of said waiver. Any benefits or pension, or portion thereof, so waived shall be forever forfeited. This Section shall not apply to pensions for previously retired members and their Surviving Spouses and children coming under provisions of Section 5-119, which shall be governed solely by said Section.

Section 5-121. Temporary FPDR One Members.

A temporary fire fighter or police officer, or the Surviving Spouse and/ or Dependent Minor Children of either, shall only be eligible for the provisions of this Act relating to service-connected disabilities and service-connected death, not including occupational disabilities as herein defined, and not otherwise.

Section 5-122. Military Service.

FPDR One Members entering military service in time of a national emergency so declared by the President of the United States or inducted by the federal or State government into the armed forces or the reserve components thereof at a time of said national emergency shall receive credit for all time spent in said service toward retirement under this Act; provided said member returns to active duty in the Bureau of Fire or Police, as the case may be, within sixty (60) days after being relieved with a favorable discharge from said service and does not voluntarily remain in said service after the emergency; and provided further, however, that if a member shall become eligible, while in said service, to receive a pension according to years of service and age, as provided in Section 5-113, it shall not be necessary for such member to return to active duty in the Bureau of Fire or Bureau of Police in order to receive their retirement pension. In case of the member's death while in said service the member's Surviving Spouse and Dependent Minor Child or children shall be eligible for benefits as provided in Section 5-118. In case of injury or sickness contracted by said member while in said service, after being relieved from said service the member shall be entitled to the same benefits the member would have received under the

paragraph in Section 5-116 hereof providing for benefits upon nonservice-connected disabilities. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-123. Funeral Expenses.

Upon the death of any active or retired member, the Board shall pay to the person responsible for the funeral expenses of said deceased member a sum not exceeding two hundred dollars (\$200) to be used for funeral expenses.

Section 5-126. Definitions of Terms.

The following terms where used herein shall mean as follows:

1. The term "First Class Fire Fighter" shall mean a member of the Bureau of Fire who receives the maximum payment in the fire fighter classification, as set forth in the classification of positions in the Bureau of Fire by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Fire Fighter" is used it shall be that position by whatever name it may hereafter be called;
2. The term "First Class Police Officer" shall mean a member of the Bureau of Police who receives the maximum pay in the police bureau classification as set forth in the classification of positions in the Bureau of Police by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Police Officer" is used it shall be that position by whatever name it may hereafter be called;
3. The term "Surviving Spouse" shall include widower, and shall mean the spouse of a member who was legally married to a member and not judicially separated or divorced by interlocutory or final decree of court from the member at the time of the member's death;
4. The term "Dependent Minor Child" shall mean a child, natural (including posthumous) or adopted, of a member, who is in fact substantially supported by said member, or such member's Surviving Spouse or estate, while said child remains under eighteen (18) years of age and unmarried;
5. The term "maximum pension" shall mean a pension equal to sixty percent of the then current salary of a First Class Fire Fighter for fire fighters, or that of a First Class Police Officer for police officers, as the case may be, and said pension shall vary annually as said salaries may vary from time to time;

6. The term "earned portion of maximum pension" or "maximum earned pension" shall mean that portion of a maximum pension that the member's years of service bear to the years of service required for a maximum pension, but in no event shall it exceed the maximum pension;
7. The term "active service" shall mean that period of time after the date of permanent appointment during which a member serves and is paid from the payroll of the respective bureau of which they are a member; and likewise shall include time spent on military leave to the extent provided in Section 5-122, leave of absence from the Bureau of Police or Bureau of Fire to serve as a Chief of the Bureau thereof, during which time the member shall be classified as a member, and time lost as a result of occupational disabilities and service-connected disabilities. Time served under temporary appointment before date of permanent appointment shall not be included in computing "active service." Time lost from active duty as a result of a nonservice-connected disability for which period of time benefits are paid to a member from the Fund shall not be included in computing "active service";
8. The term "in line of duty" shall mean those acts connected with or resulting from duties assigned, required or authorized of members of the Bureau of Police or Bureau of Fire, as the case may be, which occur during the period of time which elapses between the time a member reports for duty until the time the member is relieved from duty, and any other time the member is performing fire or police duties for the City of Portland, provided such acts are not in violation of departmental rules and regulations, City ordinances or State or federal laws;
9. The term "member" shall mean any person permanently and duly appointed in the Bureau of Fire or the Bureau of Police, under Civil Service rules and regulations, to perform the duties of a regular fire fighter or police officer, including police harbor pilots, fireboat pilots and fire department engineers, or any person permanently and duly appointed prior to July 1, 1947, who has paid into the established Fire fighter's and Policemen's Relief and Pension Funds prior to July 1, 1947, in the City of Portland, under whatever designation the member may be described, in any salary or budget ordinance providing compensation for the members of said Bureau of Fire or Bureau of Police; provided, however, that personnel of the Bureau of Fire or Bureau of Police, who are excluded from membership in the Fund pursuant to statutory authority shall not be deemed "members" under this Article;
10. The term "residence in the State of Oregon" or "resident of the State of Oregon" shall mean actually living in the State of Oregon as well as maintaining residence and domicile therein;

11. The terms "current salary of a First Class Fire Fighter" or "current salary of a First Class Police Officer" shall mean all wages or salary paid on a monthly basis to a member for service in that Civil Service classification. The terms shall not include wages or salaries for extra duties or extra services. For the purposes of payments under this Article "current salary of a First Class Fire fighter" and "current salary of a First Class Police Officer" shall be computed annually at the beginning of the fiscal year;
12. The term "full salary" shall mean the regular wages or salary paid on a monthly basis to a member in the member's particular salary range and step, but shall not include overtime pay;
13. The term "fund" or "Fund" when not accompanied by any descriptive words shall mean the Fire and Police Disability and Retirement Fund created by Section 5-101 of this Article;
14. The term "contributions" unless otherwise qualified, shall mean all moneys contributed by a member to the Fund established by this Act or to previously established fire and police pension funds of the City of Portland;
15. Pronoun: In construing this Article, if the context so requires, the singular pronoun shall be taken to mean and include the plural and vice versa.

[Amended by Ordinance No. 190204, effective December 18, 2020.]

CHAPTER 7 - FINANCE

ARTICLE 1. ACCOUNTING PROCEDURES AND TAXATION.

Section 7-101. Public Moneys and Accounting.

1. The ~~Council shall by ordinance~~ City must provide a system for the collection, custody and disbursements of all public moneys, not inconsistent with the provisions of statute and this Charter, and ~~shall by ordinance~~ must 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.
2. The City Officer responsible for accounting shall keep an account of all moneys paid into and out of the treasury. The City Officer responsible for accounting shall keep a register of warrants, check-warrants and checks, showing the funds upon which they are drawn, the numbers, in whose favor, and the appropriations, if any, applicable to the payment thereof.
3. The chief financial officer of the City shall give information as to the exact condition of the treasury and of every appropriation and Fund thereof under control of the Council, upon demand of the Mayor, or the Council, or any ~~Commissioner~~ Councilor or the Auditor. The chief financial officer of the City shall keep the records and accounts of the City in a complete and intelligible manner, but may keep a summary of departmental or bureau records and accounts where the chief financial officer of the City finds such summary to be sufficient. The chief financial officer of the City shall make an annual statement to the Council showing the receipts and disbursements of the City and the state of each particular Fund and the City's financial condition as soon as records are complete after the close of business on the last day of each fiscal year. The annual report shall contain an accurate statement in summarized form of the financial receipts of the City from all sources and of the expenditures of the City for all purposes, together with a detailed statement of the debt of said City, of the purposes for which said debt has been incurred, and of the accounts of said City with grantees of franchises and the names of the present owners of each thereof, and a summary of the assets and liabilities of the City. [May 3, 1913, new sec. 84; rev. 1914, sec. 185; 1928 pub., sec. 185; 1942 recod., sec. 7-101; am. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-102. Expenditures.

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

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

Any liability or liabilities willfully incurred by the Council to be paid in any fiscal year, which singly or in the aggregate shall be in excess of the revenues and receipts for such a 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 willfully incurred in excess of the amounts authorized by the Council, where the Council may so limit the expenditures of moneys, shall be null and void, and the Council shall not authorize any expenditures during any fiscal year, nor shall any liability or liabilities be incurred by or on account of the City of Portland, to be paid in any particular fiscal year ~~(for the payment of which approval of the Council shall be necessary)~~ which singly or in the aggregate shall be in excess of the revenues and receipts received or available during such year, applicable, or made applicable by transfer, to the payment of such liability or liabilities. Nothing contained in this Charter shall authorize the enforcement against or collection from said City, on account of any debt, contract or liability, of any sum in excess of the limitations prescribed in this Section.

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

Section 7-103. Demands for Payment.

Every demand upon the City for payment of money out of the treasury, must, before it can be paid, be presented to the chief financial officer of the City, who shall examine such demand to satisfy himself whether the money is legally due and payable, and out of what Fund it is payable. No demand shall be approved or paid unless it specify each several item, date and

amount composing it, and have endorsed thereon the legal authority for its payment. However, the provisions of this paragraph shall not apply to demands for payment out of funds from which any officers, ~~or boards or Commissioners~~ are empowered by this Charter or other law to require payment ~~without Council authorization~~, nor to requisitions, checks or warrants thereon. The chief financial officer of the City shall keep an official record of all demands examined by the chief financial officer of the City showing the number, date, amount, name of the payee and against what appropriation, if any, drawn and out of what Fund payable. The chief financial officer of the City shall not allow any demand out of its order to give priority to one demand over another drawn upon the same specific Fund, except that when liability for any claim presented is not sufficiently apparent to the chief financial officer of the City, the chief financial officer of the City may delay the payment thereof until such liability shall be determined. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-104. Demands, Nonallowance.

No demand shall be allowed by the chief financial officer of the City in favor of any corporation or person indebted to the City in any manner, except for assessments or taxes not delinquent, without first deducting the amount of any indebtedness then due of which the chief financial officer has notice, nor in favor of any person having the collection, custody or disbursement of public funds, unless such person's account has been presented, passed, approved and allowed as herein required, nor in favor of any officer determined by the Mayor ~~or Commissioner In Charge~~ to have neglected to make the officer's official returns or reports in the manner and at the time required by law, ordinance or the regulation of the Council, or to have neglected or refused to comply with any of the provisions of law regulating such officer's duties, nor in favor of any officer or employee found by the Mayor ~~or Commissioner In Charge~~ to have absented themselves without legal cause or duly granted leave of absence from the duties of their office during office hours, after such determination has been transmitted and filed with the chief financial officer. [Ch. 1903, sec. 277; am. May 3, 1913, sec. 101; rev. 1914, sec. 72; 1928 pub., sec. 72; 1942 recod., sec. 2-409; rev. Nov. 6, 1962; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-105. Warrants.

When payment of a demand has been authorized ~~by the Council~~ and approved as provided in this article, the Mayor and Auditor shall draw warrants on the Treasurer therefor. Such warrants must be signed by the Mayor and attested by the Auditor; but no warrants, except such as are issued upon funds created by special assessments, or warrants issued in settlement of judgments of the courts, shall be drawn signed by the Mayor or attested by the Auditor until the money for the payment thereof is in the hands or under the control of the City Treasurer. Check-warrants countersigned by the Treasurer, checks signed by the Treasurer, or other

method of payment authorized by law may be used in lieu of warrants. Such check-warrants or checks shall be drawn upon a bank in which the Treasurer has deposited money for such purpose. [Ch. 1903, sec. 280; rev. 1914, sec. 75; 1928 pub., sec. 75; 1942 recod., sec. 2-412; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-106. Transfers from Funds.

It shall be lawful to transfer money from the General Fund to any other fund of the City and from the bonded indebtedness interest fund to the Improvement Bond Interest Fund, and to make any transfer permitted by statute, and the Council may provide that money transferred must be returned to the fund from which it was transferred. [Ch. 1903, sec. 115; am. May 3, 1913, sec. 89; rev. 1914, sec. 191; 1928 pub., sec. 191; 1942 recod., sec. 7-103; am. Nov. 6, 1962; am. May 18, 1994.]

Section 7-107. Reversions to General Fund.

When the necessity for maintaining any fund of the City has ceased to exist and a balance remains in such fund, the Council shall so declare by ordinance, and upon such declaration, such balance shall be forthwith transferred to the General Fund unless other provisions have been made in the original creation of the fund. However, the purposes of a special fund may be enlarged for similar objects. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942, recod., sec. 7-104; am. Nov. 6, 1962; am. May 18, 1994.]

Section 7-108. Investments.

Whenever bonds of the City of Portland are offered for sale, and there is a balance to the credit of any fund, not invested, said bonds may be awarded at par and accrued interest to the City Treasurer for the nearest practical amount, to consume said balance, and shall be held by the City Treasurer as an investment for said fund. When the bonds of the City of Portland are not offered for sale at a time or in sufficient amount to provide for the investing of any such balance, the ~~Council~~City may provide for investing the same in any general obligations of the United States Government, State of Oregon, the City of Portland, Multnomah County, School District No. 1 of Multnomah County or Port of Portland, or in any other bonds or investments permitted by statute, and to that end the ~~Council~~City may authorize the Treasurer to purchase the same on the open market if there is an established market therefor, or to submit a bid for any such bonds which are about to be issued for sale, or may authorize the Treasurer to advertise for proposals from persons holding any such bonds. Purchase of bonds upon bids shall be made by the ~~Council~~City on the basis of the most advantageous bid received, reserving the right to reject any and all bids. All interest received from such investments shall be credited to the fund from which the investment was made unless specifically provided otherwise by Charter or statute, provided, that two (2) or more funds may be joined in one investment, a

suitable provision being made for keeping an account of the amount invested from each fund and making an apportionment of the interest and principal when received. The ~~Council~~City may sell any bond or investment so purchased, when the same may not be payable at or near the time when such funds may be needed for the purpose for which the sinking fund or special fund was created, on the open market, if there is an established market for such investments, or, if there is no such established market, to the highest and best bidder after advertising for proposals in the City official newspaper by publication for at least five (5) days. Pending the investment as herein provided of any surplus or idle funds, the same shall be deposited in a depository bank which has qualified and been selected as a depository pursuant to statute. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942 recod., sec. 7-104; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-109. Independent Audits.

At the close of each fiscal year the books and accounts and the financial affairs and transactions of the City shall be audited by an independent licensed public accountant or firm of such accountants appointed by the City Auditor with the approval of the ~~Council~~Mayor. Such audits shall also be made for various departments, as provided in this Charter. The City Auditor may from time to time and as often as the City Auditor shall deem necessary, have like audit made of the books and accounts, and the financial affairs and transactions of the City or any part of City government. [May 3, 1913, new sec. 34; rev. 1914, sec. 195; 1928 pub., sec. 195; 1942 recod., sec. 7-106; am. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-110. Annual Tax Levy.

The Council shall, subject to applicable statutory provisions and at the time provided by law, levy upon all property not exempt from taxation, taxes for the coming fiscal year, as follows:

1. A tax to provide for the payment of the expenses of the City, subject to constitutional limitations, aside from any special levy or levies authorized for said year and aside from any levy for the payment of bonded indebtedness and interest thereon. The proceeds from the tax levy so made shall be credited to the General Fund.
2. Also a tax sufficient to meet the interest on the bonded indebtedness of the City to be credited to the Bonded Indebtedness Interest Fund.
3. Also a tax of not less than four-tenths of one mill on each dollar valuation not exempt from taxation to provide for the purchase of securities as an investment and/or payment or redemption of the bonded indebtedness of the City, to be credited to the sinking funds, or bond redemption funds. In all cases a tax shall be levied sufficient to provide for principal repayments on general obligations of the City.

4. Nothing herein contained authorizing general or special tax levies shall affect the right or power of other commissions to levy a tax as provided elsewhere in this Charter.
5. At the same time other levies of taxes are made and in addition to tax levies authorized by the Charter or other authorizations by the voters, the Council shall levy each year a special tax of three-tenths of a mill on each dollar of the assessed valuation of the property in the City of Portland not exempt from taxation, which shall be credited each year to the Fire and Police Disability and Retirement Fund provided for by Section 5-101 of the Charter and said special tax of three-tenths of a mill shall be in addition to all other taxes which may be levied according to law.
6. Nothing herein contained shall affect the right, power or duty of the Council to levy special taxes heretofore or hereafter authorized by the voters, and special taxes authorized and found necessary shall be levied.

[Ch. 1903, sec. 114; am. June 5, 1905; am. May 3, 1913, sec. 88; rev. 1914, sec. 190; am. July 1, 1926; 1928 pub., sec. 190; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod., sec. 7-110; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-111. Interim Borrowing.

The ~~Council of the City of Portland~~ is hereby authorized to borrow from time to time sufficient funds to meet the current expenses of the City of Portland during each fiscal year pending the collection of the annual tax levy for such fiscal year. [1942 recod., sec. 7-110, par. 7; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-112. Limited Special Tax Levies.

Special taxes for fixed amounts or limited terms, may be levied and collected at the same time and in the same manner as other tax levies, upon approval by a majority of the City electors voting thereon. Measures for such special tax levies shall be submitted to the electors in the form of separate acts at a general or special election as authorizations or directions to the City Council or other levying body, without provision for amendment to this Charter. Copies of such measures approved by the voting majority shall be kept by the City officer responsible for accounting in a separate Current Special Tax Levy Register, and shall be public records having the same effect as though included in this Charter by amendment. All such authorizations for special tax levies not fully used or which have not fully expired by their terms, which were included in the City Charter at the time of passage of this amendment or approved at the time of passage of this amendment, shall be continued in full force and effect regardless of deletion from the Charter and shall be included by the City officer responsible for accounting in the Current Special Tax Levy Register. After the authority for a special tax levy has been fully used

or has expired, it shall be removed from the current register and placed in a File of Completed Special Tax Levies. This Section shall not apply to authorizations to levy special taxes which by the provisions thereof, grant continuing authority from year to year without period limitations, notwithstanding stated maximum amounts or millage limits on the taxes which may be levied for any one year. Such authorizations shall continue as part of this Charter. [New sec. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-113. Transient Lodgings Tax.

1. The Council may by ordinance impose and levy a tax not exceeding five percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons, for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, or public institutions, or permanent occupancy as defined by ordinance. Minimum rentals to which the tax shall apply may be fixed by ordinance. The tax imposed shall be collected by the owner or operator of the rental space in addition to the rental charge, at the time of payment of rent. City revenues from such taxes shall be credited to the General Fund of the City and used for general City purposes, as the Council may find appropriate, which may include provision for and the acquisition, construction, operation and maintenance of recreational, cultural, convention or tourist-related facilities or services.
2. In addition to any other tax authorized by this Section of the Charter the Council shall by ordinance impose and levy a tax of one percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons, for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, public institutions, or permanent occupancy as defined by ordinance. Minimum rentals to which the tax shall apply may be fixed by ordinance. The tax imposed shall be collected by the owner or operator of the rental space in addition to the rental charge, at the time of payment of rent. City revenues from such one percent tax increase, after providing for the cost of administration and any refunds or credits authorized by ordinance, shall be used exclusively as provided hereinafter for the promotion, solicitation, procurement, and service of convention business and tourism in the City. Notwithstanding any other provision of this Charter, the City from time to time for periods not to exceed five (5) years, subject to annual review, shall negotiate contracts with a non-profit corporation or with non-profit

corporations organized under the laws of Oregon, whose primary purpose during the term of the contract or contracts is the promotion, solicitation, procurement and service of convention business and tourism in the City, for that corporation or corporations to expend revenues collected pursuant to this subsection for the purposes set forth in the subsection. In entering into the contract or contracts, the ~~Council~~ Mayor shall consider the recommendations of the persons subject to the tax imposed by this subsection. The Council shall in its sole discretion determine the portion of such revenues to be allocated between convention business and tourism. [Add. Dec. 14, 1971; Am. Nov. 7, 1978; am. May 18, 1994.]

3. In addition to any other authority granted under this Charter, the City Council shall have power and authority to provide for the administration of, and interpretation of the terms in, this Section 7-113 by ordinance as legislative action, as the Council may deem necessary and appropriate. [Added May 16, 2017, effective June 14, 2017.]

ARTICLE 2. BOND ISSUES.**Section 7-201. Issuance of Bonds.**

No bonds, other than bonds for public improvements payable out of assessments upon the property benefited and sewer bonds if otherwise authorized, shall be issued unless authorized by Charter or statute or unless approved by vote of the people at a general or special election. After the effective date of this amendment, measures for such bond issues limited in time or total amount shall be submitted to the electors, in the form of separate acts, without provision of amendment of this Charter, as authorizations or directions to the City Council or a commission established under this Charter. Copies of such measures approved by the voting majority shall be kept in a separate Book of Bond Issue Authorizations, and shall be public records, having the same effect as though included in this Charter by amendment. All such bond authorizations not fully used or which have not fully expired by their terms, which were included in the City Charter at the time of passage of this amendment or are approved at the time of passage of this amendment shall be continued in full force and effect regardless of deletion from the Charter and shall be included in the Book of Bond Issue Authorizations. After the authority for a bond issue or serial issues has been fully used and all the bonds issued thereunder have been paid or matured, the copy of the measure or authorization shall be removed from the current book and placed in a file of Completed Bond Issue Authorizations. This Section shall not apply to authorizations to issue bonds or other evidences of indebtedness which, by the provisions thereof, grant continuing authority without a stated total which may be issued thereunder, notwithstanding stated debt limitations or maximum amounts which may be outstanding at any one time. Such authorizations shall continue as part of this Charter. [May 3, 1913, new sec. 92; rev. 1914, sec. 227; 1928 pub., sec. 227; 1942 recod., sec. 11-101; rev. Nov. 6, 1962; am. May 20, 1986.]

Section 7-202. Refunding Bonds.

For the purpose of funding any bonded indebtedness, including water bonds, of the City of Portland, or any bonded indebtedness for which the City of Portland has become or will become liable by operation of law through annexation, merger or consolidation of any part or all of a municipal corporation or unit of government, already matured or to mature in the future, the City of Portland is authorized and empowered to issue and dispose of bonds of the City of Portland, Oregon, of the denominations of from one hundred dollars (\$100) to one thousand dollars (\$1,000) as the purchaser may desire, or as the Council may find appropriate, which bonds may be made general or limited obligations of the City. Such bonds shall be for a term fixed by the Council and the total amount of such refunding bonds shall not exceed the face or par value of the bonds to be refunded. Before such refunding bonds can be sold, the ~~Council~~ Mayor shall cause to be inserted for two (2) successive weeks in the City official newspaper and in at least one paper in New York City making a specialty of such matters, an advertisement inviting sealed bids for the purchase of said refunding bonds. Among equal

bidders preference in the sale and allotment shall be given to the bidders residing in the State of Oregon and subscribing for the smallest denominations. [Ch. 1903, part of sec. 118; rev. 1914, sec. 229; am. May 17, 1918; 1928 pub., sec. 229; 1942 recod., sec. 11-103; rev. Nov. 6, 1962.]

Section 7-203. Bond Issuance Procedure.

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

After approval by a majority of the electors voting on a bond measure, the Council shall, before issuing any such bonds, determine the denominations, form and term for such bonds. The Council shall prescribe the dates for the redemption of each bond issue and may authorize the issuance of bonds from time to time within the limitation of the amount authorized. Such bonds shall bear the facsimile signature of the Mayor and the Auditor of the City of Portland in the manner prescribed by the City in authorizing the sale of bonds. By each of such bonds the City shall be held in substance and effect to undertake and promise to pay to the holder of each of said bonds at the expiration of the time specified therein, the sum named therein, in lawful money of the United States of America, and promise to pay interest thereon in like lawful money at such rate as the Council may determine, not exceeding the percentage fixed by the Council, payable at such periods as shall be provided by the Council. The Council may prescribe other features of such bonds.

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

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

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

Whenever a commission has been or shall be authorized to issue bonds, by an existing Charter provision or provision approved simultaneously with adoption of this Section or any future measure, acts required or authorized by this Section to be done by the Council shall be required or authorized to be done by such commission. [1942 recod., see Chapter XI; new sec. Nov. 6, 1962; rev. May 15, 1984.]

Section 7-204. Bonded Debt Limitation.

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

CHAPTER 8 - ADVERTISING AND CONTRACTS

ARTICLE 1. AUTHORIZATION.

Section 8-101. Annual Contract for Official Advertising.

A contract for official advertising shall be let periodically by the ~~Council~~ Mayor to the lowest responsible bidder publishing a daily newspaper in the City of Portland and which has a bona fide circulation therein.

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

If the City official newspaper ceases to be published, or for any cause the contract in effect is canceled or terminated, a new contract for the unexpired term of the current contract shall be let to the lowest responsible bidder publishing a daily newspaper as provided in this Charter, and until such new contract is let the ~~Council~~ Mayor shall designate a daily newspaper in which all advertising shall be published, which newspaper shall be known and designated for the time being as the "City official newspaper." [May 3, 1913, new sec. 38; rev. 1914, sec. 144; 1928 pub., sec. 144; 1942 recod., sec. 8-101; am. Nov. 6, 1962; am. May 17, 1988.]

Section 8-102. Place for Advertisements.

All advertising and publications provided for in this Charter must be made in the City official newspaper and may be made in such other publications as the ~~Council~~ Mayor may direct. [May 3, 1913, new sec. 40; rev. 1914, sec. 146; 1928 pub., sec. 146; 1942 recod., sec. 8-103; rev. Nov. 6, 1962.]

Section 8-103. Definitions, "Successive" and "Consecutive."

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

Section 8-104. When Written Contracts Required.

The City of Portland shall not be bound by any contract nor in any way liable thereon, unless the same is ~~authorized by an ordinance and~~ made in writing and signed by some person or persons duly authorized ~~by the Council~~. But ~~an ordinance~~ the Mayor may authorize any board,

body, officer or agent to bind the City without contract in writing for the payment of any sum not exceeding twenty thousand dollars (\$20,000); such amount to be adjusted annually based on the average inflation rate for the Portland Metropolitan Area as determined from the U.S. Department of Labor statistics. Notwithstanding the provisions of this Section, however, the ~~Council~~ Mayor may waive the written contract requirement when work, materials or supplies are necessary for an emergency involving public safety or health. [Ch. 1903, sec. 6; am. May 3, 1913, sec. 3; rev. 1914, sec. 148; 1928 pub., sec. 148; 1942 recod., sec. 8-105; rev. Nov. 6, 1962; am. Nov. 7, 1978; am. May 17, 1988; am. May 14, 1994.]

Section 8-105. When Formal Bids Required.

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

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

If the ~~Council~~ Mayor has rejected all bids on the ground that the same were excessive, identical, collusive, non-responsive or otherwise unacceptable in the public interest, further advertising may be waived by the ~~Council~~ Mayor, and purchases or improvements may be authorized within ninety (90) days after such rejection without bids on a negotiated basis. [Ch. 1903, sec. 164; am. May 3, 1913, part of new sec. 96; rev. 1914, sec. 150; 1928 pub., sec. 150; 1942 recod., sec. 8-106; am. May 21, 1954; rev. Nov. 6, 1962.]

Section 8-106. Contract for Animal Pound.

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

CHAPTER 9 - LOCAL IMPROVEMENTS; ASSESSMENTS; COLLECTIONS

ARTICLE 1. GENERAL PROVISIONS.

Section 9-101. Definition, "Street."

As used in this Charter, "street" includes any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, walk, public thoroughfare or public way, and any land over which a right of way has been obtained, or granted and accepted for any purpose of public travel. [Ch. 1903, sec. 75, am. May 3, 1913, sec. 57; 1914 rev., sec. 255; 1928 pub., sec. 255; 1942 recod., sec. 9-102; rev. Nov. 8, 1966.]

Section 9-102. Definition, "Sewer."

As used in this Charter, "sewer" includes all trunks, mains and extensions thereof, pipes, ducts, laterals, branches, manholes, lampholes, catch-basins, pumping stations and appurtenances, ditches, canals, ducts, aqueducts, gates and all other apparatus, structures and devices which the council finds reasonably necessary or proper for the disposal of sanitary sewage, or for drainage including storm water drainage, and also the relaying, repairing, reconstruction or renewal thereof. The term includes widening, deepening, straightening and diverting channels of streams, improving water fronts, filling or grading lakes, ponds or other waters and increasing or diminishing the flow of waters in natural or artificial channels, and other acts and things found necessary or appropriate for sewerage, drainage and proper disposal thereof. Use of the term "sewer" shall not require that all purposes set forth above be handled by a single facility, and construction and use of a sewer may be limited to any one or any combination of said purposes. [June 4, 1917, new sec. 275c; 1928 pub., sec. 275c; 1942 recod., sec. 9-503; rev. Nov. 8, 1966.]

Section 9-103. County Roads as Streets.

All County roads lying within the limits of the City of Portland which have not been laid out or accepted as streets by authority of the City shall remain and be County roads until they are laid out or accepted by the City as streets, and be under the jurisdiction of the County court or the Board of County Commissioners of the County in which such road is located, and shall be worked, maintained and improved as County roads outside the limits of the City are worked, maintained and improved.

The ~~Council~~ Mayor may, ~~by resolution~~, upon order of the County signifying its willingness to accept the same, relinquish to the County for the purpose of work or improvement, control of all or any portion of any street connecting with a County road. Thereupon such street to that extent shall be under County control and shall be worked and improved in like manner as

County roads until the County relinquishes its jurisdiction, and the City accepts the same. [Ch. 1903, sec. 422; 1914 rev., sec. 276; 1928 pub., sec. 276; 1942 recod., sec. 9-103; rev. Nov. 8, 1966.]

Section 9-104. Costs of Improvement.

For estimated assessment and final assessment purposes the cost of a local improvement shall be the actual cost as defined by ordinance. Allowances for engineering and superintendence as part of the actual cost shall be fixed by the Council by general ordinance from time to time. [May 17, 1918, new sec. 284-b; 1928 pub., sec. 284-b; am. Nov. 4, 1924; 1942 recod., sec. 9-106; rev. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-105. Progress Payments.

The ~~Council~~Mayor may make progress payments for all local improvement work by the issuance of interest-bearing warrants against the special assessment fund to be created for such improvement. [Nov. 2, 1920, new sec. 337; 1928 pub., sec. 337; 1942 recod., sec. 9-108; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-106. Payment for Work.

Payment for costs of a local improvement shall be drawn against and payable solely from a special assessment fund. Into this fund shall be paid all money collected from assessments for local improvements. The fund shall be used for payment of actual costs of the improvements. Each local improvement project shall be accounted for separately in the special assessment fund. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-107. Local Improvements.

The definition of a local improvement and the procedures for making local improvements shall be governed by this Charter, ordinance, or State law. [New sec. Nov. 3, 1992.]

Section 9-108. Condemnation.

Whenever the Council finds it necessary to take private property for a public purpose, it may purchase the same or may direct proceedings to be taken under the general laws of the State or the general ordinances of the City to obtain the property or interest therein. [New sec. Nov. 3, 1992.]

ARTICLE 2. STREET GRADES.**Section 9-201. Original Establishment.**

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

Section 9-202. Authority to Change Grades.

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

Section 9-203. Initial Engineer's Report.

Whenever the Council deems it expedient to change the grade of any street or part thereof within a district continuously affected by the change of grade, ~~it shall~~ the Mayor directs the Engineer to report thereof. The Engineer shall thereafter, as soon as convenient, file with the Auditor a report showing the location and nature of grade changes which in the Engineer's judgment should be made. The report shall also describe the area which the Engineer deems to be affected by the proposed change of grade. [Nov. 7, 1922, new sec. 258; 1928 pub., sec. 258; 1942 recod., sec. 9-203; am. Nov. 8, 1966.]

Section 9-204. Notices and Hearing.

The Council may approve the initial report of the City Engineer by resolution, or make changes therein, and declare its intention to make such change of grade, stating the location and nature of the proposed grade change. The Auditor shall publish in five (5) successive publications of the City official newspaper notice of the proposed change of grade, setting forth the nature of the proposed change, the time within which objections against such proposed change of grade and claim for damages may be filed in writing with the City official designated by ordinance, and the time when said matter and objections will be heard by the Council. Objections and

claims for damages may be filed within twenty (20) days from the first publication of the notice. The time for hearing shall be the next regular meeting of the Council following said twenty (20) days. Within five (5) days from first publication of the notice, the City Engineer shall cause to be posted on the street or streets affected by the proposed change of grade, a notice headed, "Notice of Change of Grade," containing a legible copy of the notice published. One of such notices shall be posted at or near each street intersection where the proposed change of grade is to be made. If no intersection is affected by the change of grade then the posting of one notice at or near the intersection closest to the maximum point of change of grade shall be sufficient. The City Engineer shall maintain in the project file an affidavit of posting stating the date when and the places where the notices were posted. The Auditor also shall send notice to the persons named as owners of the property within the affected area designated in the Engineer's report as adopted by the Council. If the address of any named owner is unknown and if that person has an agent whose name and address is known, notice shall be mailed to that agent; otherwise it shall be mailed to the named owner addressed at Portland, Oregon. However, failure of any such person or the true owner to receive the mailed notice shall not invalidate the proceedings. [Nov. 7, 1922, new sec. 259; 1928 pub., sec. 259; 1942 recod., sec. 9-204; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-205. Objections, Claims for Damages.

At the time of hearing, if the Council finds that no claims for structural damages have been presented by property owners and that any objections filed do not represent three-fifths in area of the property affected, the Council may by ordinance make such change of grade without awarding damages and without further proceedings, or may determine that a further report concerning damages to owners of property injured and benefits to owners of property specially benefitted should be made by the City Engineer. If the Council finds that the owners of more than three-fifths in area of the property affected have filed written objections, no further proceedings shall be taken for a period of six (6) months, except on petition of the owners of more than half in area of the affected property, or unless the Council determines that an award of damages shall be made for probable injuries to property. If the Council determines at the hearing that there are probable injuries to affected property as a result of the proposed change, then the Council may direct the City Engineer to report on damages and benefits. All owners' claims for damages shall be verified and shall state the facts upon which the claim is based and the amount thereof. [Nov. 7, 1922, new sec. 260; 1928 pub., sec. 260; 1942 recod., sec. 9-205; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-206. Award of Damages and Assessment of Benefits.

A report by the City Engineer on damages and benefits shall state the amount of damages which in the Engineer's judgment should be awarded to the owner of each property injuriously affected by the proposed grade change and a detailed proposed assessment on each lot and parcel of land in the Engineer's judgment specially benefitted, proportionate to its share of

benefits resulting from the change. Upon the filing of the report the same procedural steps shall be taken with like force and effect as provided for municipal condemnation proceedings. [Nov. 7, 1922, new sec. 261; 1928 pub., sec. 261; 1942 recod., sec. 9-206; am. Nov. 8, 1966.]

ARTICLE 3. ELIMINATION OF GRADE CROSSINGS.**Section 9-301. Authority of Council.**

The Council has authority to determine whether any railroad crossing of any street within the corporate limits of the City at or near street grade is dangerous, and to provide for the elimination of that grade crossing. [June 2, 1913, subdn. a of new sec. 372 1/2; 1928 pub., sec. 265; 1942 recod., sec. 9-401; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-302. Plans and Specifications.

Whenever the Council finds that a railroad grade crossing should be eliminated, ~~it may by ordinance~~ the Mayor directs ~~require~~ the City Engineer to prepare plans and specifications for, and estimates of, the cost. [June 2, 1913, subdn. b, new sec. 372 1/2; 1928 pub., sec. 266; 1942 recod., sec. 9-402; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-303. Conference with Railroad Engineer.

In preparing plans, specifications and estimates, the City Engineer shall confer with the Civil Engineer of any railroad company having an interest in the crossing, for the purpose of determining a reasonable plan and method for eliminating it. If the City Engineer is unable to agree with the Engineer of the railroad company, the City Engineer shall proceed to determine a proper and reasonable plan and method of eliminating said grade crossing; provided, however, that if the civil engineer of an interested railroad company does not confer with the City Engineer after ten (10) days written notice, the City Engineer may proceed with the preparation of plans, specifications and estimates without a conference. [June 2, 1913, subdn. c, new sec. 372 1/2; 1928 pub., sec. 267; 1942 recod., sec. 9-403; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-304. Filing of Plans and Objections.

The City Engineer shall file with the Auditor a report on elimination of the grade crossing with the necessary plans, specifications and estimates of the cost. ~~The City official designated by ordinance shall~~ Mayor ~~notify~~ ies in writing each interested railroad company, and any company shall have thirty (30) days from date of the notice to file with the Auditor objections thereto, or to propose modifications thereof, or to file other or different plans and specifications, together with the estimates of the cost. [June 2, 1913; subdn. d, new sec. 372 1/2; 1928 pub., sec. 268; 1942 recod., sec. 9-404; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-305. Consideration of Plans and Report of Damages.

Within three (3) months after the thirty (30) day period for filing objections, the Council shall consider the report, objections, plans, specifications and estimates filed, or may refer the

matter to a ~~commissioner~~Councilor or committee of ~~commissioners~~Councilors for this purpose, in which event ~~the City official designated by ordinance~~the Mayor shall mail five (5) days notice in writing to any company interested when the ~~commissioner~~Councilor or committee will consider the matter, and at the time specified any company may attend and be heard thereon. Upon filing of the ~~commissioner's~~Councilor's or committee's findings and recommendations, the Council may adopt a plan and method for eliminating the grade crossing and adopt specifications therefor, or it may dismiss the proceedings. If it appears that change of street grade will be required in eliminating the grade crossing, the Council shall determine whether such grade shall be changed, with or without considering damages to adjacent property. If the Council determines to consider damages to adjacent property, ~~it shall require~~the City Engineer to report the estimated damages that property may sustain by reason of the change of street grade, based on the depreciation, if any, in market value on account of the change of street grade. In estimating the depreciation of market value, the City Engineer shall take into account the benefits, if any, the effect which the proposed improvement will have upon market value of the property, and the probable assessment against the property for the improvement. [June 2, 1913, subdn. e, new sec. 372 1/2; 1928 pub., sec. 269; 1942 recod., sec. 9-405; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-306. Apportionment of Damages and Benefits.

Upon filing of the City Engineer's report on damages, the Auditor shall publish in four (4) successive publications in the City official newspaper a notice that such report has been filed, stating the amount of damages to each property as estimated by the City Engineer, the date when the report of the City Engineer will be heard by the Council, and that written objections thereto may be filed with the Auditor any time prior to the day of hearing. The date of hearing shall be not less than five (5) days after the last publication of notice. The Auditor shall also send a copy of the published notice to each person interested in land affected. If the address of such person is unknown, and if such person has an agent whose name and address is known, notice shall be mailed to the agent; otherwise it shall be mailed to the owner addressed at Portland, Oregon. At the time of hearing the Council shall consider the report and all objections thereto and may refer it to any committee or commissioner for further hearing and report. At any time thereafter the Council may determine the damages to be awarded for the change of street grade.

If construction is contemplated by the Council in order to effect the elimination of a railroad grade crossing, no proposed assessment to property benefitted by the change of street grade need be made in the proceedings for change of street grade, but rather a statement may be made that such damages will be assessed as a part of the total improvement cost or will be financed in a particular manner. Thereafter the cost of making the change and improvement shall include, as part of the cost, the total damages awarded on account of such change of street grade. The Council shall determine whether any portion of the total cost of the

improvement shall be financed by assessment of benefits to property within an assessment district as a local improvement, and if so, the total cost shall be apportioned as follows: sixty percent shall be paid by the company or companies owning or controlling the railroad trackage at the crossing; no more than twenty percent shall be assessed against the property benefitted thereby within the district fixed by the Council; and the balance may be paid by the City, or as the Council may determine. Total cost shall include the cost of raising or lowering tracks within street boundaries, but the raising or lowering of tracks outside street boundaries shall be the sole responsibility and expense of the railroad company. Total cost shall also include all other costs and expenses of the improvement, plus damages to property within the district. Whenever the street is occupied or used by more than one railroad company, the railroad's share of the total cost of the improvement shall be apportioned among them. The cost and expense of raising or lowering the grades or tracks outside street area to be borne by the affected companies shall be apportioned by the Council unless, within thirty (30) days after the Council orders the improvement, all affected companies file with the Auditor their mutual agreement thereon. [June 2, 1913, subdn. f, new sec. 372 1/2; 1928 pub. sec. 270; 1942 recod., sec. 9-406; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-307. Advancement to Special Fund.

If damages are allowed to adjacent property owners because of the change of street grade, upon final determination of the amount to be awarded to each property owner and upon determination by the Council to proceed with the improvement as provided in Section 9-408, the Council shall loan or otherwise transfer from any available fund to the special assessment fund, an amount sufficient to pay all such awards. The warrants then shall be drawn in favor of the persons entitled thereto in the amounts awarded, payable upon demand, with interest as set by ordinance. No such warrant shall be delivered to a property owner who has been allowed damages until the owner applies therefor and files written acceptance of such allowance, or until the amount of award has been finally determined. The advancement authorized herein, with interest as set by ordinance, is part of the cost of the improvement and the amount of the advancement with interest shall be returned to the fund from which it was advanced, subject to the apportionment of the City's share, if any. [June 2, 1913, subdn. g, new sec. 372 1/2; 1928 pub., sec. 271; 1942 recod., sec. 9-407; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-308. Remonstrances, Assessments and Collections.

If a portion of the cost of eliminating a railroad grade crossing is to be financed by local improvement assessments, the procedures for establishing a local improvement district and assessing property shall be followed. Remonstrances may be filed with the Auditor by property owners within the time to be fixed by resolution. Upon the expiration of that time, the Council shall determine whether or not to proceed with the matter. If the Council determines to proceed it may overrule any and all remonstrances. Assessments made hereunder shall be entered in the docket of City liens and collected in the same manner as other assessments and

the amount to be paid by a railroad company also shall be entered on the docket of City liens and shall constitute a lien against all property of the company in the City. If any railroad company fails to pay or bond the assessment within the time provided for paying or bonding assessments for street improvements, the City may proceed by court process to require payment, or may proceed to collect the same by suit or action as other assessments are or may be collected, or by both procedures. [June 2, 1913, subdn. h, new sec. 372 1/2; 1928 pub., sec. 272; 1942 recod., sec. 9-408; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-309. Bonding of Assessments; Changes of Grade.

Persons, including railroad companies whose property has been assessed for the improvement eliminating a railroad grade crossing, have the right to bond their assessments in the same manner as provided for bonding assessments for other local improvements. No further proceedings shall be required to change the grade of the street than as specified in this Article, and upon the completion of the improvement, the grade of the street shall be deemed changed to the grade established by the improvement. [June 2, 1913, subdn. i, new sec. 372 1/2; 1928 pub., sec. 273; 1942 recod., sec. 9-409; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-310. No Impairment of Duty Under Franchise or Ordinance.

Nothing in this Article shall impair the right of the City to require the holder of a franchise or other person, required by ordinance or otherwise to pave a portion of street, to move any facility at their own expense or to improve a portion of street, to carry out their obligation without expense to the City. For this purpose, elimination of grade crossings is a public work and improvement. No duty, express or implied, of the holder of a franchise, contract or permit shall be impaired by amendments to this Chapter subsequent to the grant of franchise, contract or permit. [June 2, 1913, subdn. j, new sec. 372 1/2; 1928 pub., sec. 274; 1942 recod., sec. 9-410; rev. Nov. 8, 1966; am. Nov. 3, 1992; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 9-311. Construction of Article.

The provisions of this Article relating to change of grade affect other provisions relating to change of grade in this Chapter. The provisions of this Article shall be construed as an additional procedure which the Council may follow in eliminating railroad grade crossings. [June 2, 1913, subdn. k, new sec. 372 1/2; 1928 pub., sec. 275; 1942 recod., sec. 9-411; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-312. Elimination of Several Crossings in One Proceeding.

The Council may provide in one proceeding under this Article for the elimination of the grade crossings of two (2) or more streets by any railroad or railroads in a district. [June 7, 1915, new

sec. 275 1/2; 1928 pub., sec. 275 1/2; 1942 recod., sec. 9-412; am. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 4. STREETS AND STREET IMPROVEMENTS.**Section 9-401. Definition of "Improve" and "Improvement."**

As used in this Article, the terms "improve" and "improvement" include all construction, reconstruction, grading, regrading, paving, repaving, surfacing, resurfacing, bettering and repairing roadways, bridges, trestles, means of access and egress, underpasses, overpasses, sidewalks, crosswalks, pedestrian ways, gutters, curbs, street drainage facilities and appurtenances therefor within any street. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-402. Improvement Procedure.

The Council hereby is authorized: to order from time to time all or part of the streets of the City to be improved; to determine the character, kind and extent of each improvement; to levy and collect an assessment upon all lots and parcels of land specially benefitted by the improvement to defray the whole or any portion of the cost; and to determine what lands are specially benefitted by the improvement and the amount to which each parcel or tract of land is benefitted. The procedural steps for an improvement shall be prescribed by ordinance. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-403. Remonstrances.

Street improvement procedures established by ordinance shall provide for mailed notice to the property owners within the proposed district of the Council's intention to improve any street, and an opportunity for the owners of the property within the proposed assessment district to make and file written objections or remonstrances against the proposed improvement. The period for filing of written objections or remonstrances shall be set by ordinance but shall not exceed sixty days from the date notice is mailed. If the owners of three-fifths or more in area of the property file objections, further proceedings in the making of such improvement are barred for a period of six (6) months unless the owners of one-half or more of the property affected subsequently petition therefor. If an objection, remonstrance or petition is signed by the agent or attorney of any property owner, the agent or attorney's authority to sign shall be filed with the Auditor within the time provided for the remonstrance or petition or the signature shall be disregarded. If objections or remonstrances legally signed by the owners of three-fifths of the property affected are not filed, the Council may order the improvement. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-404. Use of Earth.

When the Council by ordinance provides for making an improvement, the City may, at its option, remove, alter, dispose of or otherwise use all earth within the street lines for that improvement. [New sec. Nov. 3, 1992.]

Section 9-405. Completion of Work; Spread of Assessments.

When a street improvement is wholly or partially completed to the satisfaction of the City Engineer, the completed work may be accepted and property within the district assessed for the cost under procedures established by ordinance, with opportunity for objections to be heard. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-406. Improvement by Permit.

Whenever the grade of any street has been established, the ~~Council~~City may authorize any person to cut or fill the street in front of such property according to such grade, or to improve the same, or both, as the City Engineer may direct, at the expense of that person. This authority shall not be granted after notice has been given of the Council's intention to improve the street so long as the Council retains jurisdiction for the proposed improvement. In giving this authority, the ~~Council~~City may impose such terms and conditions as it may find appropriate. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

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

Sidewalks may be improved either as a part of a general street improvement or by separate proceedings. The ~~Council~~City may determine the grade and width of all sidewalks, materials to be used and specifications for construction. It is the duty of all owners of land abutting any street in the City to construct, reconstruct and maintain in good repair the adjoining sidewalks. If the owner of any parcel of land allows an adjoining sidewalk to be out of repair, the City Engineer shall post notice on the property directing the owner, agent or occupant thereof immediately to repair it in accordance with City specifications. If the owner, agent or occupant of any parcel of land does not properly make the sidewalk repairs within the time designated in the notice, the City Engineer may make the repairs, keeping an account of the cost and reporting it to the ~~Council~~Mayor with description of the parcel of land abutting the repaired sidewalk. The ~~Council~~City has the same general authority and supervision over sidewalk repairs as over street improvements. If the Council finds the costs reported by the City Engineer to be reasonable, it shall approve them and thereafter, at least once a year, by ordinance assess upon each of the parcels of land abutting repaired sidewalks, the cost of making the repairs with an additional overhead charge to defray the cost of notice, engineering and advertising. All such assessments may be combined in one assessment roll and they shall be entered in the docket of City liens and collected in the same manner as are other local improvement assessments. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-408. Damages for Negligence.

Owners of land within the City are liable for all damages resulting from their failure to put an adjoining sidewalk in repair after notice to repair as provided in this Article. No action shall be

maintained against the City by or for any person injured because of any sidewalk defect. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 5. SEWER IMPROVEMENTS.**Section 9-501. Assessment District; Remonstrances.**

When the Council has declared its intention to construct a sewer or sewer system and has fixed the boundaries of the assessment district to be benefitted and assessed therefor, the Auditor shall mail notice of such intention to the property owners within the proposed district, in accordance with procedures prescribed by ordinance. The procedures shall provide that an owner of any property within the proposed assessment district or such owner's agent who files proof of their authority, may file with the Auditor a written remonstrance against the proposed sewer or the plans therefor, and the Council, upon hearing the remonstrance, may discontinue proceedings in the matter. The period for filing of written objections or remonstrances shall be set by ordinance but shall not exceed sixty days from the date notice is mailed. The Council, however, may overrule any and all remonstrances and may order the improvement. The Council also may require changes in the proposed plans or changes in the boundaries of the proposed assessment district, and declare by resolution its intention to proceed on the revised basis. Such resolution shall be published and remonstrance period given as in the first instance. The improvement shall conform substantially to the plans and specifications adopted by the Council. [New sec. Nov. 8, 1966; am. Nov. 3, 1992; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 9-502. Joint Construction with County.

The ~~Council~~ Mayor may take action ~~and proceedings~~ for the construction of any sewer or drain jointly with any County; ~~may levy and collect special assessments of benefits therefor; and~~ may enter into an agreement or agreements with any county for the construction, maintenance and use of sewers or drains and paying the cost thereof; The Council may levy and collect special assessments of benefits for any sewer or drain constructed jointly with any County; may issue bonds to finance that portion of the cost agreed to be chargeable to property outside of the City; may do all other things necessary or proper to provide for the construction of sewers or drains when the design, plan or method of construction will render them beneficial to property both within and without the limits of the City; and may perform all acts necessary to implement statutes relating thereto. [Sections 95-1818 to 95-1846 O.C.L.A.; June 4, 1917, new sec. 275a; 1928 pub., sec. 275a; 1942 recod., sec. 9-501; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-503. Issuance and Sale of Bonds.

Bonds may be issued and sold after construction of any such sewer or drain has been authorized, and each bond issue shall be limited to an amount that does not exceed the portion of the cost of such sewer or drain agreed upon with the County as the amount justly and equitably to be borne by property lying beyond the City limits. Such bonds shall not be issued for longer than twenty (20) years, and may be general obligations of the City. No bonds shall be

issued when the total of such bonds then outstanding would exceed five hundred thousand dollars (\$500,000). In lieu of issuing bonds, the Council may provide for financing part or all of the cost agreed upon as chargeable to property outside of the City from City funds. The Council has authority to levy and collect an assessment against the property benefitted by any sewer or drain lying beyond the City limits whenever that property is included within the City limits, if no previous assessments therefor have been made on the property, and to apply the money so collected toward payment of such bonds, or to reimburse the City for any payment, expenditure or advancement for such sewer or drain. Any agreement with the County may provide for the levy and collection by the County of an assessment against property whenever the sewer or drain may immediately benefit the property because of construction of an extension, lateral, branch, or otherwise. [June 4, 1917, new sec. 275b; 1928 pub., sec. 275b; 1942 recod., sec. 9-502; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 6. OTHER IMPROVEMENTS.**Section 9-601. Fire Stops.**

As used in this Article, "fire stop" includes any fireproof wall or other device to prevent the spread of fire. The ~~Council~~City has authority by agreement or by condemnation to acquire property, easements and rights needed for the construction of fire stops; to perform the work of erecting fire stops either by direct employment of labor or by awarding contracts; and to provide for the payment of the costs thereof by the levy and collection of local assessments according to benefits for the improvement. Before fire stops are constructed an estimate shall be made of the probable cost and of the probable saving in fire risks and insurance expenses. Where a fire stop is to be constructed at the expense of property benefitted and assessed therefor, the ~~Council~~City shall take proceedings similar to those required for constructing sewers. The method of making and collecting assessments shall be the same as for other local improvements. The cost of acquiring property, easements or rights shall be included in the cost of the fire stop. [June 7, 1915, new sec. 294; 1928 pub., sec. 294; 1942 recod., sec. 9-601; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-602. Lighting Districts.

Whenever the owners of fifty percent or more in area of the property within any district make and file with the Auditor a petition to establish a special street lighting system within that district, the ~~Council~~City has authority to install, operate and maintain such a system as a local improvement and to furnish electrical current therefor. The improvement may include initial installation, continuance or change of an existing installation, substitution of different materials or special styles or locations of lights or related facilities within the district, replacements, or any combination of those items. The ~~Council~~Mayor may award contracts for all or a portion of the work, maintenance or electrical energy. The Council may levy and collect local assessments on property benefitted thereby for all or a portion of the cost. The Council may authorize contribution from City funds to the cost of energy, operation and maintenance in the amount it finds an appropriate allowance for regular street lights rendered unnecessary by the special lighting system. Whenever all or part of the cost of a system is to be assessed to property benefitted, the Council shall take proceedings similar to those required for street improvement districts. [Nov. 4, 1924, new sec. 338; 1928 pub., sec. 338; 1942 recod., sec. 9-602; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-603. Other Local Improvements.

When the Council determines that a local improvement as defined by this Charter or by ordinance affords a special and peculiar benefit to property within a particular district different in kind or degree from that afforded to the general public, the Council may classify it as a local improvement and provide for the payment of all or a portion of the cost thereof by levy and

collection of local assessments on the property benefitted. The procedure for street improvements shall be followed. Jurisdiction of the Council shall depend upon the extent and strength of remonstrance; provided, however, if the Council determines that the public health or public safety demands immediate construction, the Council may overrule any and all remonstrances and shall proceed as provided for sewer improvements. The Council may combine in one proceeding a street improvement, sewer improvement, street lighting improvement, and any other improvement allowed by this Charter. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 7. ASSESSMENTS AND COLLECTIONS.**Section 9-701. Assessment District.**

If the Council finds that a particular lot, tract, or parcel of land within the boundaries of a local improvement assessment district does not in fact receive any special and peculiar benefit from that improvement, it may exclude that property or show the assessment at zero (0) when apportioning costs of the local improvement in accordance with benefits and spreading the assessment. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-702. Procedures for Assessments; Assessments Confirmed.

The Council shall establish procedures by ordinance for the estimated assessment, assessment, and reassessment of benefitted properties. An assessment shall not exceed the apportioned share of actual costs nor exceed the amount of the benefits. Each parcel of land shall be considered benefitted by the local improvement to the full amount of the assessment levied on it. Delays, mistakes, errors or irregularities in any act or proceeding in an improvement, in notices, in entry of assessment or in any related matter shall not prejudice or invalidate any final assessment, but the defect may be corrected by subsequent action. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-703. Assessment Lien; Payment.

The docket of City liens is a public writing, and from the date of entry of any assessment, the sum entered is a lien upon the land against which it is entered. Assessment liens shall have priority over all other liens and encumbrances. The sum assessed for a local improvement shall be due and payable from the date of entry upon the lien docket, and if not paid or bonded as provided by law within thirty (30) days from that date, the amount of assessment then shall be delinquent and shall bear interest at the rate fixed by ordinance from the date of assessment. [am. Nov. 3, 1992.]

Section 9-704. Delinquency and Sale for Unpaid Assessments.

The Treasurer shall proceed to collect the unpaid assessments by advertising and selling the assessed land in the manner provided by State law or City ordinance. Rates of penalty and interest shall be determined by ordinance. The sale price shall include all assessment principal and interest due, penalties and charges due, and all costs associated with the sale of the property.

Whenever the market valuation for tax purposes of land assessed and subject to sale for collection of unpaid assessment exceeds the sum payable to the City of the unpaid assessment, interest and estimated costs plus the total of any past due taxes by twenty-five percent or more

of the City and tax liens, the Treasurer may, subject to general guidelines of the ~~Commissioner In Charge and/or~~ the Council, withhold or withdraw such property from public sale and in lieu thereof may sell the property by private sale to the City upon payment by the City from the Assessment Collection Fund, elsewhere provided in this Charter, of the unpaid assessment, interest and costs. If land is not valued for tax purposes, the market value estimated by the City shall be considered the market valuation for tax purposes under this Section.

The Treasurer shall report to the ~~Council~~ Mayor the sales and collections on delinquencies and the City official designated by ordinance shall make proper entries in the lien docket. Thereafter no transfer or assignment of any certificate of sale hereunder shall be valid unless entry of that transfer or assignment has been noted in the lien docket after appropriate filing with the City. In case any property remains unsold, that property again may be offered for sale in like manner. [New sec. Nov. 8, 1966; am. Dec. 14, 1971; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-705. Redemption.

The City ordinance authorizing sale of property for delinquent assessments and the notice of sale to persons with an interest in the property stating that the property has been sold shall clearly state the provisions for redemption of the property by the prior owner as provided by State law or City ordinance. [am. Nov. 3, 1992.]

ARTICLE 8. FINANCING LOCAL IMPROVEMENTS; BONDING.**Section 9-801. Applications for Bonding.**

Within thirty (30) days after notice of an assessment, deficit assessment or reassessment for a local improvement is first mailed, if the assessment exceeds a minimum fixed by the Council, the owner of the property assessed may file a written application to pay the assessment in installments. The application shall provide that the owner agrees to pay the assessment in installments including interest and charges as specified by the Council. The application also shall describe the applicant's property assessed for the improvement. [June 7, 1915, new sec. 278; 1928 pub., sec. 278; 1942 recod., sec. 9-701; rev. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-802. Final Assessment Bond Lien Docket.

After the time expires for filing applications to pay assessments in installments, the City official designated by ordinance shall enter all applications received in a docket kept for that purpose under separate heading for each improvement. Thereafter, that docket shall stand as a bond lien docket in favor of the City for the amount of the unpaid assessments docketed therein, with interest on unpaid assessments at a rate determined by ordinance, against each parcel of land assessed, until the assessments and interest are paid. All unpaid assessments and interest are a lien upon each parcel of land in favor of the City, and that lien shall have priority over all other liens and encumbrances. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-803. Improvement Bonds.

After the bond lien docket is made up for the particular local improvement, the Council shall authorize by ordinance the issuance of bonds not exceeding the actual costs of the unpaid improvement assessments as shown on the bond lien docket. [New sec. Nov. 8, 1966; May 20, 1986; am. Nov. 3, 1992.]

Section 9-804. Installment Payments; Delinquency and Collections.

Bonded assessments shall be paid in installments, plus accrued interest, penalties, and charges, as specified by ordinance. If payment of any installment is delinquent thirty (30) days, the entire unpaid balance is immediately due and payable, and the installment contract may be declared void. The property owner may execute a new agreement as provided by City Code, or the City may collect the total amount due in the manner as provided by ordinance. Prior to sale of the property for collection, the owner may remove the property from the sale list in the manner provided by Code. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992; am. May 18, 1994.]

Section 9-805. Sinking Funds; Investment; Bond Reissuance and Rebonding.

After issuance of improvement bonds covering unpaid bonded assessment for a particular improvement, the City official designated by ordinance shall keep an account of money paid upon bonded improvement assessments separate from other City funds, as provided by ordinance.

Whenever improvement bonds issued upon bonded assessments are redeemable and it appears to the Council advantageous to redeem them, but money available in the sinking fund account is insufficient, the Council may transfer money from another sinking fund or sinking fund account as a temporary loan to the sinking fund account to be redeemed, to be repaid with interest at the rate fixed by the Council. The Council may authorize and provide for issuance and sale of new bonds upon bonded assessments to redeem outstanding bonds. Such new bonds shall be limited in amount to the amount of bonds to be redeemed from the proceeds, shall bear interest, be sold and be redeemable as provided in this Charter. In case of a temporary loan, if property owners fail to pay into the sinking fund a sufficient amount to repay the temporary loan, when needed, the Council shall provide money for repayment by the sale of bonds as provided in this Section. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-806. Assessment-Collection Bonds; Assessment Collection Fund.

To facilitate collection of delinquent assessments and to assist in financing local improvements, the Council may issue and dispose of bonds to be known as Assessment-Collection Bonds. The total amount of these bonds shall not exceed one million five hundred thousand dollars (\$1,500,000) outstanding at any one time. The bonds shall be general obligations of the City and shall be issued and sold in any denominations in the same manner as other bonds of the City. The rate of interest thereon shall not exceed the maximum rate permitted under State law, and their maturity shall not exceed twenty (20) years.

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

In selling property purchased from the Assessment Collection Fund, or Treasurer's certificates thereon, no transfer of certificate of sale or deed to the City shall be held void or insufficient because of any omission, error, defect or objection, jurisdictional or otherwise, in the assessment or other proceedings if, at some stage of the proceedings before assessment was made, notice was given, and if the description of the property in the certificate or deed is

reasonably sufficient to identify it. This provision is intended to be curative as fully as the people may enact, as to all matters affecting the validity of the certificate or deed. Every certificate of sale or deed shall be presumptive evidence of the regularity and sufficiency of all things affecting its validity. In any case where this curative provision is found insufficient, the money realized from the attempted sale shall be treated as not applying to the payment of the attempted assessment, and shall not discharge any obligation of the owner of the property to bear a fair and just proportion of the cost of the local improvement for which the attempted assessment was made. Proceeds from the attempted sale shall be refunded to the Assessment Collection Fund and the Council may make a reassessment against that property.

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

The Council may provide for the sale and assignment of certificates of sale and the assignment or conveyance of the rights of the City in such property either before or after receiving the deed from the City Treasurer or from County officials; may provide for sale of the property under contract for not more than ten (10) years; may pay real estate commissions, court costs, legal and clerical services and all other expenses related to the purchase and clearance of title; may purchase or redeem any Treasurer's certificates of sale outstanding against the property; may pay any tax liens outstanding against the property; may transfer money from the Assessment Collection Fund to the General Fund, provided that provision is made for redemption of outstanding Assessment-Collection Bonds; may provide for waiving all or part of accrued penalties; and may pay any bonded or open liens outstanding against the property and cancel assessments against it; and may enact ordinances to give full effect to this Section.

The Assessment Collection Fund may also be used to purchase and hold warrants issued upon any special local improvement fund formed or to be formed. The face amount and interest on warrants so purchased shall be credited, upon payment, to the Assessment Collection Fund. [New sec. Nov. 8, 1966; am. Dec. 14, 1971; am. May 20, 1986; am. Nov. 3, 1992.]

CHAPTER 10 - PUBLIC UTILITIES AND FRANCHISES

ARTICLE 1. PUBLIC UTILITIES.

Section 10-101. Definition, "Public Utility."

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

Section 10-102. General Provisions.

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

Section 10-103. Power of Construction and Acquisition.

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

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

Section 10-104. Debt Limitation.

No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this Charter, which, together with the existing bonded indebtedness of the City, shall exceed at any one time seven percent 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 City officer responsible for accounting shall annually report to the ~~Council~~Mayor, in detail, the amount of revenue from each such undertaking, and whether there is any, and if so, what, deficit in meeting the requirements above set forth. [Ch. 1903, sec. 88; rev. 1914, sec. 160; 1928 pub., sec. 160; 1942 recod., sec. 10-105; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-105. Supervision and Regulation.

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

Section 10-106. Investigations and Rate Fixing.

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

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

construction or acquisition of any plant or property rendering a public service and of any improvement or additions thereto the person or corporation having charge thereof shall record with the City Officer responsible for accounting a description of all property which such person or corporation shall intend to present for such valuation and all later improvements when made, together with full information as to the cost thereof and vouchers supporting the same, to the end that a complete record of all property to be valued under this Section shall be at all times available. [May 3, 1913, new sec. 62; rev. 1914, sec. 156; 1928 pub., sec. 156; 1942 recod., sec. 10-107; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-107. Quarterly Reports.

Every person or corporation operating a public utility within the City rendering service to be paid for wholly or in part by the users of such service shall keep full and correct books and accounts and make stated quarterly reports in writing to the ~~Council~~Mayor, 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~~Mayor may require. Such reports shall be public and a summary thereof shall be printed as a part of the City's annual financial report, and the ~~Council~~Mayor 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~~Mayor 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.

[May 3, 1913, new sec. 63; rev. 1914, sec. 157; 1928 pub., sec. 157; 1942 recod., sec. 10-108; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-108. Orders, Rules, and Regulations.

The ~~Council~~City 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 Section 10-107, 10-216, 10-213 or 10-214 of this Charter for a period of thirty (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~~City shall take effect at a time to be therein specified, and shall continue in force until modified or abrogated by the ~~Council~~City 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, such person or corporation may test its justice or reasonableness by a proper action in the courts commenced within thirty (30) days after service of any such order, rule or regulation, and in such action such further order may be entered in the premises as shall be warranted by the facts developed upon the trial and the law applicable thereto. [May 3, 1913, new sec. 64; rev. 1914, sec. 158; 1928 pub., sec. 158; 1942 recod., sec. 10-109; rev. Nov. 8, 1966.]

Section 10-109. Bridges and Ferries.

All ferries now or hereafter owned or leased, and all bridges together with approaches and terminals, heretofore erected or leased, or hereafter to be erected or leased, by the City of Portland across the Willamette River shall be operated by the county of Multnomah, as now provided by law, or as may hereafter be provided by law at the expense of said county of Multnomah. No exclusive franchise or privilege shall be granted to any person, firm or corporation, for the use of the whole or any part of such bridges, approaches or terminals. All privileges or franchises that may be granted by the City of Portland for the use of the whole or any part of such bridges, approaches or terminals shall be for a term not exceeding twenty-five (25) 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 (\$.03) 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. [Nov. 2, 1912, new sec. 118-3/4; rev. 1914, sec. 184; 1928 pub., sec. 184; 1942 recod., sec. 10-110; rev. Nov. 8, 1966.]

ARTICLE 2. FRANCHISES.**Section 10-201. Control by Charter Provisions.**

Every franchise hereafter granted shall be expressly subject to all the provisions of the foregoing sections and the power of control and regulation as authorized by such sections cannot be limited, 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. [May 3, 1913, new sec. 65; rev. 1914, sec. 159; 1928 pub., sec. 159; 1942 recod., sec. 10-201.]

Section 10-202. Property Nature of Franchises.

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

Section 10-203. Authorization of Industrial Tracks.

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

Section 10-204. Agreements with Railroads.

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

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

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

Section 10-205. Limited Time.

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

Section 10-206. Nonexclusiveness.

No exclusive franchise shall be granted nor shall any franchise, lease or rights be granted for a longer period than twenty-five (25) years. [May 3, 1913, new sec. 72; rev. 1914, sec. 171; 1928 pub., sec. 171; 1942 recod., sec. 10-206.]

Section 10-207. Method of Granting.

Every franchise shall be embodied in an ordinance, which shall contain all the terms and conditions of the proposed grant, and shall be filed with the Auditor. Thereupon such proposed ordinance shall be published in full, once in the City official newspaper. There shall also be published, in a conspicuous place in such daily newspaper of the City having a circulation in excess of fifteen thousand (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 (20) 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 (5) 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 (20) 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 (30) days after the first reading nor within twenty (20) days after any amendment thereto, and the affirmative vote of ~~four (4) Commissioners~~ nine (9) Councilors shall be required to pass the same. [May 3, 1913, new sec. 73; rev. 1914, sec. 172; 1928 pub., sec. 172; 1942 recod., sec. 10-207.]

Section 10-208. Effective Date.

No franchise shall take effect until sixty (60) 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 two thousand (2,000) registered voters shall be sufficient to call a referendum upon any franchise ordinance. [May 3, 1913, new sec. 74; rev. 1914, sec. 173; 1928 pub., sec. 173; 1942 recod., sec. 10-208.]

Section 10-209. Specific Conditions.

Every franchise granted by the City of Portland shall contain full and explicit statements of its conditions in the following particulars:

- (a) In case of railroads and street railways it shall specify plainly the streets or other public places or parts thereof to which they apply. Any other franchises shall state the boundary of the district or districts within which they shall be exercised.
- (b) The amount and manner of payment of the compensation to be paid by the grantee for the right. The ~~Council~~ City shall make an estimate of the cash value of any franchise upon the filing of the application, or an estimate for 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~~ City may ~~at its option~~ declare what will be a reasonable reduction of fares, rates or charges, either at the beginning or progressively from time to time, to be made by the grantee in compensation for the grant.
- (c) The time of beginning the construction or other work thereunder, the estimated total cost of such work, the monthly or yearly sums of money to be expended thereon, and in case of franchises to transportation companies or other franchises covering certain streets or portion of streets, the time within which the work under such franchise shall be completed upon such streets or portions of streets, respectively.

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

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

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

Section 10-210. Conditions and Restrictions.

Every franchise granted by the City shall be subject to the conditions and restrictions hereinafter provided, to wit:

- (a) That the City may in 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~~City 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 proceedings 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~~City 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~~City, and shall pave, improve, or repair and maintain from time to time in the manner and within the time directed by the ~~Council~~City, that portion of the street occupied by it lying between the rails of any track and extending one foot outside of such rail and portion of the streets lying between the tracks.

In addition any franchise granted to any street or other railroad, for the operation thereof, may provide that the holder thereof for the time being shall pave, repave and keep in repair at the time and in the manner required by the ~~Council~~City 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~~City, shall constitute an offense punishable by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each and every day such refusal or neglect shall continue.

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

Section 10-211. Additional Conditions.

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

Section 10-212. Written Acceptance.

Every grantee of any franchise, right or privilege shall within thirty (30) days after the ordinance granting the same shall be enforced, file with the City ~~Auditor~~Recorder a written acceptance of the same, and a failure on the part of the grantee to file such written acceptance within the time specified shall be deemed an abandonment and rejection of the rights and privileges conferred, and the ordinance granting the same shall thereupon be null and void; such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in the ordinance granting the same. [May 3, 1913, new sec. 76; rev. 1914, sec. 175; 1928 pub., sec. 175; 1942 recod., sec. 10-212; am. May 20, 1986.]

Section 10-213. Statements.

Within ninety (90) days after this Charter shall take effect, the holder of any franchise shall file with the Auditor a full and correct statement of the franchise, rights and privileges owned or claimed to be owned, 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 (\$10) and not more than one hundred dollars (\$100) 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 (60) 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 sixty (60) days after the same shall have been made, file such certified copy as required by this Section and consented to as provided in Section 10-216 of this Charter, also unless the Council agrees to such sale by an ordinance expressly passed for that purpose, as provided by Section 10-216.

The Auditor shall file all such documents and shall make and keep an index of the same in a book to be kept by the Auditor for that purpose, which book shall be a part of the public

records of the City. [May 3, 1913, new sec. 80; rev. 1914, sec. 179; 1928 pub., sec. 179; 1942 recod., sec. 10-213.]

Section 10-214. Records.

The City officer responsible for accounting shall keep a separate record for each grantee of a franchise from the City rendering 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 City business hours. Such information, in addition to any further data which may be required by the City, under this Charter, shall be furnished by the grantees or holders of such franchises upon request, and at such grantee's 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, 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 proceedings and in addition may impose a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for every such offense. All fines collected under this Section shall be paid into the General Fund. The procedure on such application shall be as far as possible analogous to that on mandamus.

[May 3, 1913, new sec. 81; rev. 1914, sec. 180; 1928 pub., sec. 180; 1942 recod., sec. 10-214; am. May 20, 1986.]

Section 10-215. Nonabandonment.

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

Section 10-216. Assignments.

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

Section 10-217. Forfeiture.

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

Section 10-218. Common Transportation Terminal.

It shall be the policy of the City of Portland to create a common transportation terminal, both land and water, embracing both sides of the harbor for its full extent in the City, which shall be subject to entry and use throughout its full extent by all common carriers on equal terms, as far as the property, rights and jurisdictions of the City may apply to secure same; and all such property, rights and jurisdictions of the City within one thousand (1,000) feet of meander line specified in Section 1-104 of this Charter shall be subject to use and demands for such common

terminal purposes and needed connecting roadways, tracks and appurtenant facilities; provided that the public docks may be furnished with warehouses subject to lease.

All proposed franchises, grants, privileges, and public improvements and other improvements as far as the jurisdiction of the City may extend, affecting such territory must be considered in relation to said common terminal and adapted thereto in a systematic way, and shall to that end be submitted to the City Engineer and the official or officials in charge of the public docks for approval. Without the approval of these, it shall require ~~a four-fifths~~ the affirmative vote of the Council at least nine (9) Councilors to pass such measure. If the Council pass such measure without the approval aforesaid, the Mayor shall have the measure placed upon the ballot at the next ensuing regular election for approval or rejection by the people.

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

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

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

All acts and parts of acts in conflict with this act are hereby repealed. [June 2, 1913, new sec. 93-1/2; rev. 1914, sec. 183; 1928 pub., sec. 183; 1942 recod., sec. 10-218.]

CHAPTER 11 - SPECIAL SERVICES

ARTICLE 1. WATER WORKS

Section 11-101. General Authority.

The City may construct, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all plants and facilities found appropriate by the ~~Council~~City for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the ~~Council~~City finds necessary or convenient. The ~~Council~~City may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes. ~~and The Mayor~~ may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the ~~Council~~ Mayor finds appropriate. [New sec. Nov. 8, 1966; am. Dec.4, 2019.]

Section 11-102. Administration.

The City may employ personnel, contract for services and perform services under contract or otherwise, found necessary or convenient to carry out the powers granted in this Article. The ~~Council~~Mayor may obtain materials and supplies and do any acts in the operation, maintenance, improvement and extension of City water works which the ~~Council~~Mayor finds necessary or advantageous.

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

In the Bureau of Water, the Engineer in charge of the engineering staff, the person in charge of the business office, and the head of the Bureau shall not be subject to Civil Service requirements of this Charter. [New sec. Nov. 8, 1966.]

Section 11-103. Water Bonds.

In order to provide funds for construction, reconstruction, replacement, extension, acquisition and maintenance of water plant and property, and the acquisition of water systems, the Council may issue bonds of the City in denominations and for terms the Council determines, in the same manner other bonds of the City are issued. These bonds shall be general obligations of the City, but primarily payable from water revenue. These bonds shall not be included within the debt limit elsewhere prescribed in this Charter. No bonds shall be issued under this section in any year which, with the net outstanding water bond indebtedness, would exceed the total original cost of existing plant and property of the water works and system. [Nov. 8, 1932, new sec. 228-1/2; 1942 recod., sec. 11-201; am. May 16, 1952; rev. Nov. 8, 1966.]

Section 11-104. Funds.

After payment of expenses for issuance of water bonds, the proceeds shall be placed in the Water Construction Fund.

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

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

Section 11-105. Rates and Charges.

For each fiscal year the Council shall fix water rates which will provide an estimated income to equal expenses and debt service relating to water bonds. No charge shall be made for water used in extinguishing fires in the City.

The Council may fix special charges for connections, disconnections, turn-ons, discontinuances of service, all special services or work, and other contingencies, situations or conditions, which

it finds advantageous or appropriate from time to time. Charges and bills may be adjusted as found just and equitable. [New sec. Nov. 8, 1966.]

Section 11-106. Collections.

The ~~Council~~City may make regulations, impose conditions, penalties and forfeitures and institute civil or penal process it finds necessary or appropriate to collect bills for water or charges, and in addition may refuse or discontinue water service to premises for which a bill or charge remains unpaid. Penal enforcement is subject to the penalty limitations fixed in the Charter for ordinance violations. [New sec. Nov. 8, 1966.]

Section 11-107. Bull Run Watershed Protections.

The Bull Run Watershed Closure Area, as defined in City Code and containing the federally designated Bull Run Watershed Management Unit, is dedicated to the production of pure, high quality drinking water and the protection and stewardship of the Bull Run's natural environment. Policies and practices established in the Charter affecting City lands within the Bull Run Watershed Management Unit are constrained by and must conform with applicable federal and state law, federal and state administrative policy, and tribal treaty rights if any. Only the following individuals may enter City lands within the Bull Run Watershed Closure Area: authorized employees or authorized contractors of the United States Forest Service, the United States Bureau of Land Management, or the Portland Water Bureau; persons accompanied by such authorized employees; law enforcement personnel; or emergency response personnel.

Recreational use of City lands in the Bull Run Watershed Closure Area is prohibited. Residential, industrial or commercial uses are prohibited, except as necessary for protection, enhancement, operation or maintenance of the water supply system and facilities for electric power generation and transmission. Domestic animals may not run at large within the Bull Run Watershed Closure Area and grazing is prohibited.

Tree cutting or removal, including salvage, is prohibited on City lands within the Bull Run Watershed Closure Area except for the following purposes: protection, enhancement or maintenance of water quality; protection, enhancement or maintenance of water quantity; construction, expansion, protection or maintenance of municipal water supply facilities; construction, expansion, protection or maintenance of facilities for the transmission of energy through the Bull Run Watershed Management Unit or of hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities; or management of dangerous or hazardous trees that pose a threat to human safety or City infrastructure.

City land or infrastructure within the Bull Run Watershed Closure Area that is integral to the delivery of municipal water shall not be transferred to any private entity. City land or infrastructure within the Bull Run Watershed Closure Area that is integral to the delivery of

municipal water shall not be transferred to any public entity unless the transfer is approved by ordinance passed by City Council.

Development in the Bull Run Watershed Closure Area that is allowed by the Charter must first seek to avoid, then minimize and mitigate for impacts to water quantity and quality, cultural resources, and the natural environment including soils, vegetation, and fish and wildlife and related habitat, to the greatest extent practicable. Public notice of development inside the Bull Run Watershed Closure Area is required and all development must comply with the Bull Run Watershed Protection provisions of the Portland City Code. [New sec. Dec. 4, 2019.]

ARTICLE 2. SPECIAL FACILITIES.**Section 11-201. Municipal Auditorium.**

The ~~Council~~City may construct, reconstruct, repair and maintain a building or buildings for use as municipal auditorium and related facilities. The Council may fix fees and impose charges for the use of auditorium facilities and services, and may waive or reduce the fees and charges to the extent it finds appropriate in the public interest. The ~~Council or the Commissioner in Charge~~City may make rules and regulations for management and control of the auditorium facilities and services. The Council may delegate management and control to any commission established by Charter, notwithstanding stated functions and limitations on that commission, or to any commission established by ordinance for that purpose. Employees and positions connected with the Municipal Auditorium and related facilities are not within the classified Civil Service of the City unless included therein by vote of the people. In case the revenues from the auditorium and any related facilities are insufficient to pay for maintenance and operation, the Council may pay the deficit out of the General Fund. The ~~Council~~Mayor may permit use without charge of any surplus space in a building or facility, for the purposes of a nonprofit organization devoted in whole or in part to the preservation of matters of historical interest, and for use and occupancy by any bureau, department or office of City government. [June 5, 1911, new sec. 425-3/4; 1914 rev., secs. 239-248; 1928 pub., secs. 239-248; 1942 recod., sec. 11-1001; rev. Nov. 3, 1964, sec. 11-201; am. Nov. 8, 1966.]

ARTICLE 3. SEWAGE DISPOSAL OR PURIFICATION.**Section 11-301. Sewage Disposal or Purification System.**

The ~~Council~~City may construct, reconstruct, enlarge, alter, modify, equip, operate and maintain a sewage disposal or sewage purification system within or without the corporate limits or both, including but not limited to: all methods of storm drainage, intercepting sewers, diversion sewers, relieving or interconnection sewers, sewers to separate storm and sanitary sewage, pump or ejector stations and equipment, and plants for the treatment and disposal of sewage. For that purpose the City may acquire by any lawful means property, real or personal, interests in property, equipment, and related facilities and may make all expenditures which the ~~Council~~City finds necessary or appropriate to carry out such purposes, either within or without the corporate limits. The City may sell or otherwise dispose of any or all by-products or salvage products from this operation. The City also may contract with any other person, public or private, to further purification of public waters or protection of the public health. [Nov. 8, 1938, new sec. 347; 1942 recod., sec. 9-604; rev. Nov. 8, 1966.]

Section 11-302. Service Charges.

For all purposes relating to design, construction, acquisition, operation, maintenance and contract requirements of sewage treatment or purification facilities and related facilities, the City may fix fees and charges for connection or use or both of sewers and sewage purification or disposal systems to be paid by property which is served or is capable of being served for use of the sewage disposal system. Sewer user service charges may be collected by the Water Bureau which shall be compensated for such service as determined by the ~~Council~~Mayor. The City may establish procedures for collection and may provide for penalties, interest and costs. The City may establish requirements and impose regulations as it finds appropriate. Sewer user service charges shall be paid for all premises connected with City sewers, directly or indirectly, notwithstanding that such premises may have been assessed or may in the future be assessed for construction of sewers under local improvement assessment procedures or may have otherwise paid for sewers.

The City may enter into contracts relating to sewage disposal, treatment or purification or all such functions. The City may impose charges for sewage transportation, disposal, treatment or purification or any or all such functions, on property outside the City served through City facilities, at rates no less than those imposed for similar service inside the City to similar classifications.

Proceeds of such charges shall be placed in the Sewage Disposal Fund, and may be expended for any matter connected with the sewer or sewage disposal or treatment system of the City, and bonded debt and debt service related thereto. [Added Nov. 8, 1938, sec. 347; 1942 recod., sec. 9-604; Nov. 8, 1960, new sec. 9-606; rev. Nov. 8, 1966 as sec. 11-302; am. May 26, 1970.]

Section 11-303. Use of Sewers.

The ~~Council~~City may require any property located within one hundred (100) feet of a right of way in which there is a City sewer to connect to that sewer.

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

To facilitate sewage treatment and protect the City's sewage facilities, the City may limit the classes or kinds of sewage that may be discharged or may continue to be discharged into public sewers, may prohibit discharge of wastes other than domestic sanitary sewage into public sewers or facilities, and may require private pretreatment before discharge, upon terms fixed by the Director of the Bureau of Environmental Services. [New sec. Nov. 8, 1966; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 11-304. Intent of Article.

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

CHAPTER 12 - PUBLIC FACILITIES AND WORKS

ARTICLE 1. RECREATION AREAS.

Section 12-101. Parks and Recreational Areas and Facilities.

The ~~Council~~City may establish parks, playgrounds, recreation areas and facilities of all kinds. For that purpose the ~~Council~~City may acquire by purchase, condemnation, gift, grant, donation, exchange or otherwise, real and personal property and any interest therein; may rent or lease property of any kind for public use; and may construct, reconstruct, remodel, alter, repair, maintain, improve and equip areas and facilities which the ~~Council~~City finds necessary, appropriate or desirable, either inside or outside the City. The ~~Council~~City may exchange any property for other property which it deems more suitable or convenient for park and recreation use, and may dispose of the property not needed for those purposes. The ~~Council~~City may establish exhibits and conduct programs for the education or the furtherance of public enjoyment and recreation, and may change, alter or discontinue them. The ~~Council~~City may construct, reconstruct, alter, remodel, furnish and equip improvements found necessary or appropriate for the convenience of the public using park and recreation facilities, or of persons or employees conducting or assisting park or recreational programs or maintaining parks, areas, facilities, or improvements. The ~~Council~~Mayor may contract with any public or private person in any matter relating to services or programs. The ~~Council~~City may do all things ~~if the City~~ finds necessary or convenient to promote recreational facilities and aesthetic enjoyment of the people, and the beautification of City property. [May 19, 1950, new sec. 9-605; rev. Nov. 8, 1966.]

Section 12-102. Regulations and Restrictions.

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

Section 12-103. Fees and Charges.

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

ARTICLE 2. FINANCING OF REVENUE PRODUCING FACILITIES.

Section 12-201. Revenue Bonds.

For financing the acquisition of any public utility operating or to be operated within City jurisdiction, or of utility plant or property used or useful in connection with operation within the City, or for the construction, establishment or betterment of a facility inside or outside the City owned or to be owned by the City, and producing or intended to produce revenue, the City may issue and sell interest bearing revenue bonds. Revenue bonds shall not be a general liability of the City and shall be paid solely from the revenues derived from the facility and other pledged facilities or from the rental, lease or sale thereof. The Council may secure these bonds by mortgage or similar encumbrance upon the plant and property, may pledge the revenues thereof and revenues from similar facilities, and may agree in the bond that the rates and charges shall be fixed at specific, general or minimum amounts. Issuance of the bonds shall be pursuant to ordinance which shall be subject to referendum. The bonds shall be issued and sold the same as other bonds of the City. The proceeds derived from the sale of the bonds may be used for the costs of advertising, bond issuance and sale, legal fees and costs, planning, engineering, inspection, administrative costs, the acquisition by any lawful means of plant and property, real or personal, and interests in land and structures, construction, reconstruction, remodeling, equipment betterment, additions to and supply of the particular facility, and related matters. [New sec. Nov. 8, 1966.]

ARTICLE 3. PERFORMANCE OF PUBLIC WORKS.**Section 12-301. Contract or Direct Labor on Public Work.**

Subject to other requirements of this Charter, the ~~Council~~Mayor may enter into contracts ~~if the~~the Mayor finds in the public interest, for the design, construction, reconstruction, alteration, remodeling, repair or maintenance of any public work, improvement, facility or structure, including any local improvement, or may at ~~it~~the Mayor's option directly employ labor for this purpose or any portion thereof or function connected therewith. The ~~Council~~Mayor may by practice or regulation classify various improvements and functions, some of which may be performed under contract and others of which may be performed by direct labor. [New sec. Nov. 8, 1966.]

Section 12-302. Production of Materials.

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

CHAPTER 13 - CHARTER REVISION AND INTERPRETATION

ARTICLE 1. REPEALS, AMENDMENTS AND RE-ENACTMENTS.

Section 13-101. Effect of Repeal, Amendment and Substitution.

When a particular grant of authority contained in the Charter subsequently is removed, expressly or by implication, the prior grant of authority nevertheless shall continue in force unless specifically forbidden, to the following extent: if the City has contracted with another person under such authority, if the City has begun a public work, facility, structure, project or program pursuant thereto and termination would entail risk of City liability for damages, or if the ~~Council~~Mayor finds that third persons have materially changed their position in reliance upon ~~Council~~City action thereunder, then the authority previously contained in the Charter shall continue until the contract, public work, facility, structure, project or program is completed, or the action carried out.

When a particular procedure is changed, expressly or by implication, proceedings pending or in process under the prior procedure may continue as though unchanged, or the ~~Council~~City may use the changed procedure for the balance of the proceedings after the change, or the ~~Council~~City may use the prior procedure in part and the changed procedure in part, as it finds appropriate or convenient. [New sec. Nov. 8, 1966.]

Section 13-102. Continuance of Original Charter Provisions as Ordinances.

Ordinance provisions originally included in a Charter, subsequently continued as ordinances and not amended, repealed or superseded, shall continue in full force and effect as ordinances until amended, repealed or superseded by the Council. Reinclusion of the same authority or procedure in the Charter removes authority of the Council to affect them. [May 3, 1913, part of new sec. 96; 1914 rev. sec. 283; 1928 pub. sec. 283; 1942 recod., sec. 12-103; rev. Nov. 8, 1962.]

Section 13-103. Procedural Ordinances.

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

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

ARTICLE 2. CONSTRUCTION AND INTERPRETATION.**Section 13-201. Restrictions and Limitations.**

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

Section 13-202. Intent of Reinclusion of Former Charter Provisions.

Whenever a provision in a City Charter has been continued as an ordinance provision and subsequently reincluded in the Charter without substantive change, the reincluded provision shall be a continuance of the prior Charter provision to the extent of its reinclusion as though continued in the Charter without interruption. [New sec. Nov. 8, 1966.]

ARTICLE 3. PROVIDE FOR PERIODIC CHARTER REVIEW.**Section 13-301. Charter Commission.**

- (a) From time to time, but no less frequently than every 10 years, the Council shall convene a Charter review commission ("Charter Commission") to review and recommend amendments to this Charter provided, however, that the first Charter Commission shall be convened no later than two (2) years after the effective date of this Article. The Charter Commission shall be reflective of the City in terms of its racial and ethnic diversity, age and geography. It shall be comprised of twenty (20) residents of the City. ~~Each member of the Council~~ The Mayor shall ~~nominate four~~ nominate ~~(4)~~ Charter Commission members who ~~shall be~~ are subject to confirmation by the Council. The term of office of each member of the Charter Commission shall be no less than two years. The Council may reappoint members to additional terms of office or to subsequent Charter commissions. The Charter Commission shall determine its own rules of procedure. No member of the Charter Commission shall serve as an elective officer of the City during the member's service on the Charter Commission. The Mayor or Council may request that the Charter Commission review specific sections of the Charter, but the work and recommendations of the Charter Commission shall not be limited to such specific sections. The Commission shall provide a written report of its findings to the City Council.
- (b) A vacancy exists on the Charter Commission upon a member's resignation, death, inability to serve or failure of a member without cause to attend three successive regular meetings. If there is a vacancy on the Charter Commission, the Mayor ~~Council member who made the original nomination, or that member's successor in office, shall~~ nominate a person to fill the unexpired term of office, subject to confirmation by Council. [New Section May 15, 2007, effective January 1, 2009; amended May 15, 2012, effective June 13, 2012; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 13-302. Submission to Voters.

All Charter amendments proposed by the Charter Commission supported by an affirmative vote of at least fifteen (15) members of the Charter Commission, after a public hearing process prescribed by the Council, shall be submitted to the voters of the City of Portland at the next primary or general election that is at least 120 days after the date the recommendations are presented to the City Council. All Charter amendments proposed by the Charter Commission supported by an affirmative vote of a majority but less than least fifteen (15) members of the Charter Commission shall be considered as recommendations to the City Council. The Council may, but is not required to, refer such proposed amendments to the voters of the City of Portland. [New Section May 15, 2007, effective January 1, 2009.]

Section 13-303. Effective date.

This Article 3 of Chapter 13 shall take effect on January 1, 2009. [New Section May 15, 2007, effective January 1, 2009.]

CHAPTER 15 - PROSPER PORTLAND

[Chapter amended by Ordinance No. 190204, effective December 18, 2020.]

ARTICLE 1. ADMINISTRATION, POWERS AND DUTIES.

Section 15-101. Agency.

There exists an agency of the City of Portland known as Prosper Portland (Agency). [New sec. May 16, 1958; am. July 1, 2007; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 15-102. Prosper Portland Board of Commissioners.

The Agency shall be administered by a Prosper Portland Board of Commissioners (Commission) consisting of five (5) members who shall be appointed and may be removed by the Mayor, subject to approval by the Council. Appointment shall be made for a three (3) year term. A vacancy shall occur upon the death, resignation, removal, inability to serve, or failure of a member without cause to attend three (3) successive regular meetings. Resignation when made shall be addressed to and accepted by the Mayor. Successors shall be appointed by the Mayor, subject to Council approval, for the unexpired term of any such vacancy. Commission members shall serve without salary or compensation of any nature. The Commission shall make provision for regular meetings at fixed times and may adopt bylaws, rules and regulations to govern its own procedures. The Commission may delegate to one or more of its members as a special board or boards, such duties and responsibilities as it may deem proper, subject to the administrative provisions contained in this Chapter. [New sec. May 16, 1958; am. July 1, 2007; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 15-103. General Powers and Duties.

The Commission shall implement the vision and goals of the City as adopted by City Council relating to urban renewal, economic development and affordable housing. The Commission shall advance social equity in carrying out all of its duties and shall involve the constituencies of the City to create, maintain and promote a diverse, sustainable community in which economic prosperity, quality housing and employment opportunities are made available to all residents.

The Commission shall be and serve as the Urban Renewal and Redevelopment Agency of the City of Portland, pursuant to ORS Chapter 457, as amended. In carrying out its urban renewal duties, the Commission shall have all the powers and authority to perform any act or carry out any function authorized or permitted by ORS Chapter 457, as now provided or hereafter amended, subject to the authority of the City Council to approve Urban Renewal Plans and substantial amendment to Urban Renewal Plans and to the other powers of the City Council

provided in ORS chapter 457, and the Commission shall serve as the local public agency and shall perform all the functions prescribed therefore in Title 42 U.S. Code, relating to slum clearance, urban renewal and urban development and redevelopment within the City boundaries, or in an area within five miles from the City boundaries. In connection therewith, the Commission shall have authority to enter into agreements with any other public body or any department or bureau of the City and enter into any other contracts to carry out its urban renewal and redevelopment functions. The Commission may impose conditions or restrictions by deed or lease upon the use of land or property within an urban renewal area. The work of carrying out an urban renewal plan or redevelopment plan shall be deemed a public project.

In carrying out its economic development duties, the Commission shall, among other things, promote business and industrial recruitment, expansion and location within or near the City, and in connection therewith may acquire, improve, lease or exchange property, real or personal, or interest therein, to the extent permitted by law. Except as otherwise directed, the Commission shall perform the duties set forth in Section 2-126, except for appropriations and expenditures from the General Fund for advertising the advantages of the City, which power shall be exercised only by the Council.

In carrying out its affordable housing duties, the Commission shall promote home ownership and the creation and retention of multifamily housing, and implement other housing policies that may be adopted by the Council, through acquisition of property, real or personal, or interest therein, through financial and technical assistance to private and nonprofit housing developments and organizations, renters, homeowners and homebuyers, or through any other mechanism authorized by the Council. [New sec. May 16, 1958; am. July 1, 2007; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 15-104. Administrative Powers and Procedures.

The Commission shall have power for and on behalf of the City to perform the following acts, and the following administrative procedures shall be followed:

1. The Commission shall have authority to make orders, rules and regulations in the form of resolutions to carry out the authority granted the Commission in this Chapter, certified copies of which resolutions shall, forthwith upon their adoption, be transmitted to the Auditor of the City, who shall cause the same to be transcribed at length in a record kept for that purpose or to be filed in a special record of such resolutions. Such record shall be public and copies thereof shall be accessible to the public under like terms as ordinances and resolutions of the City of Portland. All such resolutions of the Commission (other than purely administrative regulations, or those of a temporary nature) shall be subject to amendment, repeal or alteration or enactment under the referendum or initiative to the same extent as ordinances of the City of Portland. All such resolutions shall require an affirmative vote of three (3)

members of the Commission and shall take effect thirty (30) days after adoption by the Commission unless some other date is fixed in such resolution. If a date earlier than thirty (30) days from adoption is so fixed as the effective date, such resolution must receive the affirmative vote of at least four (4) members and all of the members present at the time of adoption. All actions undertaken by the Commission must conform to the State Government Standards and Practices Statutes as set forth in Oregon Revised Statutes as it may be amended.

2. The Commission shall have authority to appoint, employ and discharge such officers, employees and agents as the Commission finds necessary or convenient for the efficient and economical performance of its duties, and to fix and provide for their compensation. The Commission shall administer a merit based personnel system that provides all persons with a fair and equal opportunity for public service; establishes conditions of service which will attract and retain officers and employees of good character, technical knowledge, skill and ability; and improves the efficiency and economy of the Commission by the improvement of methods of personnel administration. The personnel system shall include the opportunity for employee appeals to be resolved by an impartial and objective officer or panel, and be in accordance with any other public policy goals as provided in Chapter 4 of this Charter.
3. The Commission may obtain the advice, services, recommendation and assistance of any officer, board or commission of the City of Portland, and the City Attorney and the City Attorney's staff shall render legal assistance and advice as required by the Commission. Payment for such legal service or other service of departments, officers or employees of the City shall be made to the City by the Commission. This shall not prevent the employment of technical assistance nor the employment of special legal counsel. Purchases need not be made through the purchasing agent of the City, but otherwise the limitations and restrictions on purchases contained elsewhere in this Charter shall apply.
4. The Commission may establish offices in or outside the City hall or other building within City limits, as space may be available or convenient.
5. The Commission shall have authority to incur expenses for administration and such maintenance, construction, reconstruction, alteration, rehabilitation, replacement, repair or purchase or other mode of acquisition or rental of equipment, property or facilities as the Commission may find necessary or convenient. All property acquired shall be acquired in the name of the City of Portland. The Commission may purchase material and supplies and make such other disbursements and incur such other expenses as the Commission finds necessary or appropriate to carry out the purposes set forth in this Chapter. The Commission shall control and manage and

may lease in the name of the City, to the extent permitted by Oregon Revised Statutes, all properties placed under its administration by the City Council for development and redevelopment purposes, and may improve any property which it acquires or controls to make it available or suitable for such purposes.

6. The Commission shall have power to borrow money, negotiate federal advances of funds and execute notes as evidence of obligations, accept gifts, federal grants-in-aid, advances or other moneys, negotiate loans and advances, and pledge property acquired or any part thereof, and the Council may make loans to the Commission from any available City fund.
7. All moneys received by the Commission will be deposited with the Treasurer of the City of Portland, and shall be maintained in distinct funds and deposited in the name of the City of Portland for the use of the Commission. All moneys received in connection with an urban renewal plan or property acquired in connection therewith shall be maintained in a separate and distinct fund or funds to be known as the Urban Redevelopment Fund(s). The Commission shall also have authority to establish reserve funds, special funds or sinking funds for the payment of indebtedness, obligations or interest thereon as may be permitted by law. The Commission may transfer money from its General Fund to its special or reserve funds and may transfer surplus of money to its General Fund, and may transfer surplus money to the General Fund of the City. Disbursements shall be made from the City Treasurer accounts on checks signed by the Chairperson or designee and the Secretary or designee. The Commission may maintain a separate bank account for meeting salaries, wages and current miscellaneous expenses. Such account shall be designated as a revolving fund and may be drawn upon for such purposes by officials designated by the Commission.
8. The Commission shall be responsible for the design, installation and maintenance of an accounting system which will conform to the requirements of generally accepted accounting principles, state laws and Charter provisions regarding budgeting, expenditure, receipt and custody of public funds, as they may be amended, except as specifically modified in this Chapter.
9. The Commission shall provide for an annual comprehensive independent audit of all funds and accounts of the Commission by a qualified Certified Public Accountant or firm of such accountants selected with the approval of the City Auditor. The Commission and its operations shall be subject to performance audits by the City Auditor on a schedule determined by the Auditor. The Commission shall bear the cost of the performance audits and the yearly financial audit. Copies of each audit report shall be furnished to the City Council and Mayor for ~~its~~ review and filed with the City Auditor, and a copy of each financial audit shall be sent to the Tax Supervising

and Conservation Commission. [New sec. May 16, 1958; am. Nov. 5, 1974; am. May 20, 1986; am. July 1, 2007.]

Section 15-105. Budget and Reports.

The Commission shall annually prepare and adopt a budget that incorporates the City goals adopted by the City Council. The budget shall be prepared and adopted in accordance with state law and submitted to the Council and the Mayor in conjunction and in conformity with the City's budget process, for inclusion as a part of the total City budget. If authorized by state law, the City Council shall be the budget committee for the Commission and shall have the duties and responsibilities of a budget committee as provided in state law. In exercising its responsibilities as a budget committee, however, the primary goal of the City Council shall be to assure that the budget is aligned with the City's adopted policy goals and priorities. As soon as possible after the close of each fiscal year, the Commission shall prepare and present a comprehensive annual report to the City Council and the Mayor that evaluates the activities of the Commission with respect to the City's adopted visions and goals. [New sec. May 16, 1958; am. July 1, 2007.]

Section 15-106. Issuance of Revenue Bonds.

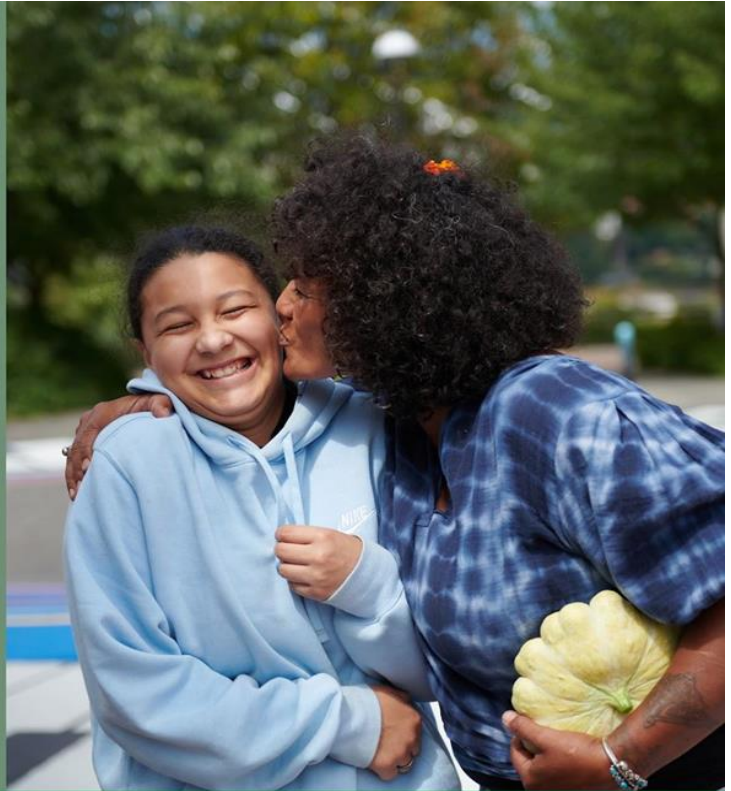
Upon the request of the Commission, the Council may from time to time issue revenue bonds, certificates or debentures, to be repaid, to the extent permitted or to be permitted by law, solely out of: revenues from an urban renewal and redevelopment; or from the sales of property involved in an urban renewal and redevelopment; or from tax revenues attributable to improvements existing or subsequently constructed on property in an urban renewal and redevelopment project, or tax revenues exceeding a specified level within such project, to the extent that such is permitted by law; or any combination of such methods of repayment, and to that end the Commission, with the concurrence of the Council, may, to the extent permitted or to be permitted by law, pledge such tax revenues or other revenues as hereinbefore mentioned. Such bonds or other evidences of indebtedness shall be issued by the Council in accordance with the procedures established by law and as the Council may prescribe by ordinance, and shall bear the facsimile signatures of the Mayor and Auditor and be known as "Urban Renewal and Redevelopment Bonds, Series " [New sec. May 16, 1958; Am. Nov. 5, 1974; am. July 1, 2007.]

Section 15-107. Effective Date.

These amendments shall take effect on July 1, 2007. [Replaced sec. July 1, 2007.]

PROGRESS REPORT

#6



Portland Charter Commission



JUNE 2022

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EXECUTIVE SUMMARY

This summary is designed to give a high-level view of the approach and work of the Charter Commission at this stage in the process.

DESIRED OUTCOMES

Any potential reforms would be evaluated based on their ability to advance these outcomes:

1. A participatory and growing democracy with more voices being heard in elections
2. An accessible and transparent government with Councilors who are easy to reach
3. A reflective government with Councilors who look like the community they represent
4. A responsive government with Councilors who understand your community needs
5. An accountable government with Councilors who answer to the people
6. A trustworthy government with Councilors who safeguard democracy

PROPOSAL TO CHANGE PORTLAND CITY GOVERNMENT

On June 14, 2022, the Charter Commission resoundingly voted to advance a ballot measure to change city government to the November 2022 ballot. Voters in the City of Portland will get to decide to amend the city charter and strengthen local government. If approved by voters, charter amendments will produce major changes, including:

- **Allowing voters to rank candidates in order of their preference, using ranked choice voting.** Currently, Portland voters can only pick one candidate when they vote for city elected leaders. Allowing voters to rank candidates in their order of preference using ranked choice voting gives voters more choices to express their true preferences and allows us to elect leaders who represent our communities.
- **Four new geographic districts with three members elected to represent each district, expanding the city council to a total of 12 members.** Right now, Portland has four city commissioners that represent the city as a whole. Creating geographic districts with more than one council member to represent each district will increase accountability between residents and elected leaders. A 12-member city council will help fix the city's challenges.
- **A city council that focuses on setting policy and a mayor elected citywide to run the city's day-to-day operations, with the help of a professional city administrator.** In the current commission form of government, the mayor and city commissioners directly manage the city's bureaus. Shifting to a new government structure in which the city council can focus on passing laws and a mayor can help implement them will help create a more responsive government.

The City Attorney's Office will now prepare the ballot measure title and explanatory statement.

COMMUNITY ENGAGEMENT

The important work of charter reform requires engaging Portlanders across neighborhoods, lived experiences, and backgrounds. The Charter Commission is committed to a community-driven process to inform its decision-making and an equitable, accessible, and transparent community engagement process.

- **Partnerships:** The Charter Commission partnered with the Coalition of Communities of Color on the design and implementation of community education and engagement activities to meaningfully engage Portland's diverse communities in the charter review process and established a community engagement cohort made up of seven community-based organizations.
- **Public Comment:** As of May 30, 2022, at 5:00pm, the Charter Commission received 1,600 public comments through an online comment form, email, or 15 hours of verbal testimony. Of the 1,600 public comments received 58.4% mention form of government, 42.6%% mention city council elections, 14.9% alternative voting methods, 8.6% mention homelessness, 7.6% mention climate justice, 3.6% mention participatory budgeting, 3.5% mention general charter reform support, 3.4% mention safety, and 3.3% mention police.
- **Listening Sessions:** The Charter Commission and the Coalition of Communities of Color Collaborative hosted a total of 26 community listening sessions that engaged 580 community members.
- **Community Surveys:** The Charter Commission has distributed and collected data from two multi-lingual surveys. The first, from which 1,036 surveys were collected, was designed to gauge understanding of the Charter Commission to inform engagement and communication. The second survey, from which there were 2,977 survey responses, was designed to capture opinions about some of the Charter Commission's potential recommendations.
- **Community Organization Policy Discussions:** The Commission has met with 34 community-based organizations and groups to have policy discussions. Policy consultations are distinct from the engagements in that the Charter Commissioner sought to understand organization-specific priorities, positions, and expertise on the policies under consideration.
- **Bureau Director Discussions:** The Charter Commission held a series of meetings with all but one of the bureau directors to understand their lived experiences with city government and to hear their priorities for charter reform.
- **City Elected Leader Discussions:** The Charter Commission held a series of meetings with all city elected leaders – the Mayor, Auditor, and City Commissioners to understand their lived experiences with city government and to hear their priorities for charter reform.
- **Briefings and Presentations:** The Charter Commissioners and staff have given 119 briefings and presentations to various community groups and associations and connected with hundreds of community members. In addition, the Commission offered a series of briefings to local, state and federal jurisdictional partners with 116 staff and elected leaders attending.
- **May 2022 Public Comment Period.** During May 2022, the Charter Commission invited input on its proposed charter amendments through four public hearings, written public comment, a work session with the Mayor and City Commissioners, a meeting with bureau directors, and two town halls with more than 1,100 City employees.

INTRODUCTION

Since December 2020, the 20-member, City Council appointed Portland Charter Commission has been deeply engaged in extensive research and ongoing public and community engagement to shape and inform policies on Portland's city government.

This is the sixth progress report from the Charter Commission. The purpose of the progress reports is to provide Portlanders with the Charter Commission's analysis of its proposed policies in a transparent and accessible way. This report represents the final agreements made by the Charter Commission on its phase I recommendations.

BACKGROUND

What is a city charter?

The city charter is a guiding document that establishes the government system and structure of a city. It defines how the government is set up, how city leaders are elected, and the roles and responsibilities of those leaders. The city charter functions as the city's constitution – it creates the city as a legal entity, authorizes city powers, and outlines the broad basic fundamentals of city government. Portland's city's charter can be amended **ONLY** by a vote of the people.

What is charter review?

The city charter requires that, at least once every ten years, City Council appoints a 20-member Charter Commission to review and recommend changes to the charter. City Council appointed the current Charter Commission in December of 2020.

So, what's the process for making changes to the city charter?

There are 20 Charter Commissioners participating in the review process. If 15 or more agree to a recommended change, those recommendations go directly to the ballot for Portlanders to vote on. If 11 to 14 Commissioners agree to a recommended change, then those recommendations go to City Council. City Council will decide whether to refer those recommendations to the ballot as-is, modify them, or do nothing. Again, it is only by a **vote of Portlanders** that the charter may be changed.

PHASED APPROACH & TIMELINE

In summer 2021, the Charter Commission decided to approach the charter review process in two phases – meaning two sets of issues and two election cycles.

The Commission has finalized its recommendations for phase I. The Charter Commission will put its proposal to change city government on the November 2022 ballot. The Commission prioritized the November 2022 election because it's the election with the highest voter turnout during the time the Commission is working, and the Commission believes that the most Portlanders as possible should decide these foundational issues. Moving forward, the Commission's phase I work will focus on community education about the proposal.

Dedicated Commission meetings on phase II will begin in late June. At this time, the set of issues for the second phase has not yet been selected.

Desired Outcomes for Charter Reform

The Charter Commission began its work by agreeing that any potential reforms would be evaluated based on their ability to advance these outcomes:

1. A participatory and growing democracy with more voices being heard in elections
2. An accessible and transparent government with Councilors who are easy to reach
3. A reflective government with Councilors who look like the community they represent
4. A responsive government with Councilors who understand your community needs
5. An accountable government with Councilors who answer to the people
6. A trustworthy government with Councilors who safeguard democracy

There is additional information about the desired outcomes on the Charter Commission's [website](#).

PROPOSAL TO CHANGE PORTLAND CITY GOVERNMENT

On June 14, 2022, the Charter Commission resoundingly voted to advance a ballot measure to change city government to the November 2022 ballot. Voters in the City of Portland will get to decide to amend the city charter and strengthen local government. If approved by voters, charter amendments will produce major changes, including:

- **Allowing voters to rank candidates in order of their preference, using ranked choice voting.** Currently, Portland voters can only pick one candidate when they vote for city commissioners. Allowing voters to rank candidates in their order of preference using ranked choice voting gives voters more choices to express their true preferences and allows us to elect leaders who represent our communities.
- **Four new geographic districts with three members elected to represent each district, expanding the city council to a total of 12 members.** Right now, Portland has four city commissioners that represent the city as a whole. Creating geographic districts with more than one council member to represent each district will increase accountability between residents and elected leaders. A 12-member city council will help fix the city's challenges.
- **A city council that focuses on setting policy and a mayor elected citywide to run the city's day-to-day operations, with the help of a professional city administrator.** In the current commission form of government, the mayor and city commissioners directly manage the city's bureaus. Shifting to a new government structure in which the city council can focus on passing laws and a mayor can help implement them will help create a more responsive government.

It is the Commission's belief and desire that the amended charter will make Portland's government more accountable, transparent, efficient and effective, responsive, and representative of every area of the city.

The City Attorney's Office will now prepare the ballot measure title and explanatory statement.

The full text of the proposed charter amendments is attached to this Progress Report, attachment 1.

ALLOWING VOTERS TO RANK CANDIDATES IN ORDER OF THEIR PREFERENCE, USING RANKED CHOICE VOTING

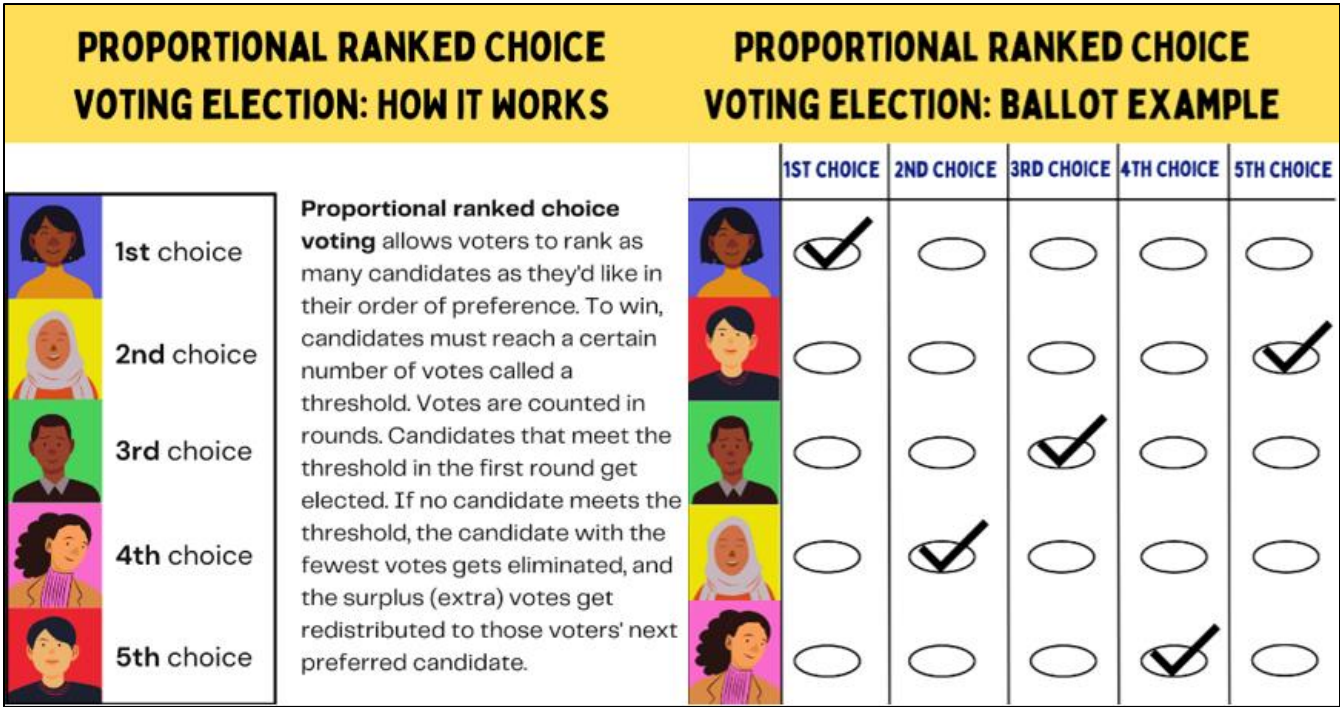
The Charter Commission has a goal of achieving a participatory and growing democracy with more voices being heard in elections. The Charter Commission supports adopting ranked choice voting to replace our current "winner-take-all" form of plurality voting. Ranked choice voting allows voters to be a part of a process that uses their ballot to the fullest. When voters' first choices are not elected, they can trust their vote will be counted for their next viable choice.

Currently, voters are asked to choose one candidate. The candidate who receives the most votes, even if they receive less than 50% of the vote, is the sole person elected. No matter how many candidates are on your ballot, you only select one option, and a candidate can win no matter how small their vote share ends up.

Ranked choice voting gives voters more choice. Voters can rank the candidates or just choose one candidate. Studies show communities that have switched to ranked choice voting have had an increase in voter participation. By giving voters more meaningful choices, they have more reason to vote.

Ranked choice voting would give Portland voters the ability to indicate all of the candidates they support in order of preference by marking their ballots to indicate "1st choice, 2nd choice, 3rd choice, etc." for as many or as few as they care to rank. Ranked choice voting can be used in races to elect one winner or multiple winners. When electing a single candidate for office (mayor and auditor), ranked choice voting is known as "instant runoff voting." When electing multiple winners for office (city councilors), it is known as "single transferable vote" is used. In either case, how the ballot appears to voters and how voters mark their ballot is the same.

Figure 1: Proportional Ranked Choice Voting Example



In instant runoff voting (to elect mayor and auditor), if a candidate receives a majority of the first-choice votes, that candidate will be declared elected. If no candidate receives a majority, the candidate who received the fewest first-choice votes will be eliminated and each vote cast for that candidate will be transferred to that voter's next-ranked candidate. This process of eliminating candidates and transferring their votes to the next-ranked choices on ballots repeats until a candidate receives a majority of the votes.

In the single transferable voting system (to elect city councilors), the goal is to make every vote count. In a three-member district each winning candidate needs to achieve a winning percentage (25% + 1) of the vote. When the votes are tallied, the first-choice votes are counted. Candidates who reach 25% + 1 are immediately elected. If not all of the positions are elected outright, a two-step reallocation process to fill the remaining seats kicks in. First, the "surplus" votes of any candidate who exceeds the threshold (the number above the 25% + 1 needed to win) are proportionally reallocated to their voters' second choice candidates. This continues until there are no more surplus votes. If any positions still remain unfilled, the candidate with the least number of votes is eliminated and those votes are transferred to their voters' next preference, as in the instant runoff system. This process is repeated until all vacant seats are filled.

The City of Portland's elections are primarily administered by the Multnomah County Elections Office, which then reports election results to the City of Portland election office for certification. More than 99.5% of the City of Portland's

registered voters reside in Multnomah County, with the November 2020 election recording 1,304 total votes cast from Clackamas and Washington County based voters in the City of Portland, representing 0.3% of the total votes cast. The elections administration of ballots and recording procedures would also remain the same in ranked choice voting. The only difference voters would experience is in reading and viewing election results that now contain more information about voters' preferences. The vote tabulation math done by the Multnomah County Elections Office is the only thing that would change in the elections process, which can be released round by round in a transparent matter until winners are calculated. Multnomah County Elections Office is a "high transparency" system which regularly releases daily vote count updates during large elections and that would not change with ranked choice voting.

Allowing voters to rank as few or as many candidates as they would like expands the choices voters have to express their preferences and elect candidates that share their values. By increasing voter choice, voters have multiple options for their vote to count, rather than being asked to only pick one candidate. Portlanders currently face a difficult decision; should they vote for one of the candidates in the lead to make their vote count, or should they vote for their preferred candidate and risk wasting their vote? Our voting system should feel expansive and give voters the choices and power to elect the candidates they truly want to be represented by or think will do the best job. Allowing voters to rank candidates on their ballot in order of their first, second, and third choice, increases their freedom to vote for the candidates they believe in, rather than having to choose between the lesser of two evils. Adopting ranked choice voting will help create a more reflective city council in which voters' preferences are better captured in the overall election outcome.

Ranked choice voting is a proven and tested method that has been shown to increase voter satisfaction and open the door to newer and more representative voices on council. Ranked choice voting is used by tens of millions of Americans in local and state elections, including large cities such as New York City, San Francisco, Oakland, Minneapolis, St. Paul, Portland, ME; and the states of Maine and Alaska. As of November 2021, 43 jurisdictions used ranked choice voting in their most recent elections, and more than 50 jurisdictions are projected to use it in their next election.

There is also growing evidence that ranked choice voting promotes more civil, issue-oriented campaigns and decreases the incentive for negative campaigning. Rather than candidates focusing on attacking their opponents to decrease support, candidates are encouraged to focus on broader issues they care about like affordable housing, climate action, and more. Candidates benefit from sharing platforms with like-minded candidates, since voters who support a specific issue are likely to rank both candidates as a preference. Let's say candidate A is passionate about investing in climate solutions, candidate D who shares similar priorities benefits from speaking positively about candidate A's platform and reaching out to voters who support candidate A. Campaigns are more civil as a result of fostering stronger coalition-building and candidates collaborating and aligning on similar policy platforms.

Proportional Representation and Multi-Winner Elections

The election system that the Charter Commission is proposing is a Proportional Representation system in which multiple candidates will get elected in each geographic district using ranked choice ballots. Proportional Representation systems are the most used electoral systems in the world, and the State of Oregon Constitution Article II, Section 16 specifically calls out that provision may be made for elections by proportional representation.

Proportional Representation is rooted in the belief that everyone should have the right to fair representation, reflective of their community's views. The goal of Proportional Representation is to make sure the election outcomes reflect as closely as possible the will of the voters. Under our current system, 50% of the vote (plus one) has the power to elect each candidate, which means that the same group of voters elect all four city commissioners. Under a Proportional Representation system, more voters have the power to elect a candidate. Instead of running for individual positions (City Commissioner Position 1, City Commissioner Position 2), all candidates within a district will run in one pool at the same time. Now, instead of 50% of the vote (plus one) electing a candidate, 25% of the vote (plus one) has the power to elect a candidate. This gives more communities a chance to win a number of city council seats reflective of their size in the population.

The specific type of Proportional Representation that will be used for Portland's city council elections is called single transferable vote – a system successfully used by democracies worldwide for the last century. An example of long-

standing success using single transferable vote is Cambridge, Massachusetts, which has used this voting system to elect their city council since 1941 and has helped to secure fair representation for voters from minority groups like racial and ethnic communities.

Shifting to One November Election, Eliminating May Primary Election

The Charter Commission favors voting methods that elect candidates when the most people are likely to be voting. In November elections, voter turnout is consistently higher, so more voices weigh-in on decisions affecting all Portlanders. A core benefit to the use of ranked choice voting is that it allows for decisive instant run-offs to be counted in one election, eliminating the need for May primaries for city elections.

Currently, in our nonpartisan city council elections, several people can run for one at-large seat in the May primary. If a candidate for that seat wins over 50% of the vote, then they win the race outright. If no one makes it over that threshold, then the top two candidates go to a runoff in the November general election.

Eliminating May primaries ensures that more Portlanders elect their city council. Although Portland city council races are nonpartisan, the primaries currently occur within the context of larger state and federal partisan primary elections in May, whose turnout is often driven by closed primary contests (where only registered party members can vote in their respective primaries), this means people who are not registered party members often do not vote in the primary election, which can skew the makeup of the electorate in Portland.

Election turnout results from this century consistently show that as little as one-quarter to one-half as many Portland voters turn out in May as do in November. In midterm years, November turnout is generally double the May turnout, and in presidential years, a significantly higher number of Portlanders cast ballots in November compared to May. The increased turnout in November elections tends to come from younger, more racially diverse voters as well. Of the past 15 city council races (not including mayoral races), only five went on to the November run-off election. This means that many November-only voters in Portland didn't get to vote for a council member because those elections had already been decided.

Moving to a single election could also reduce financial barriers for candidates and widen the pool of candidates who would consider running. The cost of campaigning can be burdensome for candidates without personal wealth or connections to large financial backers. Additionally, single-election campaigns would not start as early (Portland city council candidates now regularly declare more than a year out from November election because of the May primary), meaning city councilors running for re-election could spend fewer total days campaigning for votes and fundraising for dollars, and instead focus on enacting policies.

The Charter Commission also supports staggered city council elections, with Portlanders electing leaders every two years in November. The Charter Commission believes that waiting four years for voters to express their opinions on elected leaders is too long. By having the elections every two years, they can be timed to coincide with the Oregon Governor's race and two years later, the US Presidential race, both of which drive turnout, allowing for higher voter turnout.

Under the proposed charter amendments, at the November 2024 election, a mayor and all councilors from two districts will be elected for a term of four years. At the same election, the auditor and all councilors from the other two districts will be elected for an initial two-year term to align the seats for the 2026, 2030, etc. staggered system. At subsequent elections, those elected hold office for four years.

Although the districts will be drawn by an independent district commission, the Charter Commission's intent is to boost turnout in historically lower turnout areas of the city. To achieve this, they are recommending that the two districts which historically have the lowest voter turnout hold their city councilor elections at the same time as a mayor during November elections. The other two districts would be elected in the same years as the auditor. Regardless of timing, any district that has elections must have all the seats in that district up at the same time to achieve the benefits of a multi-member proportional system.

FOUR NEW GEOGRAPHIC DISTRICTS WITH THREE MEMBERS ELECTED TO REPRESENT EACH DISTRICT, EXPANDING THE CITY COUNCIL TO A TOTAL OF 12 MEMBERS

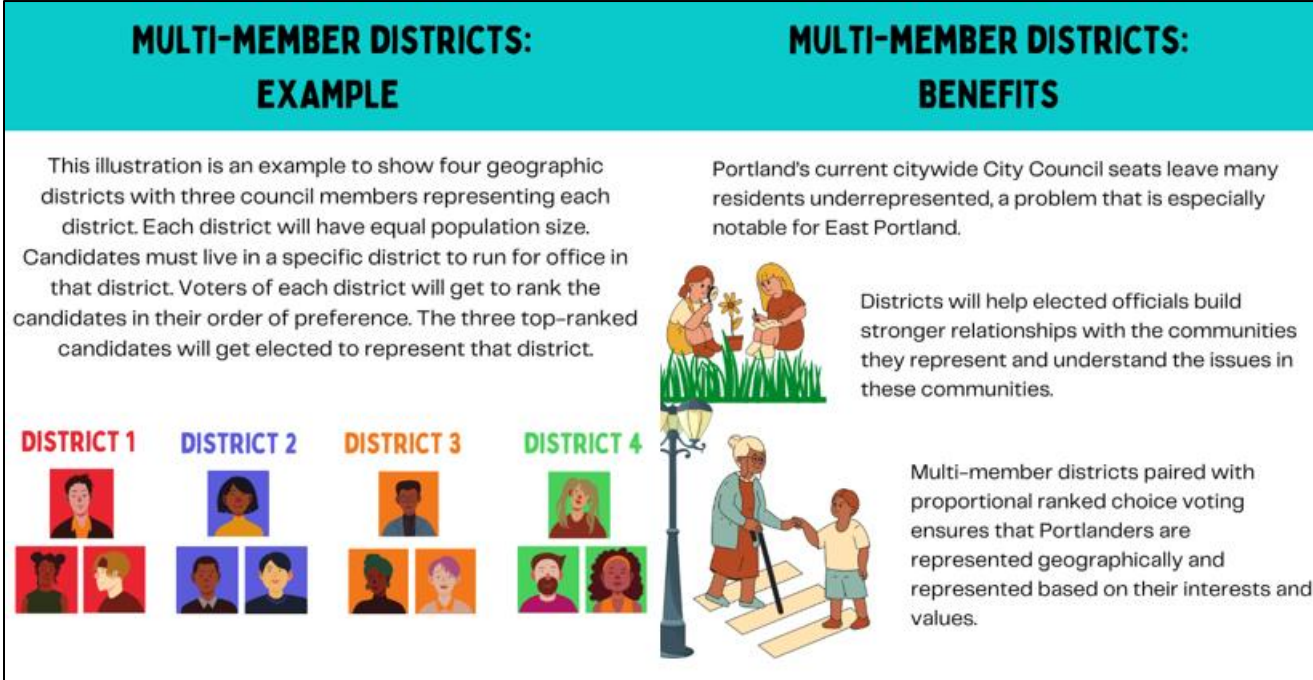
For more than 100 years, Portlanders have been electing city councilors in an at-large system, meaning any eligible candidate in the city can run for office and be elected, regardless of their geographic location. The City of Portland's current five-member (including the mayor) city council has not grown for more than 100 years, despite a more than three-fold increase in the city population, depriving Portlanders of political representation fit for a complex city of our size and decreasing the number of opportunities for diverse communities and interests to elect candidates of choice. This is a significant problem. Portlanders are underrepresented compared to cities of similar size in the United States.

Historically, candidates of choice for Black, Indigenous, communities of color, and political minority groups, have lacked access, power, and representation in Portland's city hall. An accounting of the demographics of previous city commissioners shows that our elected representation has been disproportionately dominated by white, affluent, and male commissioners, despite a demographically diversifying city. Moreover, while city commissioners are elected at-large, city commissioners have resided in the Portland downtown area or west of the Willamette River in significantly higher numbers. These disparities are hard to ignore and will remain persistent challenges without reform of the underlying system.

Enlarged and District-Empowered City Council

The Charter Commission agreed with calls from the public to shift city council from all at-large seats to a system with district-based geographic representation. The Charter Commission supports a 12-member council where Portland is drawn into four districts each sending three council members to the city council. A councilor elected from a district must have resided in that district and been a registered voter in that district for at least one year immediately preceding the election. The three council members elected in each new geographic district will run in the same race at the same time in that district.

Figure 2: Multi-Member District Example and Benefits



A 12-member city council achieves many of the Commission's desired outcomes. Each new district will have more than one elected leader to represent it. Desires for guaranteed council representation from all parts of the city, increased

representation, and lowering financial barriers for candidates to compete were key considerations in favor of this reform.

In 1913, when Portland adopted the commission form of government, city council was reduced from a 15-member council to the 5-member council we have now. Portland city government went to one city commissioner for approximately every 42,000 residents. In 2022 the ratio has grown to one city commissioner for every 130,000 residents. For cities of similar size to Portland (680,000+ residents) the ratio is about one representative per 50,000 residents. The proposed 12-member council would have similar representation, with one councilor for every 53,430 Portland residents.

Increasing the number of seats on city council may give underrepresented communities more voice in the decision-making body and offer a chance to help alleviate dissatisfaction with city council, because more Portlanders are able to elect leaders that represent their interest and understand their experiences. Expanded council capacity should also improve government's ability to respond to large, complex problems facing our entire community. Increasing the size to a greater number can ensure that more leaders are responding to Portland's diverse communities and devote more time to legislating and passing city policies.

Multiple representatives per district addresses the fact that it's incredibly difficult for any one single elected individual to represent the diversity of viewpoints and experiences in a geographic district. Having multiple people allows for a greater chance that more viewpoints and experiences will be represented. The Charter Commission believes multiple representatives per district will help community members connect directly with their elected leaders and increase accountability between Portlanders and elected leaders. Because multiple leaders would represent one area of the city, this would also increase opportunities for collaboration and coalition building for geographic-based issues between those leaders.

Dividing Portland into districts so that elected leaders can represent geographic areas of the city instead of the entire city ensures that residents, such as those in East Portland, who have been continually shut out from representation and political attention in city hall despite making up a large part of the city population and landmass, will have representatives elected specifically from their geographic area.

The Charter Commission believes that city councilors should be easy to reach, and having leaders represent certain parts of the city can make it easier for people to reach out when they have an issue. Geographic-based representation could also lend itself to more localized and neighborhood-based constituent services and civic participation that is not dependent on Portlanders' ability to access downtown.

While geography is important and neighborhoods play a significant role in Portland's civic life, Portlanders also understand that just because you live in the same neighborhood as someone else does not mean you share the same politics or priorities, let alone have the same lived experience. Multiple representatives per district allows for multiple perspectives to be represented in one district. Voters can choose to support candidates who focus on issues most important to them.

Shifting the constituency of city council from all at-large seats to district seats also addresses problems associated with the significant financial barrier to running for office city-wide. District-based elections will likely reduce the cost of campaigning because candidates focus on a smaller constituency. The current system of at-large elections gives an outsized advantage to financially resourced and politically well-connected candidates.

Increasing opportunities for historically under-represented communities to elect their candidates of choice has also been a driving goal for the Commission. Portland does not have a geographic distribution of Black, Indigenous, or people of color (BIPOC) residents that could allow for a drawing of a majority BIPOC district, nor does it have the level of income or age segregation and stratification that characterizes other cities. The Commission favored reforms that would more likely give smaller and historically under-represented communities a greater ability to form coalitions to elect candidates of their choice. Voters would see more candidates that are renters, younger residents, BIPOC or members of minor parties.

These research findings have been corroborated by the Tufts University Metric Geometry and Gerrymandering Group (MGGG) Redistricting Lab. In response to the Commission's proposal, MGGG conducted [mathematical modeling and analysis of Portland](#) on the potential efficacy of various districting and voting system scenarios with regard to the ability of communities of color to elect their preferred candidates of choice to city council. Their findings were drawn from a two-step process, wherein MGGG generated thousands of sets of valid multi-member redistricting plans and then simulated a ranked choice voting variant called single transferable vote elections on a subset of those plans. The results showed that 12 member councils were likely to elect candidates of choice for communities of color in close keeping with the people of color voting age population share of the city.

Independent District Commission and Future Redistricting Processes

The decision to enact geographic district representation necessitates a process to draw official district lines. The Charter Commission will not propose a formal map for adoption. Instead, the Commission believes that process should be undertaken by another independent community body with the time and resources necessary to robustly conduct research and engage the public in the districting process.

The Commission proposes an independent district commission composed of thirteen (13) residents of Portland who represent a diversity of race, age, gender, and geography. No member of the independent district commission may be employed by the City of Portland, hold any other elected or appointed position in the city, or be an officially declared candidate. A mayor appoints members of the district commission, subject to confirmation by city council.

The independent district commission would ultimately be responsible for preparing and adopting a districting plan for dividing the city into four districts for the election of city councilors. The plan would include a map and a description of districts. The vote of at least nine members of the districting body is required to adopt the districting plan. Failure to adopt a plan will result in the city council being given the duty to enact a district plan. The district commission must hold a city-wide public hearing early in its process to engage Portlanders in district criteria and then it must hold at least two public hearings in each proposed district before it votes to adopt the plan. The district commission makes its plan available to the public for inspection and comment not less than one month before its first in-district public hearing.

Consistent with state and federal laws, the independent districting body must ensure that each district, as nearly as practicable, will be contiguous (one connected piece), compact, utilize existing geographic or political boundaries, not divide communities of common interest, be connected by transportation links, and be of equal population. No district may be drawn for the purpose of favoring any political party, incumbent elected official or other person. No district may be drawn for the purpose of diluting the voting strength of any language or ethnic minority group. The district commission may consider additional criteria.

If the voters approve the proposed reforms, the districting process will need to begin immediately after the November 2022 election to ensure that the system is in place for candidates and voters to understand the election process and filing deadlines for the November 2024 election. The first district commission must be confirmed no later than January 31, 2023. Subsequent redistricting would be tied to census population updates every 10 years, beginning 2030. Future independent redistricting bodies would be tracked to a slightly different timeline, with the body confirmed and in place by March 31 in every year following the census. The districting body's term ends upon adoption of a districting plan, which must be completed by September 1.

Council Salaries, Offices, and Staffing

The Charter Commission has received questions from community members about how much the new councilors will be paid. The current charter is silent on council salaries – leaving city commissioners to set their own salaries when they vote on the budget. To avoid real or perceived conflicts of interest, the Charter Commission proposes a salary commission to determine the compensation for Portland's mayor, auditor and city councilors. This five-member salary commission will be composed of qualified human resource professionals with compensation experience who represent a diversity of race, age, gender, and geography. The initial salary commission will be nominated by the mayor and confirmed by council by March 15, 2023 and will be required to complete their work by August 1, 2023, with salaries taking effect January 1, 2025. Thereafter, the salary commission will be nominated by the professional city administrator

and confirmed by the council by January 1 of each odd year, with adjusted salaries taking effect July 1 of each odd year. The salary commission will document the basis of its decision and decide by majority vote. Elected or appointed City of Portland officials, city employees, and officially filed candidates are prohibited from serving on the salary commission.

While not laid out in the charter, the Charter Commission envisions that district-based councilors will have an individual office within their own district and an office near city hall to be shared amongst the councilors and their staff with others in the same district. In addition to reducing barriers for constituents, district-based offices may improve the city council's approach to long-range planning and city-wide coordination. Cities with district representation often have district-based offices that are easier for residents across the city to access.

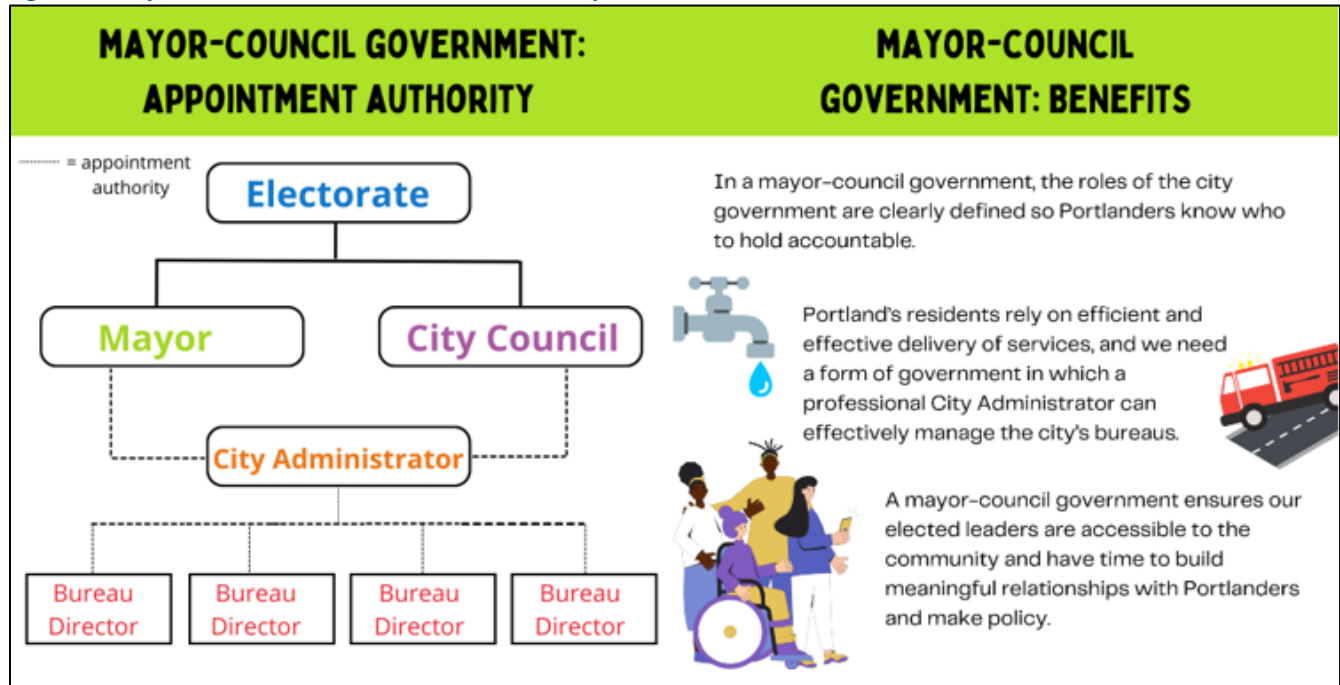
The Charter Commission also assumes councilors will have fewer staff than in the current system because city councilors will no longer directly manage bureaus. We also assume some shared staff across councilors within a single district including shared communications and business operations functions, and possibly shared scheduling and constituent services.

A CITY COUNCIL THAT FOCUSES ON SETTING POLICY AND A MAYOR ELECTED CITYWIDE TO RUN THE CITY'S DAY-TO-DAY OPERATIONS, WITH THE HELP OF A PROFESSIONAL CITY ADMINISTRATOR

In our commission form of government, the mayor assigns each member of city council a portfolio of bureaus to manage. When this form of government was created over 100 years ago, it allowed for cities and towns to be nimble in responding to urgent crises as the commissioners could make quick decisions for their bureaus. Additionally, often individuals would run for a seat that reflected their professional technical area of expertise. In modern-day Portland, the Charter Commission continues to hear that this form of government creates silos, avoids accountability, and lacks transparency. The commission form of government is not driving towards the outcomes that Portlanders have identified - the need for clear, consistent delivery of services and responsiveness to pressing city issues.

As a response to these identified shortcomings, the Charter Commission decided to separate executive and legislative powers, with city council no longer directly managing city bureaus. Instead, a mayor, elected citywide, will run the city's day-to-day operations, with the help of a professional city administrator, while the council will focus on building relationships to effectively set policy, plan strategically, and approve budgets necessary to address the concerns of Portlanders. The Charter Commission believes the checks and balances, clear division of power, and streamlined division of labor will help produce more effective and efficient city services.

Figure 3: Mayor-Council Government Structure Example



City Councilors Focused on Setting Policy and Constituent Services

The role of city councilors will be to focus on legislation and policy development, such as making laws, engaging constituents, and bringing community and district-responsive voices into decision-making. Expanded legislative focus and capacity will improve the quality of laws passed and overall government responsiveness, by instilling a greater ability to link on-the-ground constituent engagement to effective policy reforms. Councilors will have additional capacity to focus on solving complex challenges and meeting with their constituency to draft policy and budgets, collaborating on major initiatives and long-term strategic planning for the city. City council will also have a role in intergovernmental relationship building, collaboration, and communication with other local, state, and federal jurisdictions.

The charter is currently silent on the city budget process. The Commission recommends a new charter provision that states that council functions as the budget committee and is responsible for approving the budget. City funds may only be expended in conformance with the budget approved by city council. A mayor will be required to submit a proposed budget to council by May 5 of each year, which outlines the needs of the city based on current policies and programs. The Charter Commission recognizes that the budget is a moral document that specifies what it is we as a city prioritize and care about. It is the intent of the Charter Commission that council engage constituents and bureaus early on in order to clearly understand needs and priorities.

The Charter Commission does not wish to be overly prescriptive about how the city council organizes itself in the charter – and the proposed amendments state that council will establish its own rules of procedure. The Charter Commission envisions a 12-member council organizing itself into committee work, with subgroups of council members specializing in different policy areas (e.g., transportation, community safety, housing, environmental protection, etc.). Council will also elect a Council President and Vice President. The Council President will preside at all council meetings.

The Commission also took a careful look at the types of procedural votes and the majority thresholds needed to advance council work. Quorum for council, defined as the number of councilors needed to be present in order to legislate city business, is set at seven – a simple majority of the 12-member council. For legislation, a mayor will hold a tie-breaking vote, so that non-emergency ordinance policies can be passed with six councilors plus the mayor, while a handful of uncommon, but high consequence actions will require a supermajority of nine councilors to move forward.

A Mayor and Professional City Administrator to Run Portland's Day-to-Day Operations

A mayor, elected city-wide, will be accountable for proposing policy and running the city's civic services - its bureaus, programs, and resources in order to deliver a working government--and implementing city policies passed the city council. If the proposal is adopted by the voters, a mayor will no longer serve or regularly vote on the council, demonstrating a clear separation of powers between legislative and executive branches. The Commission did agree that a mayor should have the ability to cast a tie-breaking vote, if necessary. The Charter Commission considered whether a mayor should have veto authority; however, the Commission believes that a veto on top of the tie-breaking vote would overbalance the checks and balances between the executive and legislative authorities.

The proposed charter amendments state that a mayor has the following responsibilities:

- (a) Advance the City's core values of anti-racism, equity, transparency, communication, collaboration and fiscal responsibility.
- (b) Advance the City's efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.
- (c) Exercise a careful supervision over the general affairs of the City.
- (d) Introduce such matters as the Mayor deems necessary to come before the Council. The Mayor has the same authority to introduce matters as a Councilor
- (e) Vote in matters before the Council only to break a Council tie.
- (f) Appoint the City Administrator, subject to confirmation by the Council, and give direction to the Administrator. The Mayor may remove the Administrator and must advise the Council before removal. The Council may remove the Administrator for cause by a vote of at least nine (9) Councilors. If the office of the Administrator is vacant, the Mayor must fulfill the duties of the Administrator until the office is filled.
- (g) Appoint, subject to Council confirmation, the City Attorney and Chief of Police. The Mayor may remove the City Attorney and Chief of Police.
- (h) Submit a proposed annual budget, and periodic amendments throughout the year. The Mayor must, at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as the Mayor may deem expedient and proper to accomplish such goals.
- (i) Annually, appear before the Council to deliver a general address on the State of the City.
- (j) Authorize, negotiate and execute all contracts and intergovernmental agreements, consistent with the City budget.
- (k) Encourage programs for the physical, economic, social and cultural development of the City.
- (l) Actively promote economic development to broaden and strengthen the commercial and employment base of the City.
- (m) Serve as ceremonial head of the City and issue ceremonial proclamations.
- (n) All other executive and administrative powers not conferred elsewhere by this Charter.

The Charter Commission believes that Portland's mayor needs to be given these responsibilities to create a more unified voice in city operations, more collaborative and cohesive responses, more consistent supervision of bureaus, and a political vision for the city. However, the Charter Commission also designed a system with checks and balances to address the concern that too much power concentrated in the hands of one individual would not serve Portland well.

A mayor will have executive authority over city business but will collaborate and delegate critical responsibilities to a professional city administrator. The professional city administrator will be nominated by a mayor subject to approval by a simple majority of city council. The city administrator must be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and must be chosen solely on the basis of executive and administrative qualifications. The city administrator's salary will be set by council.

The city administrator will be under direct mayoral supervision. While the city administrator has independent power to decide what, in their professional opinion, is best for the city, the Charter Commission was deliberate in installing checks and balances. A mayor would share responsibility and political accountability for the duties of the city administrator by extension of supervising the position, subject to legislative oversight of the city council. The city administrator can be fired by a mayor without council approval. However, to ward against the potential of a mayor and city administrator colluding against the public interest, the elected city council will also have oversight power to fire the city administrator, with a high, but necessary, bar of 3/4 of the council vote (9 council members out of 12 agreeing to fire).

A professional city administrator would oversee all city services, for example, street maintenance, fire safety, sewer services and other city services. Due to a mayor and city administrator's proximity and supervision of city bureaus, these positions will inform the city's proposed budget making, communicating to the city council the funding needs and policy adjustments necessary to achieve desired outcomes. The professional city administrator position helps ensure that there is someone in place who can competently manage city operations and frees a mayor from having that sole responsibility. The Charter Commission envisions a system where a mayor and council together create performance expectations of the bureaus.

The proposed charter amendments state that a professional city administrator has the following responsibilities:

- (a) Advance the City's core values of anti-racism, equity, transparency, communication, collaboration and fiscal responsibility.
- (b) Advance the City's efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.
- (c) Proper and efficient administration of all City affairs.
- (d) Except for the City Attorney and Chief of Police, appoint, reassign, discipline and remove all directors of bureaus and departments and all employees, consistent with all laws and collective bargaining agreements. The Administrator may delegate to directors the authority to appoint, discipline and remove subordinate employees.
- (e) Execute and enforce all laws adopted by Council.
- (f) Attend meetings of the Council, and its committees, and such meetings of boards and commissions as the Administrator chooses.
- (g) Investigate affairs of the City under the Administrator's supervision, including any contract for the proper performance of obligations running to the City within the Administrator's jurisdiction.
- (h) Control and administer the financial affairs of the City. The Administrator may appoint a Budget Director to act under the Administrator's direction.
- (i) Prepare an annual budget under the direction of the Mayor for the Mayor's submission to the Council.
- (j) Prepare and submit to the Council such reports as it may require.
- (k) Keep the Council at all times fully advised as to the financial condition and needs of the City.
- (l) Prescribe such general rules and regulations as the Administrator may deem necessary or expedient to the general conduct of the administrative departments under the Administrator's jurisdiction. The Administrator may delegate rulemaking authority to other bureau directors.
- (m) Perform such other duties as may be directed by the Mayor or prescribed by this Charter or by City Code.

The city administrator will be in charge, with few exceptions, of hiring, firing, and supervising bureau directors, better insulating the bureaus from political jockeying while prioritizing continuity of service and longer-term planning. The two exceptions carved out are for the appointment of the City Attorney and Chief of Police. The City Attorney serves as counsel for both a mayor and the city council, and the full faith and trust in the City Attorney through a confirmation process is an essential step in government functioning. The Chief of Police is an incredibly high-profile leadership position that directly impacts the lives of many Portlanders, and with that requires increased direct political

accountability in the form of a confirmation process. Both positions would be nominated by a mayor and subject to council confirmation.

FISCAL IMPACT OF PROPOSAL TO CHANGE CITY GOVERNMENT

The Charter Commission recognizes that many Portlanders think the city is on the wrong track and that big changes, including in the structure of city government, are needed to ensure our government is more accountable, transparent, efficient and effective, responsive, and representative of every area of our city. If Portland voters approve measure, the city will need to allocate funds to implement the will of the voters.

The City Budget Office provided an estimate of the fiscal impact of the proposal to change city government. This estimate is based on Fiscal Year 2022-2023 numbers. This estimate does not include assumptions around the second-order effects of charter reforms, such as potential savings from changing or consolidating bureau functions or the cost of creating new programs or functions.

If voters approve the measure in November 2022, Portlanders will expect geographic-based council elections using ranked choice voting to be implemented in the November 2024 election, with the new council entering office in January 2025 into the new form of government's roles and responsibilities.

One-Time Transition Costs (anticipated from 2022 to 2025)

One-time cost estimates of this transition are approximately \$4.0M to \$5.9M per year, or between 0.6% and 1.0% of Fiscal Year 2022-2023 discretionary resources, during the assumed three-year transition period from 2022 to 2025. In the FY 2022-23 Approved Budget, the City has approximately \$617M in General Fund discretionary resources, which are funds that can be allocated with few restrictions. Discretionary funds are approximately 10% of the overall total city budget. While the precise funding sources for these changes have not yet been determined, funding is likely to come from a combination of discretionary and bureau funds as appropriate and allowable. An overview of cost drivers and assumptions are included below.

- **Public education & outreach.** The city needs to provide public education both before the November 2022 election and, if voters approve the proposal, after the election so Portlanders understand the change to city government. Public education and outreach must engage Portlanders across neighborhoods, lived experiences, and backgrounds. The Charter Commission is committed to equitable, accessible, and transparent community engagement that aligns with the city's core value, particularly anti-racism, equity, transparency, and communication.
- **Transition support.** The city will need staff to effectively implement the change. Transition support may include staffing for community oversight and engagement, administration and operations, streamlining of the city's organizational structure to match changes to the form of government, and elections and elected office transition. The team may include existing city employees and new time-limited hires.
- **Council offices.** Moving and establishing downtown and district offices for each councilor, including costs related to furniture, conference rooms, securing improvements, permits and fees, storage, and project management. Other transition costs such as personnel onboarding costs, computers and related technology costs, and swearing-in ceremonies.
- **Ranked choice voting implementation.** Portland voters live in three counties: Multnomah, Washington, and Clackamas. The city had initial conversations with these jurisdictions and the major vendors for Portland's elections about what is needed to implement ranked choice voting. We anticipate a two-year implementation cycle that will include coordination between the vendors, software and tabulation upgrades, ballot design and voter-education. Clear Ballot, the major vendor for Multnomah County, is preparing for a 2023 ranked choice voting election in Colorado that is very similar to the Charter Commission's proposal. Additionally, Clear Ballot uses open-source software provided by the Ranked Choice Voting Resource Center. It is possible that software

costs will be less than anticipated due to the ability to modify base software used in Colorado to meet Portland's specifications.

- **Districting process.** Recruit and support an independent district commission to lead a community-driven process to create a district map for the November 2024 election. Costs may include contracting with demographers and other consultants to comply with regulations for creating districts that are equal in population, contiguous and compact, utilize existing geographic or political boundaries, do not divide communities of common interest, and are connect by transportation links; and voter and candidate education associated with the transition to district elections.

Annual Ongoing Costs (anticipated from January 2025 forward)

Annual ongoing costs of the measure are estimated between \$0.9M to \$8.7M annually, which equates to between 0.1% and 1.4% of the city's General Fund discretionary resources. An overview of cost drivers and assumptions are included below.

- **Council offices.** With an expanded city council, estimates assume fewer staff per council office than in the current system. This reduction in staffing accounts for the shift of bureau management from city commissioners to a city administrator. Estimates also assume some shared staff across the three council offices within a single district: shared communications and business operations functions and the low estimate additionally assumes a shared scheduling and constituent services function amongst the offices. For each city councilor, estimates assume two office spaces: an individual office for the councilor and their staff within their own district, and an office near city hall to be shared amongst the councilors and their staff with others in the same district.
- **Council Clerk's office.** Additional staff to help with the increased volume of council business generated by a larger city council. This includes assisting with the coordination of agenda items, training, meeting facilitation, and processing of council decisions and recordkeeping.
- **Special elections.** The cost of primary and general elections typically falls to the counties, whereas the city is responsible for costs associated with special elections. The calculations assume one vacancy resulting in a special election every four years. Because a ballot would have a grid for voters to indicate their levels of preference for candidates running for this seat, an additional page per ballot is also assumed. Labor, printing, and postage costs are currently unknown for the additional ballot page because details such as number of levels that a voter is asked to rank can have a drastic impact on ballot design. Other costs allocated to the city for special elections can also vary widely due to factors such as timing, which influences if the city can share some of the cost with other jurisdictions, and voter turnout, which influences costs for processing return ballots.
- **Ranked choice voting.** Estimates assume that the city will be responsible for costs associated with ranked choice voting and tabulation software for general and special elections.
- **Elections office.** The Elections Office will require more staff to help with the additional responsibilities resulting from implementing ranked choice voting, and from having a larger number of councilors. These responsibilities include processing an increased number of candidate filings and overseeing the lobbying and political consultant regulations for a larger city council.
- **Small Donors Program.** The Small Donors Program is a city program that aims to decrease the influence of money on the campaigns of candidates running for mayor, auditor, or city council. Candidates participating in the program currently get a 9-to-1 match on the first \$20 donated from an eligible donor in the primary and again in the general election by agreeing to certain program restrictions. Estimated costs under proposed charter reforms are lower than current costs because there would be no costs associated with a primary election under ranked choice voting and because of assumed lower match caps.
- **Mayor's office & city administrator's office.** Estimates assume the cost of a mayor's office to be less than the current costs due to a mayor no longer holding a legislative role on the city council. However, the mayor's office

and/or the city administrator's office will hold a larger role in the day-to-day management of city operations than under the current system. Cost estimates for each office differ in the assumptions around collaboration and delegation of the day-to-day operations and administration between a mayor's office and city administrator's office. For example, a lower cost estimate for a mayor's office assumes a smaller mayor's office with a higher level of delegation to the professional city administrator, and thus would be paired with a higher estimate for the city administrator's office.

BALLOT MEASURE CONSTRUCTION

The Charter Commission will forward its proposal to change city government as a single ballot measure for Portlanders to consider in November 2022. The City Attorney's Office is responsible for drafting the ballot title and explanatory statement.

The City Attorney's Office informed the Charter Commission that, under current law, a single ballot measure is legally permissible and defensible as the reforms clearly fall under a unifying principle and are clearly and properly connected; therefore, it is up to the Commission to decide how to present its proposal to Portland voters. A memo from the City Attorney's Office on the Oregon Constitutional Requirements for Ballot Measures can be found on the Commission's website [here](#).

From the start, the Charter Commission has understood that the problems facing Portland are too fundamental and interrelated to be resolved by a patchwork of repairs. As a result, our emphasis has been on crafting a broad and cohesive package that would achieve the public's demand for a government that is more accountable, transparent, efficient and effective, responsive, and representative of every area of our city. The Commission's recommendations are not just complimentary but incumbent upon each other. If, for example, you separated form of government into its own ballot measure, then you could end up with a situation in which we retain the current commission form of government and we move to district-based elections. That would mean that city commissioners continue to directly manage bureaus and you would have the parks commissioner or the commissioner in charge of the fire department representing one geographic area. This is completely counter to what we've heard Portlanders want.

Reinforcing the Commission's approach, extensive public opinion research has shown that a single measure has more support among Portlanders. One poll found that only a slim majority supports changing to a mayor-council form of government (the change proposed by the Charter Commission). If you add ranked choice voting to the shift to a mayor-council form of government, more respondents support the change. If you add an expanded city council elected by districts to the shift to a mayor-council form of government, even more respondents support the change.

Another poll specifically asked the question "which of the following two statements do you agree with more:" (1) Portland government is such a mess that we need to pass this whole package of reforms – a new form of city government, ranked choice voting, and multi-member districts; or (2) we should only focus on changing Portland's form of government – not reforms to how we elect local leaders and how many members represent each district that distract from the main issue. Fifty-seven percent of respondents choose the whole proposal; 31% wanted to focus only on form of government; and 12% didn't know. Links to the public opinion research can be found in the public opinion research section of this progress report.

The Charter Commission wants to give Portlanders a choice to change our city government to address Portlanders' overwhelming belief that our city is on the wrong track and to respond to Portlanders' calls for significant and comprehensive change to get our city moving in the right direction. It will be up to Portlanders to decide.

COMMUNITY ENGAGEMENT

The important work of charter reform requires engaging Portlanders across neighborhoods, lived experiences, and backgrounds. The Charter Commission is committed to a community-driven process informed by an equitable, accessible, and transparent community engagement process.

The Charter Commission's Community Engagement Committee co-creates community education and engagement strategies with our community partners. The committee plans and evaluates engagement strategies for the Charter Commission.

Table 1: Engagement by the numbers

| ENGAGEMENT | NUMBER |
|--|----------|
| Survey responses | 4,022 |
| People receiving monthly email updates | 1,310 |
| Community listening sessions (partner & Commission hosted) | 26 |
| Participants at listening sessions (partner & Commission hosted) | 580 |
| Public comments received | 1,600 |
| Hours of verbal public comment | 15 hours |
| Public meetings | 81 |
| Charter review briefings & presentations | 119 |
| Policy discussions with community organizations | 34 |
| Media articles, interviews, or inquiries | 133 |

Note 1. Numbers are as of 06/15/2022, except public comments are as of 05/30/2022 at 5:00pm.

COMMUNITY EDUCATION & ENGAGEMENT PARTNERSHIPS

Coalition of Communities of Color (CCC)

The Charter Commission partnered with the Coalition of Communities of Color (CCC) on the design and implementation of community education and engagement activities to meaningfully engage Portland's diverse communities in the charter review process with a focus on Portlanders who have been historically left out of city hall decision-making.

The Coalition of Communities Color partnered with a 12-member collaborative that includes the Asian Pacific American Network of Oregon (APANO), Hacienda CDC, Africa House, Pacific Islander & Asian Family Center, Muslim Educational Trust, Native American Youth & Family Center, Street Roots, Slavic & Eastern European Center, Unite Oregon, Urban

League of Portland, Verde, and Next Up. All these partners bring deep community relationships and cultural expertise, with extensive experience in community engagement sessions, outreach, and trainings. The primary focus of CCC's collaborative is culturally-specific outreach and community engagement sessions with partner organizations. The secondary focus is broad multiracial outreach to the public at large while ensuring that all outreach materials are accessible to BIPOC communities, with anti-racist engagement strategies.

Community Engagement Cohort

The Charter Commission also established a community engagement cohort made up of seven community-based organizations. Cohort members spend about 12 hours a month developing ways for community members to provide input – and then engage the communities they serve to participate in charter review. This approach was designed to ensure that engagement is culturally relevant, reduce barriers to participation and compensate community organizations for their expertise. Participating cohort members include Taking Ownership PDX, Hygiene4All, Equitable Giving Circle, Rosewood Initiative, East Portland Action Plan, Rohingya Youth Association of Portland (RYAP), and Sunrise Movement PDX.

Cohort member organizations have engaged their communities through various methods that meet the different needs of the communities they serve. All the organizations have tapped into their existing communication channels to share information and have varied engagement strategies. Some of the engagement activities have included newsletter outreach, charter 101 video creation, phone canvassing, social media posts, student class presentation, charter review presentations, in-language stakeholder interviews (Rohingya and Burmese), targeted conversation in Nepali, a community survey in Spanish, and more.

PUBLIC COMMENT

As of May 30th, 2022 at 5:00pm, the Charter Commission received 1,600 public comments through an online comment form, email, or 15 hours of verbal testimony. Of the 1,600 public comments received 58.4% mention form of government, 42.6% mention city council elections, 14.9% alternative voting methods, 8.6% mention homelessness, 7.6% mention climate justice, 3.6% mention participatory budgeting, 3.5% mention general charter reform support, 3.4% mention safety, and 3.3% mention police. Below is a summary of the public comment themes.

- **The commission form of government is not working for Portland.** There was overwhelming input that the city has outgrown the outdated commission form of government. People cited the failure of city government to make progress on significant, complex issues. A range of issues were cited, including homelessness, gun violence and public safety, economic inequality, environmental crises, housing affordability, traffic fatalities, zoning, infrastructure, and trash.
- **City Commissioners should not directly manage bureaus.** Reasons people cited included a lack of shared vision to guide policymaking and budgeting, lack of bureau coordination and resulting silos, and the unnecessary cost overruns, delays, and power struggles that occur when bureaus have misaligned goals or priorities. People also believe it results in bad management, including commissioners who aren't qualified to directly manage bureaus, commissioners' micromanaging and politicizing the bureaus, and a lack of consistent management due to commissioner-in-charge changing.
- **There's a lack of accountability and no one is in charge.** People feel that it is hard to hold anyone accountable in the commission form of government and there's a lot of "that's not our bureau's responsibility" and finger-pointing. People feel like no one is in charge, no one is responsible for a strategic vision, and that the buck should stop somewhere. Many people noted the mayor doesn't have authority to do anything. While people indicated a desire for the mayor to have "actual authority," commenters varied on the extent and expression of that authority.
- **A professional city manager is needed.** Regardless of the new form of government, most people prefer a professional to oversee bureau administration to enhance bureau performance and ensure equitable and

professional administration of bureaus and delivery of services. Commenters varied on whether the mayor alone or the mayor and council should oversee the position and who should be responsible for hiring and firing bureau directors. Some concerns about a city manager were raised, including the difficulty of holding the unelected position accountable, lack of transparency, and challenges of getting rid of a bad city manager.

- **City Councilors should be elected by geographic districts.** Public comment overwhelmingly supports electing city councilors by district to increase representation, help Portlanders know whom to reach out to, increase connection between elected leaders and their constituents, ensure unique needs of sections of our city are reflected, reduce barriers for people to run and win elected office, and ensure East Portland is no longer left out. Some commenters recommended a hybrid model with some councilors elected by district and some elected citywide to ensure issues are considered less parochially.
- **Increase the size of city council.** Many commenters recommended increasing the size of city council to increase representation, diversify councilors, increase councilors' focus on constituent services and legislating, and bring Portland more in line with cities of similar population. Recommended size varied anywhere from 6-35 councilors plus the mayor.
- **Interest in an alternative voting method.** Commenters expressed interest in an alternative voting method to give voters more choice and flexibility at the ballot box, increase voter engagement, address the number of candidates who have been elected with less than 50% of the vote, promote more positive campaigning, and have a voting system that accommodates the larger pool of candidates created by Portland's public campaign finance system. Most commenters who addressed voting methods preferred ranked choice voting. Some concerns included voter confusion, potential for an election result the majority doesn't want, and challenges for voters to learn about all the candidates. Commenters also noted the need for startup and voter education funding. Other issues were raised in public comment, including the need for voter education on the charter reforms, environmental justice and climate action, police accountability, government transparency, participatory budgeting, and a civic participation commission.

Who submitted public comment?

The only demographic data the Charter Commission has for public commenters is zip code data, and we only have that 40% of commentators. Based on available data, East Portland underrepresented in public comments.

Table 2. Public commenter demographic information in comparison to Portland

| LOCATION | PUBLIC COMMENTERS | PORTLAND POPULATION |
|---|-------------------|---------------------|
| North/Northeast Portland | 41% | 28% |
| Southeast Portland | 22% | 25% |
| East Portland | 5% | 24% |
| West Portland | 26% | 23% |
| Portland-Metropolitan area | 6% | N/A |
| Other Oregon cities outside metropolitan area | <1% | N/A |
| Outside of Oregon | 1% | N/A |

Note 2. Portland Population is sourced from the 2020 American Community Survey (ACS) data estimates and is subject to both sampling and non-sampling errors.

COMMUNITY LISTENING SESSIONS

The Charter Commission and the Coalition of Color Collaborative hosted 26 community listening sessions that engaged 580 community members. Community listening sessions provided an opportunity for Portlanders to learn about charter review and engage in small group discussions about their lived experiences and perspectives. Community members had the opportunity to explore their perspectives on the Charter Commission's form of government and elections proposals.

The Coalition of Communities of Color decided to design two-part sessions to educate community members about the charter review process in an accessible way. The Charter Commission's listening sessions mirrored CCC's structure and discussion topics. The first part of CCC's sessions, titled the Charter Review 101 Workshop, took place in November 2021. Participants from the first workshop were prioritized for part two of the series, which took place in January 2022. The objective of part one was to inform community members about what the Charter Commission is and to present foundational education about the topics the Commission is exploring - form of government and elections. The objective of part two was to present an initial set of proposals and to gather feedback, concerns, and opinions from community members about potential changes to the form of government and elections. The discussions primarily focused on form of government alternatives, district representation models, city council size, and alternative voting methods. However, participants shared many other opinions on the Charter Commission's potential proposed recommendations. Below are the collective themes that were uplifted among the community listening sessions. It's important to note that no community is a monolith, each participant is an individual with their own set of lived experiences and opinions, and these themes only capture the perspectives of those who participated in the events. This information should not be interpreted as universal opinions or preferences from any community.

November 2021 community listening sessions

In November 2021, our partners hosted part one of the listening sessions through hosted engagement by the Coalition of Communities of Color Collaborative. Five key themes emerged from this engagement:

1. A lack of information and knowledge about the city, its services, bureaus, and processes due to barriers to access and a lack of outreach and communication from the city.
2. City government does not adequately or equitably respond to the community's needs or concerns due to the city not taking sufficient action to meet community needs and community voices not being meaningfully centered in decision-making process.
3. Accessibility is the main barrier to participating in City Council elections. Accessibility concerns included lack of voting education, voter registration, citizenship status, location, the process of voting and language.
4. There's a disconnect between the community and candidates. Candidates don't know the lived experiences or issues that communities face and/or feeling that none of the candidates reflect their values or interests.
5. Communities prefer some form of geographic or localized representation.

In November 2021, the Charter Commission also hosted part one of their listening sessions. Six key themes and ideas emerged from this engagement:

1. Portlanders want change
2. Portlanders want to be heard by city hall
3. Portlanders want a government that creates positive movement on issues that matter to us
4. Portlanders want all of us to be enthusiastic about voting
5. Shift to a form of government in which City Commissioners do not directly manage bureaus
6. Shift to district-based elections

Some additional solutions included increasing the size of the City Council, reforming campaign finance, adopting a voting method that captures people's preferences, increasing access to voting, adopting participatory budgeting, and there was a variation on whether primaries are beneficial.

The full reports of the November 2021 listening sessions can be found on the Charter Commission's [website](#).

January 2022 community listening sessions

In January 2022, the Coalition of Communities of Color collaborative hosted part two of the sessions. Nine key themes emerged from this engagement:

1. Participants elevated the importance of accountability, regardless of the form of government
2. Participants supported shifting away from the commission form of government
3. Overall, participants did not have a clear preference between a Mayor-Council or Council-Manager form of government
4. Participants preferred district representation for city council seats
5. Participants preferred a model of multi-member districts with multiple elected leaders per district
6. Participants raised concerns about the districting process and called for an equitable and community-centered process
7. Participants supported an increased city council size
8. Participants supported the shift to an alternative voting method rather than Portland's "pick one" method
9. Most participants preferred ranked choice voting as the alternative voting method

In January 2022, the Charter Commission also hosted part two of the listening sessions. Thirteen key themes and ideas emerged from this engagement:

1. Change is overdue
2. Portlanders are unclear who is responsible for different city functions and who to hold accountable
3. A desire for elected leaders to work collaboratively
4. Portlanders want more representation
5. Preference for district-based elections
6. Slight preference for multi-member over single-member districts
7. Shift to a form of government in which City Commissioners do not directly manage bureaus
8. Portland needs clear roles and responsibilities and lines of authority
9. Portlanders were split on Council-Manager or Mayor-Council form of government
10. Portland needs an improved voting system
11. Preference to get rid of primaries
12. Reform campaign finance
13. Need for robust civic education

Full reports of the Coalition of Communities of Color Collaborative sessions and the Charter Commission sessions are available on the [Charter Commission website](#) under the "Key Information and Documents" section. To read more about the collective findings and themes, check out the full reports.

Who participated in the community listening sessions?

Table 3: Charter Commission & Community Partner Hosted Community Listening Session Totals

| | CCC & PARTNER HOSTED | CHARTER COMMISSION HOSTED | TOTAL |
|-------------------------------------|----------------------|---------------------------|-------------|
| NUMBER OF LISTENING SESSIONS | 22 | 4 | 26 Sessions |
| NUMBER OF PARTICIPANTS | 373 | 207 | 580 engaged |

Note 3. CCC & Partner sessions include sessions through CCC, APANO, Hacienda CDC, IRCO, MET, NAYA, Next Up, Street Roots, Unite Oregon, Urban League, & Verde.

In the community listening held in November 2021 and January 2022, a total of 580 participants were engaged. Of the 373 engaged through our partner-hosted sessions, we have demographic information on 70% of session participants for racial and ethnic community identified and 65% of session participants for additional communities identified. Of the 207 engaged through the Commission-hosted sessions, we have demographic information on 27% of session participants. All demographic questions were optional, and it's important to note that these percentages reflect the responses of participants who specifically responded to these questions. Additionally, not every participant who attended the listening sessions felt comfortable disclosing their demographic information.

Table 4: Racial & Ethnic Communities identified in comparison to Portland

| RACIAL & ETHNIC COMMUNITY IDENTIFIED | CCC & PARTNER HOSTED | CHARTER COMMISSION HOSTED | PORTLAND POPULATION |
|---|----------------------|---------------------------|---------------------|
| Black, African American, or African | 19.4% | 1.8% | 6% |
| Latinx/e | 30.1% | 3.7% | 10% |
| Asian | 15.6% | 0% | 8% |
| Pacific Islander | 5.3% | 0% | 1% |
| Native American/Native Alaskan | 12.9% | 0% | 1% |
| Middle Eastern | < 2 % | 1.8% | 1% |
| White/Western European | 19.8% | 88.8% | 71% |
| Slavic/Eastern European | 3.0% | 0% | 6% |
| Don't know | < 1% | 0% | N/A |
| Don't want to answer | < 3% | N/A | N/A |
| Other (Please List): Biracial, Arab-American, Ashkenazi, Taiwanese, Hmong, Ashkenazi, & Jewish. | 6.8% | 5.5% | N/A |

Note 4. CCC & Partner sessions include sessions through CCC, APANO, Hacienda CDC, IRCO, MET, NAYA, Next Up, Street Roots, Unite Oregon, Urban League, & Verde. The demographic information in this table is from 70% of participants from CCC-Partner Sessions and 27% of participants from the Charter Commission hosted sessions. The Portland population was sourced from the 2019 American Community Survey (ACS) data estimates and is subject to both sampling and non-sampling error. The 2019 ACS data does not include don't know, don't want to answer, and other.

Table 5: Additional Communities they identify with in comparison to Portland population

| ADDITIONAL COMMUNITIES THEY IDENTIFY WITH | CCC & PARTNER HOSTED | CHARTER COMMISSION HOSTED | PORTLAND POPULATION |
|---|----------------------|---------------------------|------------------------------|
| Renter | 49.3% | 12.9% | 47% |
| Low-income | 48.1% | 11.1% | <60%AMI: 28% <80%AMI: 45% |
| Transit dependent | 14.8% | 9.2% | N/A |
| Unhoused/person experiencing homelessness | < 3% | 3.7% | 1% |
| Disabled/person with a disability | 11.1% | 7.4% | 12% |
| LGBTQ+ community | 18.1% | 7.4% | 7% |
| Immigrant | 32.9% | 3.7% | 14% |
| Refugee | 6.9% | 0% | N/A |
| Retired | N/A | 44.5% | N/A |
| Other (Please List): Property owner, citizen, older, business owner, taxpayer, long term resident, veteran, Chuukese, first-generation, first-time homeowner, Muslim, student, Taiwanese American | 10.6% | 25.9% | N/A |
| None | N/A | 9% | N/A |

Note 5. CCC & Partner sessions include sessions through CCC, APANO, Hacienda CDC, IRCO, MET, NAYA, Next Up, Street Roots, Unite Oregon, Urban League, & Verde. The demographic information in this table is from 65% of participants from CCC-Partner Sessions and 27% of participants from the Charter Commission hosted session. Please note that the CCC's survey did not have a choice option for "retired" or "none." The Portland population was sourced from the 2019 American Community Survey (ACS) data estimates which are subject to both sampling and non-sampling error. The 2019 ACS data does not have community verified data for transit-dependent, LGBTQ+ community, retired, other and none. The LGBTQ+ percentage for Portland Population was sourced from a community partner. The Commission continues to seek additional community-verified percentages for the missing percentages for the Portland Population.

COMMUNITY SURVEYS

Survey 1: Civic Engagement Survey

In November 2021, in partnership with the Coalition of Communities of Color, the Charter Commission launched a multi-lingual civic engagement survey that asked respondents how they wanted to participate in the charter review process. The survey was available in English, Spanish, Russian, Vietnamese, and traditional and simplified Chinese. CCC's partner organizations and others helped to broadly distribute the survey. In total, 1,036 survey responses were collected. The survey was both a tool to gauge community members' current understanding of the Charter Commission and inform future engagement and communication strategies. The results from the survey were instrumental in helping the Coalition of Communities of Color and the Charter Commission design events in community-centered and accessible ways.

Most participants, 55.2%, responded that they know some to a little amount about the Charter Commission. 15.4% responded that they don't know anything about the Charter Commission. 31.2% of participants were somewhat comfortable interacting with our city government, and 10.2% were extremely uncomfortable.

Participant Information and Communication Outlet Preferences

Participants were asked to share which communication outlets they typically obtain information from related to community events and activities. Most participants shared that social media (24.7%) and newspaper (15.1%) outlets are their typical methods of obtaining information about community engagement opportunities. 11.4% shared that they use community-based organizations' email lists to obtain information and 7.5% access information through community bulletin boards. These outlets of communication are important to consider as trusted mediums for delivering information about the Charter Commission and have been utilized to share engagement information.

Participant Event Preferences

Participants were asked how they preferred to participate in community events. Most participants indicated that group conversation and more time focused on learning were important to their engagement. Among those who selected "other" many preferred a combination of learning, asking questions and group discussions. Other participants indicated that their preference was based on the topic and objective. Participants also suggested allowing for more time for feedback and listening to other community members. Lastly, among those who answered other many suggested having a clear topic, with action items. Most participants preferred small to medium groups ranging from 10 to 50 participants total per event.

Lastly, survey participants were also asked to share what would make it easier to be involved in the charter review process. Some themes in responses included: hosting events at varying times of the day, including evenings and weekends, offering language interpretation, providing skilled facilitators at events who are trusted members of the community, making intentions clear and building trust with the community, and providing more opportunities for the community to engage in open dialogue with Charter Commissioners. This data has helped the Commission inform charter review community education and engagement efforts to be responsive to various community needs and reduce participation barriers.

Community Survey 2: Phase One Community Priorities Survey

In January 2022, in partnership with the Coalition of Communities of Color, the Charter Commission launched a second multi-lingual survey that asked respondents how they would like to be served by the city government and how they would like to be represented by city leaders. This survey was designed to capture opinions from Portlanders about some of the Charter Commission's potential proposed recommendations. CCC's partner organizations and others helped to promote the survey. The survey was available in English, Spanish, Russian, Vietnamese, Traditional, and Simplified Chinese. In total, there were 2,977 survey responses.

Although the CCC and the Charter Commission worked to design the survey in the most accessible manner, it's important to emphasize that the survey has limitations. First, the familiarity with the concepts presented varied per respondent, and due to the technical nature of these topics, survey respondents may not have understood all the questions or options. Equally important, the only context respondents were given on the survey was an introductory section that defined the terms "city elected leader," "City Council," "Mayor," "City Council elections," and "City Administrator" and a link to the Charter Commission's website for more information. Additionally, the survey's quantitative methodology limits respondents' ability to detail their opinions, experiences, and perspectives in their own words. Therefore, the results of this survey are narrowed and do not adequately capture the full breadth of respondents' desires for their city government and leadership. Lastly, the demographic sample of the survey is limited in diversity and is particularly not representative of racial minorities, low-income, immigrant, and refugee communities. These limitations are crucial to consider while reviewing the results.

Survey 2: Form of Government Survey Questions

Table 6. Survey question: Should the Mayor have more power than a City Council member?

| PERCENTAGE | RESPONSES |
|------------|--|
| 57.6% | Yes, the Mayor should have more power than a City Council member to ensure there is one leader with the responsibility to lead the city and be accountable to voters |
| 24.6% | No, the Mayor should have equal power to a City Council member to ensure there isn't too much power in one single leader who could be bound to special interests |
| 10.8% | I don't know and need more information |

The objective of this survey question was to gauge whether respondents would prefer a government structure with a mayor who serves the chief executive role of the city, or whether they would prefer another type of government structure in which a mayor and the city council more closely have equal powers. Most respondents preferred a government structure in which a mayor serves the executive role of the city government. Within the Coalition of Communities of Color listening sessions, most participants did not have a preference between a mayor-council and a council-manager government. However, of the six organizations that did express a preference, four organizations preferred a council-manager structure with more equal powers among a mayor and the city council. This information is also helpful to understand many respondents needed more educational context about the form of government structures.

Table 7: Survey question: If a Mayor has additional power to a City Council member, what should they be able to do?

| PERCENTAGE | ANSWER OPTIONS |
|------------|--|
| 34.4% | Supervise city departments |
| 25.3% | Hire and fire the heads of city departments |
| 19.5% | Decide the policy agenda for City Council meetings |
| 17.6% | Override (veto) decisions of the City Council |

The objective of this survey question was to assess what responsibilities and powers respondents would like a mayor to be tasked with. Respondents were able to mark all the options they agreed with. These responses align with the results of the previous question, in which respondents leaned towards an executive mayor-council government structure.

Table 8. Survey question: Who should be responsible for hiring and firing the heads of City bureaus that help deliver our city services?

| PERCENTAGE | ANSWER OPTIONS |
|------------|--|
| 33.6% | A non-elected City Administrator that is supervised by both the Mayor and the City Council |
| 30.6% | The Mayor and City Council together |
| 16.4% | A non-elected City Administrator that is supervised by the Mayor alone |

The objective of this question was to explore respondents' preferences on the administrative and daily operations of the city. These survey results suggest that survey respondents like the idea of a non-elected City Administrator like a Chief Administrative Officer or a City Manager and want both a mayor and city council to supervise the position.

Survey 2: City Council Elections Survey Questions

Table 9. Survey question: A voting system can impact the representation of different groups in the city. Which option best reflects your beliefs about representation on our City Council?

| PERCENTAGE | ANSWER OPTIONS |
|------------|--|
| 48.1% | Minority groups should be able to elect a proportionate share of seats on the City Council |
| 22.4% | A single majority group should be able to elect every seat on the City Council |

The objective of this survey question was to explore whether participants preferred a winner-take-all majoritarian system or a proportional system regardless of the districts. These survey results lean towards more respondents preferring a proportional system in which voters win a proportionate share of seats on city council in proportion to their share of the voters.

Table 10. Survey question: How would you like to vote for the candidates in our City Council elections?

| PERCENTAGE | ANSWER OPTIONS |
|------------|--|
| 57.6% | Rank the candidates in order of my preference |
| 20.8% | Give the candidates a rating based on how much I like them |
| 17.6% | Pick only one candidate I think is best |

The objective of this survey question was to assess whether respondents like the "pick one" voting method or if they like an alternative voting method that allows them to express their preferences, like Ranked Choice Voting. These survey results indicate that most respondents like an alternative voting method and prefer ranking candidates in order of preference. This aligns with the Coalition of Communities of Color listening sessions in which most participants also preferred ranking candidates in order of preference to other voting methods.

Table 11. Survey question: How often should city leaders be elected?

| PERCENTAGE | ANSWER OPTIONS |
|------------|---|
| 58.7% | Half of the city leaders to be elected in one year, and the other half be elected two years later |
| 16.4% | All city leaders be elected at the same time every four years when I vote for president |
| 10.2% | All City Council members be elected at the same time every four years, and the Mayor be elected two years later |

The objective of this survey question was to explore whether respondents would prefer elections to be staggered or unstaggered for a mayor and city council's seats. The survey results suggest that most respondents like the current system in which the Mayor and City Commissioner seats are staggered, for example, 2 Commissioners and the Auditor are elected in 2022, then 2 Commissioners and the Mayor are elected in 2024.

Table 12. Survey question: Would you like to elect multiple City Council members to represent your area of the city?

| PERCENTAGE | ANSWER OPTIONS |
|------------|---|
| 38.4% | To elect only one City Council member to represent my area of the city |
| 38.1% | To elect multiple City Council members to represent my area of the city |
| 12.9% | I don't know and need more information |

The objective of this survey question was to gauge whether respondents would like one elected leader or more than one to represent their district, should a district model be implemented. At the Coalition of Communities of Color listening sessions most participants preferred a multi-member district model.

Who responded to the surveys?

Table 13. Survey respondents' demographic information in comparison to Portland

| RACIAL IDENTITIES | CIVIC ENGAGEMENT SURVEY RESPONDENTS | PHASE 1 PRIORITY SURVEY RESPONDENTS | PORTLAND POPULATION |
|----------------------------|-------------------------------------|-------------------------------------|---------------------|
| Black and African American | 8.8% | 3.9% | 6% |
| Latinx/e | 7.2% | 5.0% | 10% |
| Asian | 6.6% | 3.9% | 8% |
| Pacific Islander | 2.5% | 1.1% | 1% |
| Native American | 5.5% | 2.8% | 1% |
| Middle Eastern | <1% | 1.6% | 1% |
| White | 59.5% | 65% | 71% |
| Slavic or Eastern European | 4.2% | 4.2% | 6% |
| Didn't want to answer | <3% | 9.6% | N/A |
| Other | N/A | 2.9% | N/A |

Note 6. Portland Population data is sourced from the 2019 American Community Survey (ACS) data estimates and is subject to both sampling and non-sampling error. The 2019 ACS data does not include don't want to answer, and other.

Table 14. Additional identities of survey respondents in versus to Portland

| Additional Identities | Civic engagement Survey Respondents | Phase One Survey Respondents | Portland Population |
|---|-------------------------------------|------------------------------|------------------------------|
| Renter | 25.8% | 13.6% | 47% |
| Homeowners | N/A | 36.3% | 53% |
| Low-income | 14.8% | 7.2% | <60%AMI: 28% <80%AMI: 45% |
| Transit dependent | 15.8% | 5.9% | N/A |
| Unhoused or people experiencing houselessness | 6.2% | <1% | 1% |
| Disabled or people with disabilities | 9.8% | 5.1% | 12% |
| LGBTQ+ | 12.4% | 10.4% | 7% |
| Immigrant | 7.1% | 3.4% | 14% |
| Refugee | 2.1% | <1% | N/A |
| Preferred Language other than English | N/A | 1.0% | 2% |
| Senior | N/A | 11.2% | 13% |
| Youth | N/A | 1.1% | 18% |
| Other | N/A | 3.5% | N/A |

Note 7. Portland Population data is sources from the 2019 American Community Survey (ACS) data estimates and is subject to both sampling and nonsampling error. We did not have the 2019 ACS data does for low-income, transit-dependent, LGBTQ+, refugee, language and other. The LGBTQ+ percentage for Portland Population was sourced from a community partner. The Commission continues to seek additional community verified percentages for the missing percentages for the Portland Population. Please note that the Civic Engagement survey did not include some of the

identities captured in the phase one survey. After feedback from survey respondents, the additional identities were added. Percentages of Phase One survey was determined out of how many total respondents answered the overall question so the totals do not add up to 100%.

City of Portland Employees

Survey respondents were asked to share if they were an employee of the City of Portland, and 11.6% responded that they were city employees. The CCC compared the differences in the city employees' sample to the responses of the full survey sample. However, the responses did not change more than a few percentage points, which may have been due to the sample size difference.

COMMUNITY ORGANIZATION POLICY DISCUSSIONS

The Charter Commission knows that Portland's community-based organizations are on the frontlines serving our communities, interacting with city government throughout their work, and have a wealth of knowledge and expertise on the policies the Commission is considering. The Commission has met with community-based organizations and groups to have policy discussions. Policy consultations are distinct from the engagements noted above in that the Charter Commissioner sought to understand organization-specific priorities, positions, and expertise on the policies under consideration (compared to organizations engaging their constituents in charter review).

As of this progress report, the Commission has held policy discussions with 34 community-based groups and engaged about 250 people. The Commission will continue to reach out to organizations throughout the rest of the charter review process.

From these policy conversations, emerging themes include:

1. Preference for council-manager form of government with clear internal and external protocols for accountability and clear roles and responsibilities.
2. Preference for an equal and equitable distribution of power among elected officials
3. Portlanders need more representation
4. City Commissioners should not directly manage bureaus
5. Preference for multi-member districts
6. Portlanders have questions about how districts would impact displacement, as well as organizations' work, engagement, advocacy, funding and direct access to city councilors
7. Preference for a voting method that allows for historically underrepresented communities to be represented
8. Slight preference for ranked choice voting, over STAR, due to its simplicity
9. Need for robust community education

Who participated in policy discussions?

The Commission met with the Urban League of Portland and Imagine Black, Somali American Council of Oregon, Regional Arts & Culture Council, Native American Youth & Family Center, Sunrise Movement PDX, Muslim Educational Trust, Self Enhancement Inc., Human Solutions, Verde, Bradley Angle House, Coalition of Communities of Color, Next Up, Hacienda CDC, Pacific Islander & Asian Family Center, Home Forward, African Youth and Community Organization, AFSCME, Unite Oregon, SEIU Local 49, Rosewood Initiative, East Portland Action Plan, Business for a Better Portland, Asian Pacific American Network of Oregon, Latino Network, Living Cully, The Slavic & Eastern European Center, Portland Homeless Family Solution, Taking Ownership PDX, Oregon Native American Chamber, Associated Students of Portland State University, 350PDX, Equi-Insitute, Street Trust, and Hygiene4All.

BRIEFINGS AND PRESENTATIONS

The Charter Commission is committed to connecting with as many Portlanders as possible. Charter Commissioners and staff have given 119 charter briefings and presentations to various community groups and associations and connected with hundreds of community members. At charter briefings, community members had the opportunity to learn more about the charter review process, way to get engaged, get their questions answered and connect with Commissioners and staff. The types of groups included in these briefings included community-based organizations, neighborhood associations, professional organizations, faith-based groups, and assisted living homes. The Commission and staff will continue to present to community groups and organizations throughout the rest of the charter review process.

The Charter Commission also understands that the city's jurisdictional partners are important stakeholders in the charter review process. To ensure our local, state and federal partners were informed of the Charter Commission's work and policies being considered, the Commission hosted a series of drop-in briefings in April-May 2022. At these briefings, elected leaders and staff had the opportunity to learn more about the charter review process, get their questions answered, share input on the policies being considered, and connect with Charter Commissioners. Through the five briefings, 116 elected leaders and staff attended.

BUREAU DIRECTOR DISCUSSIONS

In May 2021, the Charter Commission held a series of meetings with bureau directors to understand their lived experiences with city government and to hear their priorities for charter reform. All but one bureau director met with the Charter Commission.

Bureau directors identified some benefits of the current system:

- Equal power incentivizes council offices to work together to find budget solutions
- Opportunity for collective focus on city-wide issue or single geographic area
- Unique access to city government – Portlanders can reach the city commissioner who is directly responsible for an issue that is bureau-specific
- With a supportive commissioner, a bureau can have access to more resources

Bureau directors identified challenges with our current form of government:

- Lack of clarity in decision-making and governance between government entities, including the city and county, and the city and metro
- Council offices are incentivized to advocate for "their bureaus" rather than city-wide issues
- Bureaus only have one champion at a time making it hard to make systemic change
- Hinders long-term strategic initiatives, in part because bureau assignment changes are disruptive and time consuming
- Commissioners-in-charge of bureaus vary significantly in their bureau management approach – creating inconsistent practices, policies, values, and even how employees are treated – and commissioners may not understand the bureau's line of business
- Lack of continuity in bureau directors and lack of consistency for director evaluations, goal setting, accountability, and requirements for working with the community they serve
- Bureaus don't get consistent messages about the direction they are supposed to be moving in
- Culture of fragmentation built over the last 100 years from the very top to the very bottom of the city
- When bureaus do work on a problem together, they invent the process to collaborate every time which wastes a lot of energy
- Bureaus duplicate efforts including budgeting and human resources
- Bureaus are pitted against each other

Considerations for charter reform:

- Promote council's ability to function as policymakers and leaders
- Focus on how all Portland communities can be represented on council
- Centralize support for outreach and communications
- An executive – either a mayor or city manager – can focus on accountability for the outcomes of the bureaus' work, ensure bureau coordination, manage and make detailed budget decisions, help coordinate the legislative agenda, and reflect the expectations of the public
- While bureau creation and merger should stay with the legislative body, consider bureau consolidation into common areas so work is coordinated

Other issues raised by bureau directors included codifying city values in the charter and the need to connect them to everyday work, a charter preamble, increased council size, the management of Open & Accountable Elections, and contract limitations in the charter.

A recording of all these meetings is available on our [website](#).

CITY ELECTED LEADER DISCUSSIONS

In April and May 2021, the Charter Commission held a series of meetings with all elected leaders of the City of Portland - the Mayor, four City Commissioners, and the Auditor - to understand their lived experiences with city government and to hear their priorities for charter reform. Elected leaders noted benefits of the commission form of government, including the ability to act quickly because of direct administrative control and the ability to ask questions related to bureaus they oversee.

Elected leaders identified challenges with our current form of government:

- Hard to act with urgency and transparency around council's agreed upon priorities
- Lack of city-wide approaches, bureau coordination, and difficulty of moving into alignment across bureaus, e.g., in homelessness, communication and community engagement, community safety, equity in contracting, maintenance deferral, and permitting
- Gridlock when bureaus disagree about the approach to a single problem or goal
- Councilors and their staff spend significant time on the daily management needs of bureaus
- Structural conflict in budgeting to be both an administrator of a bureau and a legislator
- A disconnect between authority and responsibility – Portlanders believe the Mayor is responsible, but the position lacks authority greater than other city commissioners
- Challenges collaborating with other jurisdictions that have different forms of government
- City declares emergencies to break down silos within government and work around the current form of government

Considerations for charter reform:

- Most elected leaders support shifting away from the commission form of government but also note that a new form of government is not a panacea to all our community problems
- Break down silos and don't create new ones
- A new form of government will produce more city-wide goals that bureaus and systems are held accountable to and greater transparency about the city's progress on those goals
- Ask what form of government will work best for Portland under a stress test environment

- Most elected leaders support district-based elections for city councilors to reduce barriers for candidates, enable candidates to run on bringing neighborhood issues to council, increase local accountability and relationships, and diversify council voices

Other issues raised by elected leaders included campaign finance reform, increased council size, community safety and police accountability, the role of the police commissioner, participatory budgeting, and the role of the Auditor's Office.

A recording of all these meetings is available on our [website](#).

MAY 2022 PUBLIC COMMENT PERIOD

On May 3rd, the Charter Commission released its 5th progress report along with the draft text of the proposed charter amendments and a brief impartial narrative summarizing the proposed amendments for public review and comment. The official public comment period for the draft amendment text closed on Monday, May 30th at 5:00 pm.

Employee town halls

The Charter Commission and city staff hosted two City of Portland employee town halls. More than 1,100 city employees attended the town halls. Themes included:

- City employees want education about the proposal and were eager to know the Commission's reasoning behind the recommendations
- Many questions were about the districting process, criteria used to draw the district map, and the use of multi-winner districts
- There were many questions about the roles and responsibilities of city elected leaders and how folks would transition into the new roles
- There were questions about the role of a mayor and suggestions for a mayor to have a tie-breaking vote and/or a veto. There were concerns about an even number of councilors and some specific questions about how a mayor introduces policy.
- Staff were eager to know what cities we can learn from
- Future operations and how we transition to the new form of government if voters approve the recommendations was another theme in the comments and questions
- Staff voiced appreciation for the reforms and for making real recommendations that can help staff deliver services better for Portlanders

Work session with city elected leaders

The Charter Commission invited city elected officials to meet with the Charter Commission during its public comment period. The Mayor and all four City Commissioners participated. Themes included:

- Most questions were about roles and responsibilities including the role of a mayor, clarity between a mayor's role and the city administrator's role, the role of a police commissioner, and the president and vice-president of city council.
- There were some additional questions about why four multi-winner districts, and why ranked choice voting.
- Some specific recommendations included giving a mayor authority to break ties and/or veto, ensuring the right relationship between authority and responsibility, ensuring community can still access an expanded council, examining the role of a mayor in police oversight, investing in voter education, and planning for the transition including district-based offices for councilors.

Meeting with bureau directors

The Charter Commission and city staff presented at an all-bureau directors meeting. Themes included:

- Mayor's veto authority

- Bureau reorganization
- Timeline of proposed changes
- Implementations planning
- Appointment of Fire and Police Disability and Retirement Director

Public hearings and written public comment

Public comments were accepted through a variety of methods including via an online public comment form, by email, in writing, by calling 311, and as verbal testimony at one of four public hearings.

To ensure that community members felt comfortable giving public comment and testifying, the Coalition of Communities of Color and its partner collaborative hosted six public comment testimony workshops and a total of 35 individuals attended.

From May 3rd to May 30th, we received 330 public comments. Of the 330 public comments received during the official public comment period, 59.1% mention form of government, 53.9% mention city council elections. 37.3% mention alternative voting methods, 9.1% mention general support, and 6.1% mention environmental justice.

- **Roles and responsibilities of elected leaders.** Many commenters asked general questions about the roles and responsibilities of city elected leaders under the proposal. Commenters asked questions about the roles and responsibilities of the city council, a mayor, the auditor, and the City Attorney in relation to each other. A few commenters suggested the city's core values should be added as a responsibility to our elected leaders.
- **Mayor's authority.** Many commenters expressed concerns about a mayor's lack of tie-breaking or veto authority and ability to introduce policy. Commenters shared they appreciate the separation of powers, but fear gridlock and the lack of mayoral vote might result in an unresponsive government.
- **General support for the proposed package of reforms.** A preponderance of commenters voiced their unequivocal support for the package of reforms as the change that Portland needs. Many commenters shared their frustrations with our existing commission form of government and shared personal experiences interacting with city services. Many shared their appreciation for a professional city administrator to oversee bureaus, the separation of powers and checks-and-balance, multi-member districts, increased representation, and getting more out of their vote. A few commenters shared their support for one or two elements and not a third. None of the folks who opposed some of the reforms opposed shifting away from the commission form of government.
- **Questions about multi-winner districts.** Some commenters shared questions and concerns about multi-winner districts. Many commenters asked why four districts with three representatives? How much would Commissioners be paid? How would they work together and be accountable? How are decisions made? How are district lines drawn, and if neighborhood lines would be used? Many commenters asked for different configurations of multi-winner districts; some commenters asked for more districts with fewer representatives and some for more districts with the same representation. Some folks raised concerns related to accountability and efficiency.
- **Questions about ranked-choice voting.** Some commenters shared questions and concerns with ranked choice voting. Questions included how ranked choice voting works, the benefits of ranked choice voting, implementation across counties, how votes are counted, and how surplus votes are transferred. A couple of folks shared that even though ranked choice voting is better than our current voting method, they preferred STAR voting. A couple commenters raised the importance of investing in voter education.
- **Consider separate ballot measures for proposed changes.** Some commenters suggested the Commission consider packaging the proposed changes as separate ballot measures. Many commenters expressed support for the package of reforms; however, they expressed fears that Portlanders who don't support one element of the

package will vote “no” on the entire package. A couple of commenters suggested packing the form of government and multi-winner districts together and leaving ranked choice voting alone as a stand-alone measure.

- **Phase II potential topics.** Many commentors shared thoughts and ideas for potential phase II topics, including climate and environmental justice, expanding voter rights, equity, Portland Fire & Police Retirement, advancing the City’s core values, contracting, and Fair and Moral Claims clause.

PUBLIC OPINION RESEARCH

In addition to the broad community engagement the Charter Commission and community partners have executed, the Commission recognizes the importance of highlighting public opinion research that has been recently conducted to hear from Portland voters about charter reform. The Charter Commission was briefed on two public opinion research polls, which you can view online on the Commission’s website at FM3 Presentation and GBAO Presentation.

Building Power for Communities of Color, the sister organization to the Coalition of Communities of Color, commissioned the poll conducted by FM3 Research in partnership with the North Star Civic Foundation. The survey was conducted between February 27th and March 15th, 2022, among 620 likely November 2022 voters in Portland and focused on the Charter Commission’s policy proposals. Key topline findings from the FM3 survey included that majorities of voters support changing the form of government with four in five Portland voters (80%) believing the current commission structure does not serve the city well, and even broader majorities wanting geographic districts with multiple council members and ranked choice voting. For more details about the survey, you can access the link above.

Represent Us commissioned the poll conducted by GBAO Research, in partnership with Building Power for Communities of Color. The survey was conducted between March 8th and March 12th, 2022, among 610 likely November 2022 voters in Portland and reflected a deeper dive into the Charter Commission’s elections reforms. Key topline findings from the GBAO survey included that city governance and electoral reform ballot proposals are broadly popular in Portland, and all garner significant majority support. Additionally, there is strong evidence that ballot measures regarding electoral reform have no negative effect on the chances of passing governance reform. For more details about the survey, you can access the link above.

WHAT'S NEXT?

PHASE I NEXT STEPS

The Charter Commission has taken its final vote on phase I. On June 29, 2022, the Auditor will present the Charter Commission's recommendations to Portland City Council. As a reminder, City Council has no authority to modify or change the Charter Commission's recommendations. The City Attorney's Office is responsible for drafting the ballot measure title and explanatory statement. The City Elections Officer will then publish a ballot title challenge notice. Upon completion or resolution of the ballot title challenge process, the City Elections Officer files a Notice of Measure with County Elections Officer. Portlanders will vote on the proposal in November 2022.

Please stay engaged in charter review by signing up for [monthly Charter Commission email updates](#).

PHASE II PREVIEW

In summer 2021, the Charter Commission chose to approach charter review in two phases. Now that the Charter Commission has taken its final vote on phase I, the Commission will begin phase II. The Commission will reconvene on June 30, 2022, to discuss phase II topics and approach. Any recommendations will need to be voted on by Charter Commissioners before the end of their terms in early December 2022. If the Commission votes to recommend changes, Portland voters would decide in either the May or November 2023 election.

Potential topics under consideration include the following:

- Climate and environmental justice
- Campaign finance reform and governance
- Infusing equity and core values into the charter
- Expanding voter rights
- Bureau-proposed charter amendments
- Participatory budgeting
- The role of the auditor and auditor-proposed charter amendments
- Community safety and police accountability
- Reviewing the Prosper Portland charter chapter
- Government transparency and access to public records
- Service alignment and bureau coordination
- Increased access to information. and civic engagement and education

The Charter Commission wants to hear from Portlanders on phase II. You can sign up to [give verbal public testimony at the June 30th meeting](#) or [submit written public comment at any time](#).

ATTACHMENTS

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Attachment 1

Redlined version of the charter

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AN ACT

Pursuant to Section 13-302 of the Charter of the City of Portland, the Charter Commission submits a measure to change the structure of city government.

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

Section 1. The Charter of the City of Portland, Oregon is amended as provided in Exhibit A.

Section 2. The following amended sections in Exhibit A take effect immediately upon adoption: Section 2-202; Section 2-207; Section 3-101; Section 3-102; Section 3-105; Section 3-108; Section 3-109; and Section 3-110.

Section 3. All other amended sections in Exhibit A take effect January 1, 2025.

EXHIBIT A - Redline version of Portland City Charter

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THE CHARTER

of the

City of Portland, Oregon

Recodification Adopted by the Council of the City of Portland, Oregon by Ordinance No. 76832, passed March 11, 1942 and revised in part by subsequent amendments through December 18, 2020.

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Charter History. The City of Portland was incorporated in 1851 by the territory of Oregon, eight years prior to the year Oregon was granted statehood, 1859. In 1903, the State of Oregon granted a new Charter to the City of Portland. An extensive revision to that Charter, which established a commission form of government, was approved by the voters in 1913. Since 1913, voters have rejected eight attempts to change the City's form of government, most recently in May 2007.

Deletion of Masculine and Feminine Charter Terms. A measure approved by the voters in May 1984 provided for the elimination from the Charter of terms which were masculine or feminine unless the context of the Charter required otherwise.

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

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THE CHARTER
of the
CITY OF PORTLAND, OREGON

"AN ACT

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

CHAPTER 1 - CORPORATE EXISTENCE AND POWERS

ARTICLE 1. POWERS, RIGHTS AND LIABILITIES.

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

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

Section 1-102. Grant of General Powers.

The City of Portland shall be invested within its corporate limits and within the limits of property it holds or occupies outside its corporate limits, with authority to perform all public and private services, including those of an educational or recreational character as well as others, with all governmental powers except such as are expressly conferred by law upon other public corporations within such limits and subject to the limitations prescribed by the constitution and laws of the State, and with authority to acquire by purchase, condemnation or otherwise property within and without its limits, and to perform any function or service or to have any authority permitted by law outside its limits. [Ch. 1903, sec. 3; am. May 3, 1913, sec. 2; rev. 1914, sec. 3; 1928 pub., sec. 3; 1942 recod., sec. 1-103; rev. May 18, 1962.]

Section 1-103. Legal Proceedings.

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

Section 1-104. Alienability of Public Places and Property and Limitations Thereon.

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

The City may vacate street area if such vacation would not interfere with reasonable access to the water front or any transportation terminal. Favorable vote of at least ~~four fifths of all members of the Council shall be~~ nine (9) Councilors are required for any ordinance of vacation. The Council may impose such conditions upon the street vacation as it deems appropriate in the public interest. This Section shall not be deemed to prevent replatting of subdivisions wherever situated, nor relocation of streets.

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

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

No dedication by the City of any park, playground or public place shall be terminated unless the Council finds that such dedicated area is no longer needed for the dedication purpose, or that another public use has a greater need for such property, or that another location would further the public use. When such dedication is terminated, the property may be leased, sold or exchanged.

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

The City may sell, dispose of or exchange any buildings, structures or property, real or personal, which it owns or may acquire not needed for public use, by negotiation, bid, auction or any other method the ~~Council~~ City finds appropriate. Favorable vote of at least ~~four-fifths of all members of the Council shall be~~ nine (9) Councilors are necessary for any ordinance authorizing such sale, disposal or exchange. The City may sell property on contract for such term as the Council finds appropriate, notwithstanding any term limit elsewhere prescribed in the Charter. In cases where property to be exchanged is held by the City upon any trust (including property held as security for bond issues) the property received in exchange shall be similarly held and any net income therefrom shall be applied to such trust.

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

Section 1-105. Nonliability for Defective Sidewalks, Etc.

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

Section 1-106. Damage Claims, Insurance.

Notice of and claims for damages arising out of the alleged torts of the City and those of its officers, employees and agents acting within the scope of their employment or duties, must be presented within the time prescribed by law. The Council shall establish a Loss Reserve Fund and shall annually budget an amount sufficient to maintain such Fund on an actuarially sound basis.

The monies in such Fund may be invested and reinvested in the like manner with other City funds and the earnings from such investment and reinvestment shall be credited to the Fund. Payments may be made from the Loss Reserve Fund to pay claims against the City, its officers, employees and agents, procure insurance against such liability, and pay costs related to the payment of claims including but not limited to payment of investigative, legal and administrative expenses. In the event the ~~Council~~Mayor shall deem it advantageous to procure insurance against claims, the existence of insurance shall be considered in determining the funding necessary to maintain the Loss Reserve Fund on an actuarially sound basis. The ~~Commissioner In Charge~~Mayor may negotiate, compromise and settle any claims and may authorize the payment of any claim in an amount not to exceed ~~five~~ fifty thousand dollars (\$50,000). Payment exceeding ~~five~~ fifty thousand dollars (\$50,000) for any claim must be authorized by an ordinance. [Ch. 1903, sec. 9; rev. 1914, sec. 282; 1928 pub., sec. 282; 1942 recod., sec. 1-111; rev. May 18, 1962; rev. Nov. 2, 1976; am. May 20, 1986; amended May 15, 2012, effective June 13, 2012.]

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

To the end that the Council may provide for paying claims which it finds to be fair and moral obligations of the City but limited to claims that are barred by Charter exemption or by reason of governmental immunity or that are asserted by employees for the replacement of personal property damaged in the course of performing their employment duties, it may in its discretion direct payment or settlement, provided that an affidavit of the claimant or person representing the claimant and having knowledge of the facts is filed with the City Attorney within thirty (30) days after the event which caused the claim (unless the Council, upon proof of a good excuse, permits later filing) showing therein the name, age, and address of the claimant, the time and facts which give rise to the claim, the persons present, if any, able to substantiate the facts and circumstances, the name of the City officer or employee first contacted with reference to the claim, the name and address of the physician and/or surgeon who attended the claimant if the claim be based on personal injury treated by a physician or surgeon, a description of the injuries if personal injury was sustained, a particular statement of the damage, if real and/or personal property was damaged, the places of residence and address of the claimant during three (3) years preceding the claim, a detail of the expense constituting the claim, in so far as expense shall have been and/or probably will be incurred, and such other data as will give the City an opportunity to readily ascertain the facts, extent of injury, cost resulting therefrom and the integrity of the claimant. When insurance (covering the claimant, the City or the City employee involved) applies, the claim shall not be allowed as to any portion covered by the insurance. No claim shall be allowed the enforcement of which would be barred by the statute of limitations, and no payment shall be made unless the claimant accepts the amounts allowed as in full compromise and settlement of all amounts claimed or to be claimed against the City, its officers or employees arising from the same facts. In the event that no settlement is made, nothing herein contained or done hereunder shall prejudice the City in any defense that it may have in any suit or action. Nothing contained herein shall be construed as giving any right to institute or maintain any suit

or action which would not otherwise exist. [May 17, 1946, new sec., 1-112; recod., May 18, 1962; am. May 20, 1980; am. May 20, 1986.]

Section 1-108. Mandatory Weatherization for Existing Buildings Requires Vote of the People.

Except for the provisions of the Building Code of the City of Portland in effect on September 1, 1979, the Council of the City of Portland shall not pass or enforce any ordinance, resolution, law or program mandating weatherization for any building or structure built in the City of Portland prior to September 1, 1979, unless such ordinance, resolution, law or program is referred to the citizens of Portland for a vote. (Add. Nov. 4, 1980.)

ARTICLE 2. BOUNDARIES AND ANNEXATION.

Section 1-201. Boundaries.

All property surrounded by the corporate limits of the City of Portland as described and officially filed from time to time as set forth in this Section is hereby embraced within the City of Portland. Within ten (10) days after this amendment becomes effective and the official canvass of votes is completed and results of election on this amendment are proclaimed, the Council shall adopt a resolution describing such boundaries. Certified copies of such resolution shall be filed with the Secretary of State and the librarian of the Supreme Court of the State of Oregon, with the County Commission or county court of each county in which a portion of the City is located, and with the Clerk, Assessor, Surveyor, Engineer, Elections Officer, and Tax Supervising and Conservation Commission, if any, of each such county, and such other official as may be required by statute. [Ch. 1903, sec. 12; rev. 1914, sec. 9; 1928 pub., sec. 9; 1942 recod., sec. 1-201; am. May 18, 1962; am. May 20, 1986.]

Section 1-202. Annexations.

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

Section 1-203. Boundary Changes.

Within ten (10) days after the effective date of any annexation or ten (10) days after the proclamation of results of any election on merger or consolidation, if such merger or consolidation is successful, the Council shall adopt a resolution describing the new boundaries, certified copies of which shall be filed as set forth in Section 1-201 of this Charter. [Ch. 1903, sec. 17; rev. 1914 sec. 14; 1928 pub., sec. 14; 1942 recod., sec. 1-206; rev. May 18, 1962.]

CHAPTER 2 - GOVERNMENT

ARTICLE 1. THE COUNCIL.

Section 2-101. ~~Municipal Powers Vested in Council~~Allocation.

The municipal powers and authority given to the municipal corporation of the City of Portland hereby is are vested as follows: legislative and quasi-judicial authority is vested in a the City Council and executive and administrative authority is vested in the Mayor, 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~~ any more specific allocation set forth in this Charter. Legislative authority means the power to make appropriations, raise revenue and make laws and quasi-judicial authority means the power to apply laws and policies to a set of circumstances. Executive and administrative authority means the power to execute and administer the laws, including by adopting administrative rules. [May 3, 1913, new sec. 6; rev. 1914, sec. 20; 1928 pub., sec 20; 1942 recod., sec. 2-101; am. Nov. 6, 1962.]

Section 2-102. City Council.

The City Council of the City of Portland ~~shall consist of a Mayor and four (4)~~ twelve (12) Commissioners Councilors. There are four (4) City Council districts. Each district is represented by three (3) Councilors. The Mayor is not a member of Council. [1942 recod., sec. 2-101; rev. Nov. 6, 1962.]

Section 2-103. Boards and Commissions.

The Council may ~~create and~~ establish such boards and commissions as it may deem necessary in addition to boards and commissions established by this Charter, and the Council may abolish or alter from time to time any boards or commissions it has established or may establish. All powers and duties of abolished boards and commissions shall be exercised and performed by the Council.

The Mayor may establish such advisory boards and advisory commissions as the Mayor deems necessary, and the Mayor may abolish or alter from time to time any advisory boards or advisory commissions the Mayor has established or may establish. [1942 recod., sec. 2-102; sec. 2-103; am. Nov. 6, 1962.]

Section 2-104. General Powers.

The Council shall have and exercise ~~all~~ legislative and quasi-judicial powers and authority and the Mayor shall have and exercise executive and administrative powers and authority conferred

upon the City of Portland by this Charter or by general law, except where such power is herein expressly bestowed upon some other officer, board or commission to the exclusion of the Council or the Mayor. The Council may delegate any of its ~~nonlegislative~~ quasi-judicial functions or powers to subordinate officers, boards or commissions as it may find appropriate. The Mayor may delegate any of the Mayor's executive or administrative functions or powers to subordinate officers, boards or commissions as the Mayor may find appropriate. The Council must not exercise any of the executive and administrative powers granted to the Mayor by this Charter. [May 3, 1913, part of new sec. 56; rev. 1914, sec. 18; 1928 pub., sec. 18; 1942 recod., sec. 2-104; am. Nov. 6, 1962.]

Section 2-105. Continuation of Specific Powers.

~~The City of Portland by its Council~~ has power and authority, subject to the provisions, limitations and restrictions contained in this Charter or in statute, to exercise any power or authority granted to the City by statute, general or special, or by this Charter, and may do any other act necessary or appropriate to carry out such authority, or exercise any other power implied by the specific power granted. [Ch. 1903, sec. 73; May 3, 1913, new sec. 34; rev. 1914, sec. 34; 1928 pub., sec. 34; 1942 recod., sec. 2-105; am. Nov. 6, 1962; Nov. 8, 1977, new sec. 65; am. Nov. 4, 1980; amended May 15, 2012, effective June 13, 2012.]

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

1. To exercise within the City and City-owned property, all the powers commonly known as the police power to the same extent as the State of Oregon has or could exercise said power within said areas, and to make and enforce within said areas all necessary or appropriate water, local, police, sanitary and safety laws and regulations.
2. To secure the protection of persons and property and to provide for the health, cleanliness, ornament, peace, safety and good order of the City.
3. To provide for entering into contracts by the City for a period not exceeding five (5) years and the extension or renewal thereof by option or otherwise, for not to exceed an additional five (5) years, except as to property contracts which may extend for more than five (5) years, or as otherwise permitted by this Charter or by statute.
4. To enter into agreements without limitation as to term, as the ~~Council~~ City finds appropriate, for cooperation, consolidation of services, joint acquisition or ownership and maintenance of facilities or services, with any other public corporation or unit of government.

5. To establish, construct, maintain, equip and alter buildings and facilities found necessary or appropriate for administration of government or for use by or for the public.
6. To purchase, or acquire by condemnation or otherwise, or to lease, for such term as the ~~Council~~City may find appropriate, which need not be limited to five (5) years, such property, real and personal, as may be needed for public use; in purchasing property, to enter into lease-purchase agreements or other contracts of purchase which may extend for more than a five (5) year period; to obtain options; and to mortgage for the term of the purchase as security for the purchase price the property being purchased. In exercising this power and authority, only the payments to be made during the year in which the purchase, condemnation, lease, lease-purchase, option, or purchase price mortgage is entered into shall be considered for purposes of applying Section 7-102 thereto. [Am. Nov. 4, 1980.]
7. To provide for the purchase of property levied upon under execution in favor of the City.
8. To purchase, take and hold real or personal property when sold for a delinquent tax or assessment levied or imposed under the authority of the City of Portland, and to sell and convey the same. But the sum bid by the City on or for any such property so sold for a delinquent tax or assessment, shall not exceed the amount of all taxes and assessments plus interest and penalties, and the necessary costs and expenses.
9. To sell by bid or public auction abandoned or impounded and unclaimed property, and property for which storage charges and removal charges, if any, have not been paid.
10. To provide a seal for the City and seals for the several boards and officers thereof.
11. To establish and regulate the fees and compensation of all officers of the City, and for all official services not otherwise provided for in this Charter.
12. To ~~fix by ordinance~~establish the hours during which all offices and departments of the City shall be kept open for business.
13. To appropriate money to pay the debts, liabilities and expenditures of the City or any part or item thereof.

14. To appropriate annually to the Mayor two thousand dollars (\$2,000) as and for a discretionary Fund and such appropriation shall be made.
15. To issue City bonds authorized by this Charter or statute or expressly authorized by vote of the City electors, certificates, warrants, checks and other evidences of indebtedness, but otherwise the City shall not have the power to issue its bonds for any indebtedness or for any purpose, or to increase the bonded indebtedness of the City in any amount or for any purpose whatsoever.
16. To fix fees for establishing street grades, surveying and marking the boundaries of streets, lots or blocks, granting permits for the opening or temporary use of street surfaces, planning of improvements, laying sidewalks, vacating street area, processing of all types of applications, erection and inspection of buildings or facilities, and any special services or functions performed by the City or bureaus thereof.
17. To grant licenses with the object of raising revenue or of regulation, or both, for any and all lawful acts, things or purposes, and to fix by ordinance the amount to be paid therefor, and to provide for the revoking of the same. No license shall be granted to continue for a longer period than one year from the date thereof.
18. To provide for the opening, laying out, establishing, altering, extending, widening, enlarging, vacating and closing, or for establishing and changing the grades, of streets, squares, parks or public places, and to provide for the improving and repairing of streets, squares, parks and public places or of any land over which any right of way has been obtained or granted for any purpose of public travel or use, by means of any kind of work, improvement or repair which the ~~Council~~ City finds necessary or appropriate.
19. To provide for lighting the streets, public grounds, buildings and places, and furnishing the City with light, heat and power, by contract or by means of its own plant.
20. To provide for surveying the blocks and streets of the City and for marking the boundary lines of such blocks and streets; to change by ordinance the number, letter or designation of any lot, block or tract of land within the City which may be conflicting or otherwise unsuitable and to give by ordinance a designation to any tract of land within the City not numbered, lettered or designated. A certified copy of such ordinance shall be transmitted by the Auditor to the recording officer of the County, who shall record the same in

the record of plats of said County and shall make a reference to the record of such ordinance upon the recorded plat on file. No charge shall be made by the recording officer.

- 21.** To set apart as a boulevard or boulevards any street or streets, or portion thereof.
- 22.** To regulate the numbering of houses and lots on the streets, boulevards and avenues and the naming of streets, boulevards and avenues.
- 23.** To regulate and control for any and every purpose the use of streets, highways, alleys, sidewalks, public thoroughfares, and public places within the City and City parks and properties within or without the City, and to regulate the use of streets, roads, highways and public places for transportation or use of every description, and for installation of any kind.
- 24.** To provide or require conduits under the streets, lanes, alleys and public places of the City or any part or parts thereof for the use of telephone, telegraph, electric light and other wires, or for other purposes, either by constructing said conduits itself or authorizing or requiring their construction by others upon such terms and conditions as the ~~Council~~City may impose, and to regulate and control the use of such conduits, and to prescribe and establish reasonable rentals to be paid by any person or company using any of said conduits by whomsoever the same may be constructed for the use thereof, and to provide for the collection of such rentals, in addition to the ordinary processes, by such summary methods as it may deem proper. If any such grant be made to any person, firm or corporation, such grantee shall not have power to sublet the same or the use of the same to any person, firm or corporation engaged in selling, hiring, leasing or otherwise receiving any income from the business or purpose for which it desires to use such conduits, without such person, firm or corporation first obtaining, as provided in this Charter, a franchise for such business, purpose or use.
- 25.** To regulate, restrain and prevent obstructions within the public streets, sidewalks and places and to make all needful regulations to keep and maintain the public streets, sidewalks and places in a clean, open and safe condition for public use; to provide for the removal, impounding and sale or other disposition of such obstructions, and to make the cost of removal a lien upon any property from which such obstruction originated or to which such obstruction was attached, to be placed upon the lien docket and collected as the Council may direct.

26. To control and limit traffic and classes thereof, and vehicles and classes thereof on the streets, avenues and elsewhere.
27. To prevent and prohibit planting of trees or shrubbery which may be detrimental to sewers, streets, sidewalks, utilities lines, fire hydrants, or use thereof, or which may interfere with safe travel or vision or may constitute a nuisance, and to cause such trees or shrubbery to be cut down or removed and to make the cost of such cutting or removal a lien upon the property, to be placed upon the lien docket and collected as the Council may direct.
28. To prescribe rates to be charged for transportation of passengers or property within the City and area outside the City over which City jurisdiction is authorized or recognized by statute, by means of vehicles of every description.
29. To provide for the establishment of market houses and places, and transportation terminals, and to regulate the location and management thereof.
30. To provide for the location, construction, repair and maintenance in or outside the City, of any ditch, canal, pipe or other facility for the impoundment, storage or conduct of water, and any drain, sewer or culvert or other facility in or outside the City for conduct, storage or treatment of storm or sanitary drainage or both, as it may deem necessary or convenient; for such purpose to enter upon any land for the purpose of examining, locating and surveying the line or location of such water or sewer facility, doing no unnecessary damage thereby; to appropriate said land or so much thereof as may be necessary for the construction or installation of said facility in any manner permitted by the laws of this State; to appropriate and divert from its natural course or channel temporarily or permanently, any spring or stream of water; and to compel the extension of utility connections from the main line or pipe to the curb line, property line or the sidewalks of all public streets, as the ~~Council~~City may determine.
31. To provide for furnishing the City and its residents with water, and to sell water to or for nonresidents.
32. To regulate the plumbing, drainage and sewerage of buildings and structures and the installation and use of appliances or facilities for heat, light, cooling and energy; to provide for the registration and qualification of specialists in trades or in installation or use of appliances and facilities; to provide inspection for such installation or use.

33. To compel all persons erecting or maintaining privies, water closets or other toilets or cesspools, septic tanks or private sanitary sewerage systems within one hundred (100) feet or one-half block, whichever is greater, of any street in which a public sewer has or may hereafter be constructed, to connect the same therewith; and where a public sewer is not available, to prescribe disposal so as to protect the public, property, health and welfare.
34. To regulate, restrain and prohibit use of public sewers for any substance which may be harmful or detrimental to the sewers, to sewage disposal and treatment, or hazardous to workers, to property or to the public.
35. To regulate the construction, care, use and management of buildings and structures in the City for the better protection of the lives and health of persons dwelling in or using the same or of the public, and for the public welfare.
36. To regulate, restrain and to provide for the exclusion from the City, or any part thereof, of trades, occupations or businesses which are offensive or may ~~in the opinion of the Council~~ create or constitute a nuisance, and to regulate uses of land and structures within the City.
37. To prevent the erection or cause the removal, demolition or repair of buildings or structures wherever situated, found to be unsafe or dangerous to the occupants, to passers-by or to other property, or which are found to obstruct a street, and to make the cost of such removal, tearing down or repair a lien upon the property, which liens may upon the order of the Council be entered into the docket of City liens and thereafter collected in such manner as the-Council may direct.
38. To regulate or prevent the moving of buildings or structures over City streets and limit the locations to which such buildings or structures may be moved.
39. To define and classify the fire limits and to prohibit the erection or repair of buildings constructed of particular materials within all or any such fire limits.
40. To regulate or limit the height, construction, size, materials, setbacks, yards, inspection and repair of all private and public buildings, structures, and fences within the City and to provide City inspection thereof.
41. To require adequate fire escapes, apparatus and appliances for protection against fire, to be provided in buildings and structures, or in connection with specific uses.

42. To make regulations to prevent the introduction of contagious diseases into the City, and to remove persons afflicted with such diseases to suitable hospitals which the City may designate or provide for that purpose either within or without said City; and to regulate such hospitals.
43. To provide a standard of weights and measures and to authorize inspection of weights, measures, food, beverages, and fuel; to regulate the commodity, size, weight and ingredients of food or beverage products and fuel, and to prevent the sale of adulterated, unhealthful or unwholesome food and beverages, and to provide for the seizure and forfeiture of food or food products, beverages and fuel offered for sale or sold contrary to said regulations.
44. To prevent and remove nuisances, to declare what shall constitute the same, to punish persons committing or suffering nuisances, to provide the manner of removal of nuisances, and to make the cost of such removal a lien upon the property where such nuisance existed; and to fill up or drain any lots, blocks or parcels of land subject to flood or where any stagnant water stands, to declare the same a nuisance, and to make the cost of filling up or draining the same a lien upon the property so filled or drained. Liens for abatement of nuisances may upon the order of the Council be entered in the docket of City liens and thereafter collected in such manner as the Council may direct.
45. To regulate or prevent the storage, manufacture, sale, use and transportation of dangerous, explosive, radioactive or combustible materials or weapons, and to provide for the inspection of the same, and to prevent by all proper means risks of injury or damage therefrom.
46. To regulate, prevent and prohibit loud or unnecessary noise.
47. To prevent trespassing and punish trespassers upon real and personal property.
48. To restrain and punish intoxication, fighting and quarreling in the City, and any disturbance, riot or riotous assemblage or participation therein, or any unlawful or indecent practice, and to define what shall constitute the same.
49. To prevent and suppress gaming and gambling houses, lotteries or places where any game in which chance predominates is played for anything of value, and to punish any person who engages in such game, or keeps or frequents such houses or sets up or promotes lotteries or sells lottery tickets; to prevent and suppress bawdy houses or places where fornication is

practiced, and to punish any inmate, keeper or frequenter thereof; to prevent and suppress use of narcotics and dangerous drugs and houses and places kept therefor, and to punish any keeper of such house or place, or person who frequents the same.

- 50. To prohibit persons from roaming the streets at unseasonable hours.
- 51. To prohibit and prevent cruelty to children and animals; to appropriate such sums as may be paid into the treasury from fines collected on conviction of persons charged with cruelty to animals or children, and to authorize the payment of the same or any part thereof to any person or society that shall have officially aided in such conviction.
- 52. To provide for the punishment by fine of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), or by imprisonment not exceeding two (2) years, or both, of any person or persons who may injure, deface, interfere with or destroy any property belonging to the City or in which the City has any interest, right or estate, and to provide that the district court or the circuit court of the State of Oregon for the County of Multnomah shall have jurisdiction to enforce such punishment or punishments.
- 53. To establish, change, discontinue, or re-establish City jails, prisons, police stations, workhouses and houses of detention, punishment, confinement or rehabilitation, within or without the City.
- 54. To regulate and restrain the keeping of all pets, birds, fowl, reptiles, and animals of any kind, and to prevent any and all animals from running at large within the City or any part thereof, and to punish persons who allow animals to run at large or to be unlicensed; to provide for impounding, sale and disposition when found at large, or when kept against City regulations or when no license has been obtained or tax paid as provided by the Council.
- 55. To regulate, prevent and prohibit the erection, maintenance or display of signboards, billboards, signs, posters and advertisements designed to attract the attention of persons on sidewalks, streets or public places.
- 56. To regulate and prohibit the exhibition and hanging of material in or across the street or from houses or other buildings or structures.
- 57. To regulate and control water-borne commerce and recreational uses within the City, and uses of and activities in or upon bodies of water within the City.

58. To provide for the removal of obstructions, debris and deleterious matter from waters within the City limits and to prohibit putting or negligently or willfully suffering the same to be put therein.
59. To regulate the building of wharves, and the driving of piles in any body of water or watercourse within the limits of the City and to establish lines beyond which wharves shall not be built nor piles be driven.
60. To provide for the construction and regulation of public facilities and landings at the foot of the streets terminating at a watercourse or body of water within the City.
61. To appropriate money for the deepening, widening, docking, covering, walling, altering or changing channels, water, or watercourses within the City, and to provide for the construction and maintenance of canals, slips, public landing places, wharves, docks and levees, and all such other work as may be required for the accommodation of commerce or recreation; to control and regulate the use thereof and to provide for the acquisition by condemnation or otherwise of all such work or works by the City, and for the construction, maintenance and ownership of the same by the City.
62. To provide for entering into contracts by the City with publicly or privately owned utilities or other governmental agencies for a period not exceeding forty (40) years for the transmission, sale or exchange of the capacity of and electric power generated by hydroelectric power generating facilities owned by the City and for operation and maintenance of the facilities.

Section 2-106. Enumeration of Powers not a Limitation.

The foregoing or other enumeration of particular powers granted to the ~~Council~~ City in this Charter shall not be construed to impair any grant of power herein contained, express or implied, nor to limit any such general grant to powers of the same class or classes as those so enumerated. The City Council may exercise any legislative or quasi-judicial power or authority, and the Mayor may exercise any executive or administrative power or authority, granted by Oregon statute to municipal corporations at any time and also to cities of a class which includes the City of Portland. [Ch. 1903, sec. 74; rev. 1914, sec. 36; 1928 pub., sec. 36; 1942 recod., sec. 2-120; rev. Nov. 6, 1962.]

Section 2-107. Punishment for Ordinance Violations.

The Council has power and authority, subject to the provisions, limitations and restrictions contained in this Charter, to provide for the punishment of a violation of any ordinance of the

City by a fine or by imprisonment, or by both. Such imprisonment shall be for a term not exceeding six (6) months. In addition to the foregoing penalties, forfeiture of property or license of any kind may be provided. The limitations as to length of sentence contained in this Section shall not apply to any offense for which different limitations are fixed elsewhere in this Charter. [Ch. 1903 subdn. 3, sec. 73; rev. May 3, 1913, effective in July; new sec. June 2, 1913; subdn. 3, sec. 73; rev. 1914; sec. 35; 1928 pub., sec. 35; 1942 recod., sec. 2-106; rev. Nov. 6, 1962; am. Dec. 14, 1971; am. May 20, 1980.]

Section 2-108. Emergency Fund.

There shall be annually appropriated and set apart the sum of five thousand dollars (\$5,000) 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. No part of such Fund shall be used as compensation or additional salary or for the personal benefit of ~~the Mayor or any Commissioner~~ Councilor. [May 3, 1913, new sec. 33; rev. 1914, sec. 31; 1928 pub., sec. 31; 1942 recod., sec. 2-117; rev. Nov. 6, 1962; amended May 15, 2012, effective June 13, 2012.]

Section 2-109. Investigations.

In aid of its legislative function, ~~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. [Ch. 1903, sec.47; rev. 1914, sec. 32; 1928 pub., sec. 32; 1942 recod., sec. 2-118; rev. Nov. 6, 1962.]

Section 2-110. Organization.

At its first regular meeting each calendar year, or oftener at its option, the Council shall elect a President and Vice President by majority vote of those present. The ~~Mayor~~ President shall preside at all meetings of the Council. In the ~~Mayor's~~ President's absence or disability, the Vice President of the Council shall perform the duties of the ~~Mayor~~ President. In the absence or disability of both President and ~~Mayor~~ Vice President, the other members of the Council shall select one of their number to perform the duties of President and ~~Mayor~~ Vice President during such absence. [May 3, 1913, new sec. 35; rev. 1914, sec. 37; 1928 pub., sec. 37; 1942 recod., sec. 2-121; rev. Nov. 6, 1962.]

Section 2-111. Rules of Procedure.

The Council shall determine its own rules of procedure, may establish Council committees and subcommittees, may punish its members for disorderly conduct, and may compel the attendance of members. Only the Council may censure one of its own members, with the affirmative votes of at least nine (9) Councilors. [May 3, 1913, new sec. 19; rev. 1914, sec. 41; 1928 pub., sec. 41; 1942 recod., sec. 2-122; am. Nov. 6, 1962.]

Section 2-112. Meetings and Journal.

All regular and special meetings of the Council shall be public. ~~It shall hold one regular legislative meeting each week, and such other meetings as it may prescribe.~~ The Council meets the first week of January following each general election and thereafter meets at the time and place fixed by ordinance. The Council shall keep a journal of its proceedings which shall be a public record. [May 3, 1913, new sec. 20; rev. 1914, sec. 42; 1928 pub., sec. 42; 1942 recod., sec. 2-123; rev. Nov. 6, 1962.]

Section 2-113. Calendar.

The Auditor shall produce for distribution at least twenty-four (24) hours before each legislative session a summary of all matters to come before the Council at the next regular legislative session. Only matters contained in said summary shall be considered at such legislative session unless ~~four (4)~~ nine (9) members of the Councilors shall vote to consider otherwise. [May 3, 1913, new sec. 30; rev. 1914, sec. 38; 1928 pub., sec. 38; 1942 recod., sec. 2-124; rev. Nov. 6, 1962; am. May 19, 1994.]

Section 2-114. Quorum.

At any meeting of the Council ~~a majority of the total number shall~~ seven (7) Councilors constitute a quorum, but a lesser number may adjourn or recess from time to time, and may compel the attendance of absent members. [May 3, 1913, new sec. 21; rev. 1914, sec. 43; 1928 pub., sec. 43; 1942 recod., sec. 2-125; rev. Nov. 6, 1962.]

Section 2-115. Privilege in Debate.

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

Section 2-116. Aye and Nay Vote.

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

Section 2-117. Transaction of Business.

In the transaction of legislative or judicial business the Council shall act only by the ordinance. In the transaction of all other business the Council shall act only by the resolution, report or order, except as otherwise required by law. The ayes and nays shall be taken upon the passage of all ordinances, resolutions, reports and orders and entered upon the journal of the proceedings of the Council. Every ~~member~~Councilor when present must vote, unless a majority of the remainder of the Council approves the member's Councilor's excuse for disqualification, ~~and every ordinance shall require the affirmative vote of three (3) members.~~ At least seven (7) affirmative votes are required to pass an ordinance. [May 3, 1913, new sec. 22; rev. 1914, sec. 44; 1928 pub., sec. 44; 1942 recod., sec. 2-128; rev. Nov. 6, 1962.]

Section 2-118. Ordinances, Subject.

No ordinance, except one making an appropriation, shall contain more than one general subject; ordinances making appropriations shall be confined to the subject of appropriations. [May 3, 1913, new sec. 23; rev. 1914, sec. 45; 1928 pub., sec. 45; 1942 recod., sec. 2-129; rev. Nov. 6, 1962.]

Section 2-119. Ordinances, Enacting Clause.

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

Section 2-120. Ordinances, Passage.

Every ordinance except an emergency ordinance shall have two (2) public readings of its title or the effect thereof. At least five (5) days shall elapse between the introduction and final passage of any ordinance and no ordinance shall be amended within five (5) days of its final passage except in the case of an emergency ordinance. An emergency ordinance shall have one public reading of its title or the effect thereof and may be enacted upon the date of its introduction, providing that it contains the statement that an emergency exists and specifies with distinctness the facts or reasons constituting such emergency. ~~The unanimous affirmative vote of all members of the Council present, and of not less than four (4) members~~ of not less than nine (9) members Councilors shall be required to pass an emergency ordinance. [May 3, 1913, new sec. 25; rev. 1914, sec. 47; 1928 pub., sec. 47; 1942 recod., sec. 2-131; rev. Nov. 6, 1962; am. May 20, 1980.]

Section 2-121. Ordinances, Amendments and Repeals.

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

Section 2-122. Ordinances, Attestation.

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 51; 1928 pub., sec. 51; 1942 recod., sec. 2-133; rev. Nov. 6, 1962; am. May 20, 1980; am. May 18, 1994.]

Section 2-123. Ordinances, Effective Date.

Ordinances (a) making appropriations and the annual tax levy, (b) relative to local improvements and assessments thereof, and (c) emergency ordinances, shall take effect immediately upon their passage, or any special date less than thirty (30) days after passage, specifically fixed in such ordinance. All other ordinances enacted by the Council shall take effect thirty (30) days after their passage unless a later date is fixed therein, in which event they shall take effect at such later date, subject to referendum if legislative, and subject to the provisions of this Charter relating to objections. [May 3, 1913, new sec. 26; rev. 1914, sec. 48; 1928 pub., sec. 48, 1942 recod., sec. 2-134. rev. Nov. 6, 1962.]

Section 2-124. Ordinances, Objections.

At any time within ten (10) days after the passage of any ordinance which shall not take effect immediately, ~~any if three (3) member of the Council~~ Councilors may file, in writing, objections to said ordinance, ~~which shall the ordinance will~~ be considered and voted upon by the Council at its next regular meeting. ~~If a majority shall there are at least seven (7) affirmative votes to sustain such objections, the ordinance shall be deemed repealed and shall not take effect unless again passed in the same manner as a new ordinance. If a majority shall vote not to sustain such objections, the same shall have no effect on the ordinance.~~ The objections, together with the vote thereon, shall be preserved on record. [May 3, 1913, part of new sec. 29; rev. 1914, sec. 52; 1928 pub., sec. 52; 1942 recod., sec. 2-135; rev. Nov. 6, 1962.]

Section 2-125. Ordinances, Continuance of Existing.

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

Section 2-126. Promotion of Industry.

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

Section 2-127. Consent Agenda.

Notwithstanding the provisions of Sections 2-116, 2-117, and 2-120 of this Charter, the Council by rule may publish a procedure under which any ordinance, resolution or other action may be placed on a consent agenda. At any meeting at which there is a consent agenda on the calendar, the ayes and nays shall be taken upon the passage of all items on the consent agenda by a single Council vote. It shall not be necessary that there be a reading or readings of the titles or the effect of the items on a consent agenda or that time elapse between the introduction and final passage of the items. The unanimous vote of all ~~members of the Councilors~~ present, and of not less than ~~four (4)~~nine (9) ~~members~~Councilors, shall be required to pass a consent agenda. All items to be contained in a consent agenda shall be so listed in the summary of matters to come before the Council prepared under Section 2-113 of this Charter. Items on a consent agenda shall not be subject to amendment or debate. Any item shall be removed from a consent agenda on the request of a Councilor~~member~~, or on the request of any person who wished to be heard on the item, provided the request is made prior to taking the ayes and nays on the consent agenda. An item so removed from a consent agenda shall be treated as a regular calendar item for the meeting for which it was on the consent agenda. [May 20, 1980.]

Section 2-128. City Budget.

The Mayor must submit a proposed budget to the City Council by May 5 of each year. The Council functions as the budget committee and is responsible for approving the budget. City funds may only be expended in conformance with a budget approved by Council.

ARTICLE 2. ELECTIVE OFFICES.

Section 2-201. Elective Officers.

There shall be no elective officers of the City of Portland other than ~~the Mayor, four (4) twelve~~ (12) Commissioners Councilors, the Mayor and the Auditor. Councilors are elected to represent a geographic district of the City by the legal voters residing in said district. The Mayor and the Auditor are elected at large. ~~All said officers shall be elected at large by the legal voters of the City of Portland and for a term of four (4) years, except as otherwise provided.~~ [May 3, 1913, new secs. 7 and 8; rev. 1914, sec. 21; 1928 pub., sec. 21; 1942 recod., sec. 2-107; rev. Nov. 6, 1962.]

Section 2-202. Qualifications.

Each elected official shall be a citizen of the United States and of the State of Oregon, and a registered voter who shall have been a resident of the City of Portland or of an area which has become part of the City prior to filing the declaration of candidacy or petition for nomination, for a period of not less than one (1) year immediately preceding the ~~nominating~~ election. Beginning in the November 2024 election, a Councilor elected from a district must have resided in that district and been a registered voter in that district for a period of not less than one (1) year immediately preceding the election. If any officer shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. [May 3, 1913, new sec. 9; rev. 1914, sec. 22; 1928 pub., sec. 22; 1942 recod., sec. 2-108; rev. Nov. 6, 1962; am. Dec. 18, 1984.]

Section 2-204. City Business, Time Devoted to.

No official appointed or elected to elective office shall, during the official's term of service, hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party. [May 3, 1913, new sec. 14; rev. 1914, sec. 26; 1928 pub., sec. 26; 1942 recod., sec. 2-112; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-205. Oath of Office.

Every official appointed or elected to elective office before entering upon the performance of official duties, shall take an oath or affirmation that the official will support the Constitutions of the United States and of the State of Oregon, and will faithfully and honestly discharge their duties; that the official holds no other office or position of profit, and that the official is not a member of any committee of any political party. If such oath or affirmation be false in any particular, it shall be deemed a delinquency in office on the part of such official. [May 3, 1913,

new sec. 15; rev. 1914, sec. 27; 1928 pub., sec. 27; 1942 recod., sec. 2-113; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

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

- (a) A vacancy in office ~~shall exist~~s when the Mayor, a ~~Commissioner~~ Councilor or the Auditor fails to qualify by taking the oath following their election, or when any officer or employee dies, resigns, is removed from office, is convicted of a felony, is judicially declared to be mentally incompetent, is convicted of an offense which constitutes corruption, malfeasance or delinquency in office, forfeits their office under specific provisions of this Charter, or is elected or appointed to a different office, and qualifies, takes and assumes the duties of such different office.
- (b) If a vacancy occurs when less than one (1) year remains in the term of the person who held the office, the City Council may fill the vacancy by majority vote of the remaining Councilors, and the appointee will serve the unexpired term of the predecessor to the office. ~~If a vacancy occurs in an office elective under this Charter more than one hundred (100) days preceding the regular primary election to be held in the fourth year of the term of that office, or less than seventy one (71) days preceding the regular general election to be held in that year, the Council, by a single resolution, shall call for two (2) special elections not more than forty five (45) days apart. The first special election will be for the purpose of nomination. It shall be held not more than ninety (90) days after the vacancy occurs, unless the Council finds reasonable cause for delay beyond ninety (90) days. If one candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the second special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the first special election will be elected to fill the unexpired term in the second special election.~~
- (c) If a vacancy occurs when one (1) year or more remains in the term of the person who held the office or if for any reason the office is not filled and no person takes office when the term of office otherwise would have commenced, the City Council may fill the vacancy by majority vote of the remaining Councilors, and the appointee will serve until a successor to the office is duly elected and is qualified to take office. ~~If a vacancy occurs in an office elective under this Charter less than one hundred and one (101) days and more than seventy (70) days preceding the regular primary election to be held in the fourth year of the term of that office, the Council shall call for a special election to be held not more than forty five (45) days following the regular primary election. The regular primary election will be for the purpose of nomination to fill the unexpired term and nomination of candidates for the next four year term of the office to be voted upon in the regular general election. If one~~

~~candidate receives a majority of the votes cast for the office, that candidate will be deemed elected to fill the unexpired term of the office and the special election will not be held. If no candidate receives a majority, one of the two candidates receiving the highest number of votes cast in the regular primary election will be elected to fill the unexpired term in the special election.~~

- (d) The election to fill the vacancy for the unexpired term of office must be held at the general election that is next available pursuant to state law that occurs no sooner than the one-hundred twentieth (120th) day after the date upon which the vacancy occurred. The term of office for a person elected to fill a vacancy for an unexpired term of office commences upon the certification of the election. If a vacancy occurs in an office elective under this Charter less than seventy one (71) days preceding the regular primary election, but more than seventy (70) days preceding the regular general election, to be held in the fourth year of the term of that office, and the incumbent vacating the office:

~~(1) — Was one of two or more candidates for the same office in the regular primary election, then if an opposing candidate was nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the vacated office until the regular general election and the candidate elected at the regular general election will fill the balance of the unexpired term. If no candidate opposing the incumbent was nominated by a majority of votes cast in that primary, the Council shall call for a special primary election as provided in paragraph (2) of this subsection.~~

~~(2) — Was an unopposed candidate for the same office in the regular primary election, then the Council shall call for a special primary election. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and no candidate is nominated by a majority of votes cast, the candidate elected in the regular election will fill the balance of the unexpired term. If the special primary election is held less than one hundred and one (101) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term. If the special primary election is held more than one hundred (100) days preceding the regular general election and a candidate is nominated by a majority of votes cast, that candidate will be deemed elected to fill the balance of the unexpired term.~~

~~(3) — Was not a candidate for the same office in the regular primary election, then if a candidate is nominated by a majority of votes cast in that primary, that candidate will be deemed elected to fill the balance of the unexpired term.~~

~~If no candidate is nominated by a majority of votes cast, the Council shall call for a special election in which the candidate receiving a majority of votes cast will be deemed elected to fill the balance of the unexpired term.~~

~~Any election required by this subsection, between two nominees who received the highest number of votes cast in a prior election, shall be held not more than forty five (45) days after the prior election.~~

- (e) A person holding an elected office ~~elective~~ under this Charter may file with the Auditor a written notice of intent to resign from office on a specific future date ~~of the occurrence of a specific event~~ within the unexpired term of the office. The Council then may by resolution schedule and hold the special election or elections, as provided in subsections (b) through (d) of this Section, although no vacancy has occurred. However, no candidate elected to fill an unexpired term under this subsection may take and assume the duties of the office unless and until the vacancy occurs.
- (f) ~~If a vacancy occurs in the office of the Auditor, the Council may fill the office by appointment pending election as provided therein.~~
- (g) In the event of the death or ~~crippling~~ disability preventing the performance of ~~three (3)~~ six (6) or more ~~members of the City Councilors~~ due to natural disaster, calamity, accident or enemy attack, the following City officials in the order named ~~shall~~ succeed to the vacancies on the City Council: Chiefs of Staff of deceased or disabled Councilors, City Administrator, City Attorney, City Auditor and Mayor City Auditor, City Attorney, Chief Administrative Officer, and the Chiefs of Staff of disabled Council members in the order of their seniority as an executive assistant. In the event of the death or disability preventing the performance of the Mayor due to natural disaster, calamity, accident or enemy attack, the Mayor's Chief of Staff succeeds to the vacancy. A Councilor or Mayor may resume performance if the disability no longer prevents performance.

Any individual serving under this Section ~~shall~~ must have all qualifications required in this Charter for an elected official, except that an individual succeeding to the vacancy of a Councilor does not need to reside in the Councilor's district. Otherwise, the next qualified individual in the line of succession succeeds to the vacancy. The City Council thus constituted ~~shall~~ serve as an interim Council for the purpose of transacting necessary City business. The interim Council ~~so constituted shall~~ must as soon as practical select from among qualified citizens of the City of Portland, as defined by Section 2-202 of this Charter, persons to serve as members of the City Council or Mayor. The persons so selected ~~shall~~ serve until the next regular general election. The City Council ~~as thus constituted shall~~ must, if the regularly elected

~~Mayor Council President~~ is not a member thereof, elect one of their number as ~~Mayor Council President~~. Members of the Council as thus constituted ~~shall~~ serve as ~~City Commissioners~~ Councilors by this Charter. The Council as constituted under ~~authority of this subsection shall~~ meets in the City Hall, if possible, but may meet at an alternate location which ~~shall~~ must be designated in advance by the Council as an alternate site for the transaction of City business. In the event of martial law, the Council ~~shall be~~ is organized as provided by this subsection ~~provided~~, and it ~~shall~~ will function to the extent possible under the order establishing martial law. The provisions of this subsection ~~shall be~~ are supreme in the event it ~~shall be~~ is employed, notwithstanding any other provisions of this Charter or City ordinances of the City in conflict therewith. [May 3, 1913, new secs. 17 and 18; rev. 1914, secs. 29 and 30; 1928 pub., secs. 29 and 30; sec. 29, am. May 18, 1934; sec. 30, am. May 17, 1940; 1942 recod., secs. 2-115 and 2-116; sub. sec. 5 added to sec. 2-116, Nov. 2, 1954; secs. 2-115 and 2-116 revised and combined Nov. 6, 1962; am. May 26, 1970; am. Dec. 14, 1971; am. May 20, 1980; am. May 17, 1988; am May 18, 1994; amended May 15, 2012, effective June 13, 2012; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-207. Salaries.

The Mayor appoints members of the first Salary Commission, subject to Council confirmation. Thereafter, the City Administrator appoints members of the Salary Commission, subject to Council confirmation. The Commission consists of five (5) City residents who are qualified human resource professionals with compensation experience who represent a diversity of race, gender, age and geography. Elected or appointed City officials and employees, and candidates for elected City office who have filed and been qualified to the ballot by the City Elections Office, may not serve on the Commission.

The first Commission must be confirmed by March 15, 2023 and complete its work by August 1, 2023. Thereafter, the Commission must be confirmed by January 1 of each odd year.

The Commission sets the salaries for Councilors, the Mayor and the Auditor by the affirmative vote of at least three (3) Commissioners, documenting the basis of its decision. Adjusted salaries take effect July 1 of each odd year, except for the first Commission's adjusted salaries which take effect January 1, 2025.

ARTICLE 3. EXECUTIVE AND ADMINISTRATIVE POWERS.

Section 2-301. ~~The Departments~~Bureaus.

The City Council establishes the bureaus and their authority by ordinance. The Mayor exercises all executive and administrative powers over the bureaus. ~~The executive and administrative powers, authority and duties, not otherwise provided for herein, shall be distributed among at least five (5) departments as follows:~~

- ~~(a) —~~ Department of Public Affairs
- ~~(b) —~~ Department of Finance and Administration
- ~~(c) —~~ Department of Public Safety
- ~~(d) —~~ Department of Public Utilities
- ~~(e) —~~ Department of Public Works

~~Bureaus and their functions shall be fixed by the Council by ordinance. The distribution of the bureaus and work among departments shall be made and may be changed from time to time by the Mayor by order which shall be filed and preserved as an ordinance. The names of the departments may be changed in like manner. The Mayor may in like manner assign matters relating to any commission to a particular department. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 54; 1928 pub., sec. 54; 1942 recod., sec. 2-201; rev. Nov. 6, 1962.]~~

~~Section 2-302. Assignment and Authority of Commissioners.~~

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

~~Section 2-303. Assignment of Work to Subordinates.~~

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

Section 2-3024. Codes.

The City Code is the collection of laws adopted by Council by ordinance through its legislative authority. The Mayor executes and administers the City Code. Codes providing for the administration of the powers, duties and affairs of the different departments and for their organization shall be enacted. Such codes shall provide for a uniform standard for the purchase of materials and supplies and shall provide for a purchasing agent and may provide for inspection and testing of the quality and quantity of the materials and supplies purchased to determine their exact conformity to specifications. Provision shall be made for the transfer of employees from one department to another. Methods shall be provided by which the heads of departments may determine and compare the work accomplished by the department with reference to its expenditures and a comparison with work during a prior period. A definite system of accounting shall be provided for each department showing the work performed and the material furnished compared with the cost thereof, so itemized that it can be determined whether each department is becoming more efficient or less efficient. All materials and supplies of the City shall be properly housed, segregated and tabulated and a perpetual inventory kept showing the additions and depletions thereof. Each department shall report its time and expenses for comparison with the prior month and prior year to show percentage of increase or decrease and shall also report stores and material accounts for like comparison. [May 3, 1913, part of new sec. 36; rev. 1914, sec. 58; 1928 pub., sec. 58; 1942 recod., sec. 2-204; rev. Nov. 6, 1962.]

ARTICLE 4. THE MAYOR.

Section 2-401. Duties.

The Mayor shall exercise a careful supervision over the general affairs of the City. The Mayor has the following responsibilities:

(a) Advance the City's core values of anti-racism, equity, transparency, communication, collaboration and fiscal responsibility.

(b) Advance the City's efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.

(c) Exercise a careful supervision over the general affairs of the City.

(d) Introduce such matters as the Mayor deems necessary to come before the Council. The Mayor has the same authority to introduce matters as a Councilor.

(e) Vote on matters before the Council in case of a tie, when the Mayor casts the deciding vote.

(f) Appoint the City Administrator, subject to Council confirmation, and give direction to the Administrator. The Mayor may remove the Administrator and must advise the Council before removal. The Council may remove the Administrator for cause by the affirmative vote of at least nine (9) Councilors. If the office of the Administrator is vacant, the Mayor must fulfill the duties of the Administrator until the office is filled.

(g) Appoint, subject to Council confirmation, the City Attorney and the Chief of Police. The Mayor may remove the City Attorney and the Chief of Police.

(h) Submit a proposed annual budget, and periodic amendments throughout the year. The Mayor must, at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as the Mayor may deem expedient and proper to accomplish such goals.

(i) Annually, appear before the Council to deliver a general address on the State of the City.

(j) Authorize, negotiate and execute all contracts and intergovernmental agreements, consistent with the City budget.

(k) Encourage programs for the physical, economic, social and cultural development of the City.

(l) Actively promote economic development to broaden and strengthen the commercial and employment base of the City.

(m) Serve as ceremonial head of the City and issue ceremonial proclamations.

(n) All other executive and administrative powers not conferred elsewhere by this Charter.

[Ch. 1903, sec. 147; rev. 1914, sec. 59; 1928 pub., sec. 59; 1942 recod., sec. 2-301; rev. Nov. 6, 1962.]

Section 2-402. Investigation of and Suits to Cancel Franchises.

The Mayor may, on the Mayor's own motion, and must, upon a resolution passed by the Council directing the Mayor 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 the Mayor's demand, must institute and prosecute the suits or actions required to enforce the provisions of this Section. Each Mayor taking office under this Charter shall cause a careful investigation to be made of the exact condition of all franchises theretofore granted by the City, and of the respective rights and obligations of the parties, and the performance of the same. [Ch. 1903, sec. 151; rev. 1914, sec. 60; 1928 pub., sec. 60; 1942 recod., sec. 2-302; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-403. Investigation of Offices.

The Mayor may at any time, with or without notice, investigate in person, or through one or more competent persons appointed by the Mayor for the purpose, the offices and accounts of any department of the City or of any employee, and the official acts and conduct of any official or employee in the administrative service of the City, and the money, securities and property belonging to the City in the possession or charge of such department, officer or employee. 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 the Mayor may deem necessary, and to compel the production of books, papers, and other evidence. Willful false swearing in such investigations and examinations shall be perjury, and punishable as such. The expense of any such investigation shall be paid out of the General Fund, in the same manner as other claims against the City are paid. The result of all such examinations and investigations shall be reported to the Council, and such report be filed with the Auditor. [Ch. 1903, sec. 152; rev. 1914, sec. 61; 1928 pub., sec. 61; 1942 recod., sec. 2-303; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-404. Suspensions Pending Investigation.

The Mayor shall have power to suspend, pending an official investigation, any officer of the City except Councilors~~members~~ or the Auditor for any official defalcation or willful neglect of duty or official misconduct. [Ch. 1903, sec. 153; rev. 1914, sec. 62; 1928 pub., sec. 62; 1942 recod., sec. 2-304; rev. Nov. 6, 1962.]

Section 2-405. Notification of Contract Violations.

It shall be the duty of every officer and person in the employ or service of the City, when it shall come to such officer's or person's 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 such officer's or person's possession concerning such matter. A willful failure so to do shall be sufficient cause for the removal of such officer or employee. The Mayor shall give a certificate on demand to any person reporting such facts and information that such person has done so, and such certificate shall be evidence in exoneration from a charge of neglect of duty in that respect. [Ch. 1903, sec. 158; rev. 1914, sec. 63; 1928 pub., sec. 63; 1942 recod., sec. 2-305; rev. Nov. 6, 1962.]

Section 2-406. The City Administrator.

The City Administrator must be a person of demonstrated administrative ability with experience in a responsible, important executive capacity and must be chosen by the Mayor solely on the basis of executive and administrative qualifications. The Administrator's salary is fixed by the Council. The Administrator is appointed for an indefinite term and has the following responsibilities:

(a) Advance the City's core values of anti-racism, equity, transparency, communication, collaboration and fiscal responsibility.

(b) Advance the City's efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.

(c) Proper and efficient administration of all City affairs.

(d) Except for the City Attorney and the Chief of Police, appoint, reassign, discipline and remove all directors of bureaus and departments and all employees, consistent with all laws and collective bargaining agreements. The Administrator may delegate to directors the authority to appoint, discipline and remove subordinate employees.

(e) Execute and enforce all laws adopted by Council.

(f) Attend meetings of the Council, and its committees, and such meetings of boards and commissions as the Administrator chooses.

(g) Investigate affairs of the City under the Administrator's supervision, including any contract for the proper performance of obligations running to the City within the Administrator's jurisdiction.

(h) Control and administer the financial affairs of the City. The Administrator may appoint a Budget Director to act under the Administrator's direction.

(i) Prepare an annual budget under the direction of the Mayor for the Mayor's submission to the Council.

(j) Prepare and submit to the Council such reports as it may require.

(k) Keep the Council at all times fully advised as to the financial condition and needs of the City.

(l) Prescribe such general rules and regulations as the Administrator may deem necessary or expedient to the general conduct of the administrative departments under the Administrator's jurisdiction. The Administrator may delegate rulemaking authority to other bureau directors.

(m) Perform such other duties as may be directed by the Mayor or prescribed by this Charter or by City Code.

ARTICLE 5. THE AUDITOR.

Section 2-501. Office of the Auditor.

To ensure an open and accountable City government, the Office of the Auditor is established. The Office shall be under the supervision and control of the Auditor of the City of Portland. [Section added May 16, 2017, effective June 14, 2017.]

Section 2-502. Qualifications and Restrictions on Other City Candidacy.

There shall be an Auditor of the City of Portland, ~~who shall possess the same qualifications required of a Commissioner~~. The Auditor shall have the qualifications of the Mayor, and in addition, shall at the time of filing a declaration of candidacy, or a nominating petition for the office of Auditor be a Certified Public Accountant, Certified Internal Auditor, or Certified Management Accountant and remain certified as such throughout the term of office, if elected. The Auditor shall be elected at the general municipal election and shall serve for a term of four (4) years. If an Auditor shall be elected without such qualifications or shall cease to have the same, the office shall immediately become vacant. The Auditor shall not run for election to any other City office during the Auditor's term. The act of filing for another City office will be the same as a resignation, which shall be effective as of the date of such filing. [Ch. 1903, sec. 269; am. May 3, 1913, sec. 97; rev. 1914, sec. 64; 1928 pub., sec. 64; 1942 recod., sec. 2-401; rev. Nov. 6, 1962; am. May 15, 1984; am. May 20, 1986; am. May 18, 1994; recodified Section 2-501 May 16, 2017, effective June 14, 2017; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-503. Independent Authority.

The Auditor and the Office of the Auditor are administratively independent of the Mayor, City Administrator, City Council, and City departments, bureaus and other administrative agencies in the exercise of the Auditor's duties under this Charter. [Section added May 16, 2017, effective June 14, 2017.]

Section 2-504. Salary.

~~Effective January 1, 2019, the salary of the Auditor shall be the same as a City Commissioner set by the Salary Commission.~~ [Ch. 1903, sec. 270; am. May 3, 1913, sec. 98; rev. 1914, sec. 65; 1928 pub., sec. 65; 1942 recod., sec. 2-402; rev. Nov. 6, 1962; am. May 18, 1994; amended and recodified Section 2-502 May 16, 2017, effective June 14, 2017.]

Section 2-505. Budget.

The Auditor shall prepare a requested budget and any budget cycle reports and submit them to the Mayor and City Council in accordance with state law and on a schedule consistent with the

City's budget process. The Auditor's requested budget and budget cycle reports are not subject to review by a City department, bureau or other administrative agency prior to their submission to the Mayor and City Council. After their submission, the Mayor or City Council may consult with a department, bureau or other administrative agency about the Auditor's requested budget and budget cycle reports. The Mayor or City Council may modify the Auditor's budget. In doing so, the Mayor and Council should consider the Auditor's priorities and duties. [Section added May 16, 2017, effective June 14, 2017.]

Section 2-506. Administrative Powers.

- (a) **Administrative Authority.** The Auditor may establish such rules for the Office of the Auditor as the Auditor determines necessary to carry out the duties of the Auditor under this Charter. Prior to the adoption, amendment or repeal of any rule, the Auditor shall provide reasonable public notice and opportunity for comment. The Auditor may adopt interim rules without prior notice upon finding that failure to act promptly will result in prejudice to the public interest and shall be effective for a period of not more than 180 days.
- (b) **Deputies and Employees.** The Auditor may appoint and remove one chief deputy. In addition, the Auditor may deputize other staff in the Auditor's Office to perform duties required by the Council or the Charter. The Auditor may appoint employees and establish their compensation. The Auditor may determine the number of employees necessary for the efficient and economic performance of the Office of the Auditor, subject to funding by Council. Employees may perform any act or duty required by the Auditor, and the Auditor shall be responsible for their conduct. The Auditor shall establish and administer human resources policies and rules for the Office of the Auditor that are consistent with City human resource policies and rules, including classification and compensation, except where the Auditor determines in writing that a City human resources policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter. The Auditor's human resource policies and rules shall provide functionally equivalent protections as the Classified Service, including for-cause disciplinary review procedures for all Auditor's Office employees with the exception of the Chief Deputy Auditor, Ombudsman, and Audits Director; employees hired under Section 2-507(a)6. of this Charter who are designated by Council as at-will; and employees subject to a collective bargaining agreement.
- (c) **Internal Controls and Periodic Review.** The Auditor shall ensure that the Office of the Auditor has adequate internal controls, complies with all applicable laws, and operates efficiently. The Auditor shall contract periodically, but no less than every four years, with outside service providers to conduct organizational efficiency and compliance assessments, the results of which shall be made public.

- (d) Procurement. The Auditor has all authority granted to a contracting agency under state law to procure or supervise the procurement of goods, services and personal services the Auditor finds necessary for the proper functioning of the Office. The Auditor shall adopt administrative rules governing the Auditor's procurement practices and procedures that are consistent with City procurement policies and rules, except where the Auditor determines in writing that a City procurement policy or rule impairs the Auditor's independence or ability to carry out the Auditor's duties under this Charter.
- (e) Legal Services. The Auditor may obtain legal advice and representation from the City Attorney or may retain or employ independent legal counsel. If the Auditor retains or employs independent legal counsel, the Office of the Auditor shall be the client and is entitled to the benefits and privileges thereof.
- (f) The Auditor may obtain advice, services and assistance from any City department, bureau, administrative agency, officer, employee or agent in the performance of the Auditor's duties under this Charter or as may be prescribed by ordinance.

[Ch. 1903, sec. 271; rev. 1914, sec. 67; 1928 pub., sec. 67; 1942 recod., sec. 2-403; rev. Nov. 6, 1962; am. Nov. 2, 1982; am. May 18, 1994; amended and recodified Section 2-503 May 16, 2017, effective June 14, 2017.]

Section 2-507. Duties in General.

- (a) The Auditor is responsible for the following activities:
 - 1. Performing financial and performance audits of the City, including audits of its boards and commissions, franchises and contracts as provided in Section 2-508 of this Charter;
 - 2. Supervising City elections as provided by state law and Chapter 3 of this Charter;
 - 3. Maintaining all official records, including records of the various bureaus, records regarding the City Charter and City Code, and all other records regarding City business;
 - 4. Providing official certifications as required by this Charter;
 - 5. Investigating the actions of a City department, bureau or other administrative agency, and the official conduct of any City officer, employee or agent as provided in Section 2-509 of this Charter; and

6. Other duties as prescribed by this Charter or as assigned by the Council with the consent of the Auditor.
- (b) Subject to the Auditor's supervision, the Auditor may delegate any of these duties to other City officials or may contract with outside service providers. The Auditor shall remain responsible for performing the duties. The Council shall provide staffing, funding, and facilities for the Auditor to carry out these duties. [Ch. 1903, sec. 272; rev. 1914, sec. 68; 1928 pub., sec. 68; 1942 recod., sec. 2-402; rev. Nov. 6, 1962; am. May, 20, 1986; am. May 18, 1994; amended and recodified Section 2-504 May 16, 2017, effective June 14, 2017]

Section 2-508. Audits.

- (a) The Auditor shall conduct financial and performance audits of City government in accordance with generally accepted governmental auditing standards, and shall appoint, coordinate and monitor the annual audit of the City's financial statements by an independent licensed public accountant.
- (b) The Auditor shall appoint and may remove the Audits Director.
- (c) City departments, bureaus and administrative agencies shall respond to audit recommendations made by the Auditor, ~~through the Commissioner In Charge,~~ through the City Administrator, to the Auditor, in writing within the time specified by the Auditor. All audit reports and responses shall be made available to the public. The Auditor shall retain workpaper files concerning all audit reports issued for at least six years.
- (d) The Auditor shall make the final determination of acceptability and legitimacy of claims for payment made against the City.
- (e) The Auditor may require at any time that any or all demands upon the City for payment of money out of the treasury be presented to the Auditor before it can be paid in order to determine whether the money is legally due and payable, and the fund from which it should be paid. Any ordinance or resolution of the City Council providing for the payment of any demand out of the treasury, whether from public funds or private funds shall be construed as allowing the auditing of the demand by the Auditor, either before payment or as part of the financial audit. The Auditor shall keep an official record of all demands audited by the Auditor showing the number, date, amount, name of the payee, the appropriation if any against which it was drawn and the fund from which it was paid.

- (f) Subject to collective bargaining obligations to the City's recognized bargaining units, the Auditor shall have timely access to all employees, information and records required to conduct an audit or otherwise perform audit duties, including confidential and legally privileged information and records so long as privilege is not waived as to third parties. The Auditor shall maintain the confidentiality of all confidential and legally privileged information and records except as required by state law or authorized by the City Council.

[Ch. 1903, sec. 273; am. May 3, 1913, sec. 99; rev. 1914, sec. 66; 1928 pub., sec. 66; 1942 recod., sec. 2-405; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended and recodified Section 2-505 May 16, 2017, effective June 14, 2017.]

Section 2-509. Office of the Ombudsman.

- (a) The Office of the Ombudsman is established within the Office of the Auditor. The Office of the Ombudsman shall be under the supervision and control of the Auditor, who is solely responsible for its operation and management. The purpose of the Ombudsman is to provide an impartial office, readily available to the public, that is authorized to investigate the administrative acts of City departments, bureaus and other administrative agencies, issue reports and recommend changes with the goals of safeguarding the rights of persons and promoting high standards of fairness, competency, efficiency and justice in the provision of City services.
- (b) The Auditor shall appoint and may remove the Ombudsman.
- (c) The Office of the Ombudsman shall be guided by generally accepted standards for government ombudsmen offices serving the public.
- (d) Pursuant to a complaint or on the Ombudsman's own initiative, the Ombudsman is authorized to investigate any administrative act of a City department, bureau or other administrative agency, including the Office of the Auditor; recommend changes to City policy, practice or procedures; and issue public reports.
- (e) The Ombudsman shall not investigate the acts of an elected official or the official's personal staff, matters currently in litigation, matters subject to collective bargaining agreement grievance procedures, or a discrimination complaint from an employee or applicant for employment.
- (f) Subject to collective bargaining obligations to the City's recognized bargaining units, the Ombudsman shall have timely access to all employees, information and records required to investigate or otherwise perform the Ombudsman's duties, including confidential and legally privileged information and records so long as privilege is not

waived as to third parties. The Ombudsman shall maintain the confidentiality of any confidential or legally privileged information and records except as required by state law or authorized by the City Council.

- (g) A City department, bureau and agency director or manager shall respond in writing to Ombudsman recommendations within the time specified by the Ombudsman.
- (h) The powers and duties of the Ombudsman may be further prescribed by ordinance in consultation with the Auditor. The powers and duties of the Ombudsman shall not be exercised in contravention of any collective bargaining obligations of the City.

[Section added May 16, 2017, effective June 14, 2017.]

Section 2-510. Auditor's Duties as Clerk of the Council.

The Auditor shall serve as the Clerk of the Council and shall maintain a journal of its proceedings and all of the public records in connection with the Council's official business. The Auditor shall produce an agenda for all formal meetings of the Council; maintain a record of the Council's actions; and make the records available for public inspection as provided by the State Public Records laws. As Clerk of the Council, the Auditor shall maintain and make available current versions of the City Charter and Code and maintain a record of Charter and Code revisions. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; recodified Section 2-506 May 16, 2017, effective June 14, 2017.]

Section 2-511. Charter Arrangement and Corrections.

Subject to Council approval, the Auditor shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this Charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this Charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The Auditor may substitute any current title of an officer, bureau, department, or commission in lieu of the title originally appearing in the Charter provision, in accordance with the changes of title or duties subsequently made by law. [New sec. Nov. 6, 1962; am. May 18, 1994; recodified Section 2-507 May 16, 2017, effective June 14, 2017.]

Section 2-512. Deletion of Charter Terms Referring to Masculine or Feminine Gender.

Future amendments to the City Charter shall require the use of terms which are neither masculine nor feminine, unless the context of such Charter provision shall require otherwise.

The City Auditor, with approval of the City Attorney, shall be authorized to change the provisions of the City Charter to delete use of terms which are masculine or feminine, unless the context of such Charter provisions shall require otherwise. [New sec. May 15, 1984; am. May 18, 1994; recodified Section 2-508 May 16, 2017, effective June 14, 2017.]

Section 2-513. Official Oaths and Certifications and Custodian of the City Seal.

- (a)** The Auditor, and each of the Auditor's deputies, are authorized to administer an oath and certify any acknowledgement authorized or required to be taken by City ordinance, or law of this State, and the Auditor may require any person presenting for settlement an account or claim of any kind against the City to be sworn before the Auditor regarding such account or claim, and when so sworn, to answer orally or in writing as to any facts relative to the merits or justice of such account or claim.
- (b)** The Auditor shall cause the Auditor's signature to be affixed to all warrants, contracts, bonds, and other official documents of the City as affirmation that the document and the action it represents have been duly authorized as required by this Charter and that the signatures of the other City officials on the document are true and duly authorized.
- (c)** The Auditor shall be the custodian of the City's seal.

[New Sec. May 18, 1994; recodified Section 2-509 May 16, 2017, effective June 14, 2017; amended by Ordinance No. 190204, effective December 18, 2020.]

ARTICLE 6. OFFICERS AND EMPLOYEES.

Section 2-601. Appointive Officers.

~~The Council shall appoint the City Attorney.~~ The Mayor shall appoints members of boards and commissions subject to Council confirmation. The Mayor appoints, subject to Council confirmation, the City Administrator, the City Attorney and the Chief of Police. Heads of other offices and bureaus ~~shall be~~ appointed by the ~~Commissioner In Charge of the department to which such office or bureau is assigned~~ City Administrator. [May 3, 1913, new sec. 102; rev. 1914, sec. 80; 1928 pub., sec. 80; 1942 recod., sec. 2-501; rev. Nov. 6, 1962; am. May 20, 1980.]

Section 2-602. Qualifications and Removals.

All officers appointed by the Council, Mayor or City Administrator shall serve during the pleasure of the ~~Council~~ appointing authority. Any may be removed for cause at any time by the appointing authority and, if the appointing body is the Council, by a majority vote of the Council. A statement of reasons for the removal shall be included in the order, and the officer removed shall have the right to make a counter statement in writing which shall be filed and preserved with the order of removal. The order of removal shall not be reviewable. Vacancies in any of such offices shall be filled by the Council appointing authority. ~~The Council may by ordinance appointing authority may~~ 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~~ The Council may fix and may change from time to time the salaries of every officer. The officers appointed ~~by the Council~~ shall at the time of their appointment be citizens of the United States.

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

Section 2-603. Subordinate Offices and Employments.

Pursuant to its legislative authority, ~~¶~~ 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. Pursuant to their executive authority, ~~¶~~ The Mayor and each Commissioner City Administrator shall appoint and may suspend or remove the incumbents of all subordinate offices and employments ~~in their department,~~ subject to other provisions of this Charter. The Auditor shall appoint and may

suspend or remove the incumbents of all subordinate offices and employments within the Auditor's office, or under the Auditor's supervision. The chief executive officer of any board, or commission, when authorized to do so by the board or commission, or the board or commission itself shall appoint and may suspend or remove the incumbents of all subordinate offices and employments within their offices, or under their supervision. All such appointments, suspensions and removals shall be subject to the civil service rules of this Charter except as to incumbents of positions expressly exempted therefrom. [May 3, 1913, new sec. 104; rev. 1914, sec. 82; 1928 pub., sec. 82; 1942 recod., sec. 2-503; rev. Nov. 6, 1962; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-604. Experts.

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

Section 2-605. Requirements for All Officials.

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

Section 2-606. City Contracts, Interest In.

Any officer, agent or employee of the City who executes a contract with the City other than an employment contract, any grant, privilege or franchise from the City, who seeks to acquire any City property or interest therein, who seeks to transfer any property or interest therein to the City by sale, rental, lease or legal process of any kind for compensation from City funds, or who has a direct pecuniary interest in such contract, grant, privilege, franchise, or transfer sought by another, shall be disqualified from participating on behalf of the City in any negotiations and or proceedings relating thereto, and all such negotiations and proceedings shall be carried on by the person who would have acted in such officer's, agent's or employee's stead in their absence. Subject to statutory restrictions and limitations, such contracts, grants, privileges, franchises and transfers made in accordance with the foregoing provisions of this Section shall not be void by reason of such City position, but shall be voidable by the City for cause. If any officer, agent or employee of the City shall fail to disqualify himself as aforesaid, the contract, grant, privilege, franchise or transfer shall be wholly void and unenforceable in the hands of any

person other than a bona fide purchaser for value without notice, and the position of such officer, agent or employee shall immediately be forfeited and such position shall be vacant.

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

Unless permitted by statute and notwithstanding the foregoing provisions of this Section, ~~no Council member,~~ neither an elected official nor the City Administrator shall enter into any contract with the City, seek any grant, privilege or franchise from the City, acquire any City property or interest therein, or sell or transfer to the City without legal process any property or interest therein for compensation from City funds, or have any direct pecuniary interest in any such matters. ~~No Council member,~~ Neither an elected official nor the City Administrator shall have any direct ownership interest in any public utility subject to City regulation; however, this prohibition shall not apply to ownership in another association, firm or corporation which maintains varied investments, provided such other association, firm or corporation does not own a controlling interest in such public utility. If any ~~Council member,~~ elected official or the City Administrator shall voluntarily acquire any direct pecuniary interest in any of such matters with the City while in office, such office shall at once become vacant. If ~~the Council member an elected official or the City Administrator~~ the elected official or the City Administrator shall become so interested otherwise than voluntarily, ~~the Council member~~ the elected official or the City Administrator shall within ninety (90) days divest themselves of such interest and upon failure to do so, the ~~Council member's~~ office shall become vacant upon the expiration of the said period of ninety (90) days. Any contract, grant, privilege, franchise or transfer made in violation of this paragraph shall be wholly void, and the City may recover property transferred by it or compensation paid by it and may retain any benefits received by it without right of recovery from it by quantum meruit action or otherwise. [Ch. 1903, sec. 135; rev. 1914, sec. 91; 1928 pub., sec. 91; 1942 recod., sec. 2-506; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-607. Appointments.

All appointments of officers, deputies and clerks, to be made under any provision of this Charter, must be made in writing and authenticated by the person or persons, board or officer, making the same. Any such writing must be filed with the Secretary of the Civil Service Board. [Ch. 1903, sec. 138; rev. 1914, sec. 93; 1928 pub., sec. 93; 1942 recod., sec. 2-507; rev. Nov. 6, 1962; am. May 20, 1986.]

Section 2-608. Salaries.

The salaries provided in this Charter shall be in full compensation for all services rendered to the City, and excepting such salaries, or except as specifically authorized by the Council, every officer shall pay all moneys coming into the officer's hands as such officer, no matter from what source derived or received into the treasury of the City within twenty-four (24) hours after receipt of the same. In the event an officer or employee collects damages from a third person for time lost from such officer's or employee's City service, such officer or employee shall pay to the City Treasurer the money so collected or the total amount paid to such officer or employee by the City or City pension and disability Fund for such time lost, whichever is the lesser. [Ch. 1903, sec. 139; rev. 1914, sec. 94; 1928 pub., sec. 94; 1942 recod., sec. 2-508; rev. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-609. Bidders, Favoring of.

Any officer of the City or of any department thereof, who shall aid or assist a bidder in securing a contract to furnish labor, material or supplies, at a higher price or rate than that proposed by any other bidder, or who shall favor one bidder over another, by giving or withholding information, or who shall willfully mislead any bidder in regard to the character of the material or supplies called for, or who shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or who shall knowingly certify to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount of different kinds of material or supplies than has been actually received, shall be deemed guilty of malfeasance and shall be removed from office, and may be required to reimburse the City for its damages. [Ch. 1903, sec. 140; rev. 1914, sec. 95; 1928 pub., sec. 95; 1942 recod., sec. 2-509; rev. Nov. 6, 1962.]

Section 2-610. City Business, Time Devoted to.

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

Section 2-611. Residence of Officials and Employees.

All elected officials receiving salary or wages from the City shall qualify as elsewhere in this Charter provided, and shall be residents of the City at the time of their election and continuously thereafter while they hold office. The Council may require by ordinance that appointed officers and employees who begin City employment after the effective date of the ordinance be or become City residents. Violation of a residence requirement enacted pursuant to this Section shall be cause for demotion, suspension, or termination of an officer or

employee, if so provided by Council. ~~The Council may provide by ordinance that applicants for appointment or promotion in the classified service of the City be given preference for appointment or promotion if they are residents of the City at the time of application.~~ [New sec. Nov. 2, 1954; am. May 20, 1960; am. Nov. 2, 1982; am. March 29, 1983; am. May 17, 1988.]

ARTICLE 7. OFFICIAL UNDERTAKINGS AND BONDS.

Section 2-701. Requirements for Undertakings and Bonds.

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

ARTICLE 8. RECORDS.

Section 2-801. Official Public Records.

The public records 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 or to the Auditor; and such public records may be inspected at any time by any member of the Council, by the Mayor, by the City Administrator, or by the Auditor. The Auditor shall receive and preserve in the Auditor's office all public records regarding City business filed with the Auditor according to the Public Records laws of the State of Oregon. [Ch. 1903, sec. 122; rev. 1914, sec. 84; 1928 pub., sec. 84; 1942 recod., sec. 2-701; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 2-802. Inspection and Certified Copies.

All public records of every office and department shall be open to the inspection of any citizen at any time during business hours subject to the provisions of the State Public Records laws, except records of bureaus charged with law enforcement relating to investigations for possible prosecutions and interdepartmental or interbureau advice and memoranda, which records shall not be opened for such inspection unless such opening is ordered by a court or specific permission is given by the Council or ~~Commissioner In Charge~~ the Mayor. Certified copies or extracts from public records which are open to inspection shall be given by the officer in custody of the record to any person demanding the record who pays or tenders the fee prescribed by the Council for such copies or extracts. [Ch. 1903, sec. 137; rev. 1914, sec. 92; 1928 pub., sec. 92; 1942 recod., sec. 2-702, rev. Nov. 6, 1962; am. May 18, 1994.]

Section 2-803. Ownership Records.

The City officers responsible for property management shall keep a record of all property owned by the City and the income derived from it. [Ch. 1903, sec. 284; rev. 1914, sec. 79; 1928 pub., sec. 79; 1942 recod., sec. 2-416; rev. Nov. 6, 1962; am. Dec. 14, 1971; am. May 20, 1986; am. May 18, 1994.]

ARTICLE 9. THE MUNICIPAL COURT.

[Sections 2-901 and 2-902, new in 1971, provided for the transfer of municipal court matters to the district court of Multnomah County. These sections were deleted in the 1984 edition of the Charter since the transfer has been completed.]

ARTICLE 10. COMMUNITY POLICE OVERSIGHT BOARD.

[Article added November 3, 2020, effective December 2, 2020.]

Section 2-1001. City of Portland Community Police Oversight Board.

A Board is hereby authorized and shall be established upon compliance with any legal obligations the City may have under the Public Employees Collective Bargaining Act, other state and federal laws, and upon adoption by City Council of an implementing Ordinance. The mission of the City of Portland Community Police Oversight Board (Board) is to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns. The final name of this Board will be established by City Code.

Section 2-1002. Nature of the Board.

Board members shall be appointed by approval of Council to a term of years established in City Code. Members may not be removed from the Board prior to the completion of their term except for cause. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.

Section 2-1003. Restrictions on Board Membership.

People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the Board. People who were formerly employed by a law enforcement agency are not eligible for service on the Board.

Section 2-1004. Budget of the Board.

Funding for the Board shall be proportional to be no less than 5 percent of the Police Bureau's Annual Operational Budget.

Section 2-1005. Professional Staff of the Board.

The Board shall hire a Director to manage the professional administrative staff and professional investigators, and to make operational and administrative decisions. The Director is a "Bureau Director" for purposes of Charter section 4-301 and shall be appointed by, and serve at the will and pleasure of, the Board. Professional staff of the Board, other than the Director, shall be appointed by and serve under the direction of the Director as classified employees.

Section 2-1006. Independent Authority.

The Board shall have authority to exercise independent judgment in performing all legally assigned powers and duties. The ~~Mayor~~, City Council, Mayor, City Administrator, Auditor, and City departments, bureaus and other administrative agencies shall not interfere in the exercise of the Board's independent judgment. The physical office of the Board shall be located outside of a Portland Police Bureau facility.

Section 2-1007. Powers of the Board.

- (a) The Board shall have the power to the full extent allowed by law to receive and investigate complaints including the power to subpoena and compel documents, and to issue disciplinary action up to and including termination for all sworn members and the supervisors thereof within the Portland Police Bureau.
- (b) The Board shall have the authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the Board. If the Portland Police Bureau rejects a policy or directive recommendation, then at the request of the Board, City Council must consider and vote to accept or reject the policy recommendations received from the Board. Council's decision will be binding on the Portland Police Bureau.
- (c) The Board shall have the authority and ability to gather and compel all evidence, to access all police records to the extent allowed by federal and state law, and the ability to compel statements from witnesses including officers. The Board shall make provisions for regular and open meetings, public transparency, and reporting on the Board's activities. One of the goals of the Board will be to remove barriers for Board members to fully participate in the work of the Board.
- (d) The Board shall have the power to compel sworn members of the Portland Police Bureau and their supervisors to participate in investigations and to completely and truthfully answer all questions. Refusal to truthfully and completely answer all questions may result in discipline up to and including termination.

Section 2-1008. Duties of the Board.

The board shall have the authority to investigate certain Police actions, including but not limited to;

- (a) All deaths in custody and uses of deadly force.

- (b) All complaints of force that result in injury, discrimination against a protected class, violations of federal or state constitutional rights.
- (c) The Board may investigate other complaints or incidents of misconduct as they see fit or as mandated by City Code.

Section 2-1009. Severability.

For the purpose of determining constitutionality, every section, subsection and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

CHAPTER 3 - NOMINATIONS AND ELECTIONS

ARTICLE 1. GENERAL PROCEDURE.

Section 3-101. Time of Taking Office and Terms.

~~Beginning with elections held in 2006, if any candidate for the office of Mayor, Commissioner, or Auditor receives a majority of the votes cast in a primary election for that office, that candidate shall be elected. If no candidate for such an office receives a majority of the votes cast in the primary election, the names of the two candidates receiving the highest number of votes cast shall be declared nominees and their names shall appear on the general election ballot in that same year. The nominee receiving the highest number of votes in the general election shall be elected.~~

Except as otherwise provided in this charter, those elected ~~shall~~ take office on the ~~following~~ January 1 following the general election in which they are elected and ~~shall~~ hold office for four years. If, at the end of ~~four years~~ a term, no successor is yet elected and qualified, the incumbent shall continue to hold office until a successor is elected and qualified.

Except as otherwise provided in this charter, at the November 2024 election, the Mayor and all Councilors from District No. 1 and District No. 2 are elected for a term of four years. At the same election, the Auditor and all Councilors from District No. 3 and District No. 4 are elected for an initial term of two years. At subsequent elections, those elected hold office for four years.

~~Except as otherwise provided in this charter, the Mayor and Commissioners for positions 1 and 4 shall be elected every fourth year beginning in 2004, and the Auditor and Commissioners for positions 2 and 3 shall be elected every fourth year beginning in 2006. [May 3, 1913, new sec. 41; rev. 1914, sec. 123; 1928 pub., sec. 123; am. Nov. 8, 1932; 1942 recod., sec. 3-101; am. Nov. 6, 1962; May 18, 2004, sec. replaced.]~~

Section 3-102. ~~Primary Elections.~~ Ranked Choice Voting.

City Councilors, the Mayor and the Auditor are elected in the general election, except as otherwise provided in this Charter, using ranked choice voting. Ranked choice voting means an election method in which voters rank candidates for an office or offices in order of the voter's preference and ballots are counted in rounds. The use of ranked choice voting must commence with the November 2024 election.

The Mayor and the Auditor are elected at-large using a method of ranked choice voting known as instant runoff voting. Instant runoff voting elects the candidate who has a majority of the vote after the initial round of counting based on the number of first rankings each candidate

receives. If no candidate receives a majority of the vote in the initial round, subsequent rounds are counted in which (i) candidates retain the number of votes counted for them in the first and any subsequent rounds that already occurred; and (ii) the candidates having the fewest votes are successively eliminated in rounds and their votes are counted as votes for the candidates who are ranked next on the ballots that had been counted for the eliminated candidates. The process of eliminating candidates and transferring their votes to the next-ranked candidate on ballots repeats until a candidate has a majority of the vote.

Councilors of each district are elected using a proportional method of ranked choice voting known as single transferable vote. This method provides for the candidates to be elected on the basis of a threshold. The threshold is determined by the number of seats to be filled plus one, so that the threshold is the lowest number of votes a candidate must receive to win a seat such that no more candidates can win election than there are seats to be filled. In the initial round, the number of first rankings received by each candidate is the candidate's vote count. Candidates whose vote counts are at least the threshold are declared elected. Votes that counted for elected candidates in excess of the threshold are called surplus. If fewer candidates are elected in the initial round than there are seats to be filled, the surplus percentage of all votes for the candidates who received a surplus are transferred to the next-highest ranked candidates in proportion to the total numbers of next-highest rankings they received on the ballots that counted for the elected candidate. If, after all surpluses have been counted in a round, no additional candidates have a vote count that is at least the threshold, the candidates with the lowest vote counts are successively eliminated in rounds and their votes are counted as votes for the candidates who are ranked next highest on the ballots that had been counted for the eliminated candidates, until another candidate has a vote count that is at least the threshold or until the number of candidates remaining equals the number of seats that have not yet been filled. The process of transferring surpluses of elected candidates and eliminating candidates continues until all positions are elected.

The Council must adopt an election code for the administration of ranked choice voting. The City must conduct periodic voter education campaigns to familiarize voters with the ranked choice voting methods described above.

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

Section 3-103. General Elections.

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

Section 3-104. Special Elections.

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

Section 3-105. Nonpartisan ~~Primaries~~ Elections.

~~The elective offices of City Councilors, the Mayor and the Auditor~~ Nomination of Mayor, Auditor and Commissioners, the elective officers under this Charter, shall be nonpartisan and shall be made in conformity with primary methods hereinafter prescribed and provided, subject to the provisions elsewhere contained in this Charter relating to filling of vacancies. ~~The positions of the Commissioners shall be designated as Position No. 1, Position No. 2, Position No. 3, or Position No. 4. Commissioners shall be designated by the same position as the Commissioner whom they have succeeded or will succeed in office. In all proceedings for the nomination of candidates for the office of Commissioner, every petition and individual nomination certificate or declaration for nomination, nominee's acceptance and certificate of election, ballot, or other document used in connection with nominations for Commissioner, shall state the official number of the position as Commissioner, as herein designated, to which such candidate aspires, and the candidate's name shall appear on the ballot only for such designated position. At all elections each such office of Commissioner to be filled shall be separately designated on the ballot by official position number as herein provided, in addition to other matter required by law to appear thereon. In case no nomination is made at the primary election, nominations may be made at the general election as set forth in this Charter for vacancies occurring at a subsequent date.~~ [May 3, 1913, new sec. 45; rev. 1914, sec. 127; 1928 pub., sec. 127; am. Nov. 8, 1932; am. Nov. 6, 1934; 1942 recod., sec. 3-105; am. Nov. 6, 1962; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 3-106. Elections Procedures.

The Council shall adopt by ordinance procedures for conducting City elections. [Ch. 1903, sec. 23; rev. 1914, sec. 128; 1928 pub., sec. 128; am. Nov. 8, 1932; 1942 recod., sec. 3-106; am. Nov. 6, 1962; am. May 18, 1994.]

Section 3-107. Council Districts.

There are four (4) City Council districts. Each district is represented by three (3) City Councilors for a total of twelve (12) City Councilors.

Section 3-108. Independent District Commission.

The authority to adopt plans that specify the boundaries of districts for the City Council is vested in the Independent District Commission. The Commission consists of thirteen (13) residents of the City who represent a diversity of race, gender, age and geography. Elected or appointed City officials and employees, and candidates for elected City office who have filed and been qualified to the ballot by the City Elections Office, are prohibited from serving on the Commission.

The Mayor appoints members of the Commission, subject to confirmation by the City Council. The first Commission must be confirmed as soon as practicable but no later than January 31, 2023. Thereafter, the Commission must be confirmed by March 31 in every year ending in "1." The Commission's term ends upon adoption of a districting plan.

The Commission may require bureaus and departments of the City to provide technical assistance. The Commission has a budget as provided by the City Council.

Section 3-109. Powers and Duties of the Independent District Commission.

The Commission prepares and adopts a districting plan for dividing the City into four (4) districts for the election of City Councilors. The plan includes a map and a description of districts.

The vote of at least nine (9) members of the Commission is required to adopt the districting plan. A majority vote of the Commission is required for all other actions.

The Commission holds at least one (1) public hearing before it develops the districting plan to seek public comment on whether any plan criteria, in addition to the criteria set forth in Section 3-110, will be considered.

The Commission holds at least two (2) public hearings in each proposed district not less than one (1) month before it votes to adopt the plan. The Commission makes its plan available to the public for inspection and comment not less than one (1) month before the public hearings in each proposed district. The first Commission adopts its plan by September 1, 2023. Thereafter, the Commission adopts its plan by September 1 in every year ending in "1." If the Commission adopts a plan, no further action by Council is required and the plan is final. If the Commission has not adopted a plan after taking two votes, the most recent version of the plan voted on by the Commission passes to the City Council for its consideration and adoption. The plan is effective when the Commission or the City Council files it with the City Elections Officer.

No change in the boundary of a district caused by annexation to the City or withdrawal of an area from the City may terminate the office of any Councilor. Upon an annexation or withdrawal, the Mayor may, but need not, initiate the creation of an Independent District Commission to redraw district boundaries. Upon an annexation with no adjustment to a district boundary, the annexed area becomes part of that existing district with which it is most contiguous.

Section 3-110. District Plan Criteria.

The Commission, or the City Council if the Commission is unable to adopt a plan, ensures that each district, as nearly as practicable, will be contiguous and compact, utilize existing geographic or political boundaries, not divide communities of common interest, be connected by transportation links, and be of equal population. No district may be drawn for the purpose of favoring any political party, incumbent elected official or other person. No district may be drawn for the purpose of diluting the voting strength of any language or ethnic minority group. Additional criteria may be considered, consistent with state and federal law.

ARTICLE 2. INITIATIVE, REFERENDUM AND RECALL.

Section 3-201. Exercise of Rights.

The initiative, referendum and recall ~~shall be~~ exercised within the City of Portland in the manner provided by the Constitution and general laws of the State, and ordinances of the City of Portland, enacted in pursuance thereof. Notwithstanding the above, a recall petition for a Councilor may only include signatures of registered voters from the district the Councilor represents and the recall petition may be voted on only by voters from within that district. [May 3, 1913, part of new sec. 56; rev. 1914, sec. 19; 1928 pub., sec. 19; 1942 recod., sec. 3-201.]

Section 3-202. Effective Date of Measures.

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

ARTICLE 3. CAMPAIGN FINANCE IN CANDIDATE ELECTIONS.

[Article added November 6, 2018, effective December 5, 2018.]

3-301. Contributions in City of Portland Candidate Elections.

- (a)** An Individual or Entity may make Contributions only as specifically allowed to be received in this Article.
- (b)** A Candidate or Candidate Committee may receive only the following Contributions during any Election Cycle:
 - (1)** Not more than five hundred dollars (\$500) from an Individual or a Political Committee other than a Small Donor Committee;
 - (2)** Any amount from a qualified Small Donor Committee;
 - (3)** A loan balance of not more than five thousand dollars (\$5,000) from the candidate;
 - (4)** No amount from any other Entity, except as provided in Section 3-304 below.
- (c)** Individuals shall have the right to make Contributions by payroll deduction by any private or public employer upon the employer's agreement or if such deduction is available to the employees for any other purpose.

3-302. Expenditures in City of Portland Candidate Elections.

- (a)** No Individual or Entity shall expend funds to support or oppose a Candidate, except those collected from the sources and under the Contribution limits set forth in this Article.
- (b)** An Entity shall register as a Political Committee under Oregon law within three (3) business days of making aggregate Independent Expenditures exceeding \$750 in any Election Cycle to support or oppose one or more Candidates in any City of Portland Candidate Election.
- (c)** Only the following Independent Expenditures are allowed per Election Cycle to support or oppose one or more Candidates in any particular City of Portland Candidate Election:
 - (1)** An Individual may make aggregate Independent Expenditures of not more than five thousand dollars (\$5,000).

- (2) A Small Donor Committee may make Independent Expenditures in any amounts from funds contributed in compliance with Section 3-301 above.
- (3) A Political Committee may make aggregate Independent Expenditures of not more than ten thousand dollars (\$10,000), provided that the Independent Expenditures are funded by means of Contributions to the Political Committee by Individuals in amounts not exceeding five hundred dollars (\$500) per Individual per year.

3-303. Timely Disclosure of Large Contributions and Expenditures.

- (a) Each Communication to voters related to a City of Portland Candidate Election shall Prominently Disclose the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication, including:
 - (1) The names of any Political Committees and other Entities that have paid to provide or present it; and
 - (2) For each of the five Dominant Contributors providing the largest amounts of funding to each such Political Committee or Entity in the current Election Cycle:
 - a) The name of the Individual or Entity providing the Contribution.
 - b) The types of businesses from which the maker of the Contribution has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
 - (3) For each of the largest five Dominant Independent Spenders paying to provide or present it:
 - a) The name of the Individual or Entity providing the Independent Expenditure.
 - b) The types of businesses from which the maker of the Independent Expenditure has obtained a majority of income over the previous 5 years, with each business identified by the name associated with its 6-digit code of the North American Industry Classification System (NAICS).
- (b) If any of the five largest Dominant Contributors or Dominant Independent Spenders is a Political Committee (other than a Small Donor Committee) or nonprofit

organization, the prominent disclosure shall include its top three funders during the current Election Cycle.

- (c) The disclosure shall be current to within ten (10) days of the printing of printed material or within five (5) days of the transmitting of a video or audio communication.

3-304. Coordination with Public Funding of Campaigns.

A candidate participating in a government system of public funding of campaigns (including the Public Election Fund established under Portland City Code Chapter 2.16) may receive any amount that such system allows a participating candidate to receive.

3-305. Implementation and Enforcement.

- (a) The provisions of this Article shall be implemented by ordinance to be operative not later than September 1, 2019.
- (b) Each violation of any provision in this Article shall be punishable by imposition of a civil fine which is not less than two nor more than twenty times the amount of the unlawful Contribution or Expenditure or Independent Expenditure at issue.
- (c) Any person may file a written complaint of a violation of any of the Provisions with the City Auditor.
- (d) The City Auditor, otherwise having reason to believe that a violation of any provision has occurred, shall issue a complaint regarding such violation.
- (e) Upon receipt or issuance of a complaint, the City Auditor:
 - (1) Shall examine the complaint to determine whether a violation has occurred and shall make any investigation necessary.
 - (2) Within two business days of receiving or issuing a complaint, shall issue a notification, including a copy of the complaint, to every person who is the object of the complaint.
 - (3) Shall accept written materials supporting or opposing the complaint for a period of 10 business days following any such notification.
 - (4) Shall render a decision on the complaint within 10 business days of the close of the material submission period.

- (f) If the complaint is received or issued within 30 days of the date of the election involving the object of the complaint, then all time periods stated in subsections (e)(3) and (e)(4) above shall be reduced by one-half.
- (g) The City Auditor may issue subpoenas to compel the production of records, documents, books, papers, memoranda or other information necessary to determine compliance with the provisions of this Article.
- (h) Upon finding a violation of the requirement for timely disclosure set forth in Section 3-303 above, the City Auditor shall determine the true original sources of the Contributions and/or Independent Expenditures used to fund the Communication at issue and shall immediately issue a statement to all interested parties and news organizations containing all of the information about the involved donor(s) required by Section 3-303 above.
- (i) The complainant or any person who is the object of the complaint may, within 30 days of the issuance of the decision, appeal that order to the appropriate Circuit Court as an agency order in other than a contested case.
- (j) The decision in the matter shall be deemed final, following completion of any judicial review. Such decision shall be enforced by the City of Portland. If the decision is not enforced within thirty (30) days of the decision becoming final, the complainant may bring a civil action in a representative capacity for the collection of the applicable civil penalty, payable to the City of Portland, and for any appropriate equitable relief.

3-306. Adjustments.

All dollar amounts shall be adjusted on January 1 of each odd-numbered year to reflect an appropriate measure of price inflation, rounded to the nearest dollar.

3-307. Severability.

For the purpose of determining constitutionality, every section, subsection, and subdivision thereof of this Section, at any level of subdivision, shall be evaluated separately. If any section, subsection or subdivision at any level is held invalid, the remaining sections, subsections and subdivisions shall not be affected and shall remain in full force and effect. The courts shall sever those sections, subsections, and subdivisions necessary to render this Section consistent with the United States Constitution and with the Oregon Constitution. Each section, subsection, and subdivision thereof, at any level of subdivision, shall be considered severable, individually or in any combination.

3-308. Definitions.

Unless otherwise indicated by the text or context of this Article, all terms shall have the definitions at Chapter 260 of Oregon Revised Statutes, as of January 1, 2018. Terms found therein or defined below are capitalized in this Article.

- (a)** "Candidate" has the meaning set forth at ORS 260.005(1).
- (b)** "Candidate Committee" has the meaning set forth at ORS 260.039 - 260.041, as of November 8, 2016, for the term "principal campaign committee."
- (c)** "City of Portland Candidate Election" means an election, including a primary election, to select persons to serve (or cease serving) in public offices of City of Portland.
- (d)** "Communication" means any written, printed, digital, electronic or broadcast communications but does not include communication by means of small items worn or carried by Individuals, bumper stickers, Small Signs, or a distribution of five hundred (500) or fewer substantially similar pieces of literature within any 10-day period.
- (e)** "Contribution" has the meaning set forth at ORS 260.005(3) and 260.007, as of November 8, 2016, except it does not include
 - (1)** funds provided by government systems of public funding of campaigns or
 - (2)** providing rooms, phones, and internet access for use by a candidate committee free or at a reduced charge.
- (f)** "Dominant Contributor" means any Individual or Entity which contributes more than one thousand dollars (\$1,000) during an Election Cycle to a Candidate Committee or Political Committee.
- (g)** "Dominant Independent Spender" means any Individual or Entity which expends more than one thousand dollars (\$1,000) during an Election Cycle to support or oppose a particular Candidate.
- (h)** "Election cycle" means:
 - (1)** Generally, the period between an election at which a candidate is elected and the next election for that same office, disregarding any intervening primary or nominating election, any recall election, or any special election called to fill a vacancy.

- (2) For any recall election: the period beginning the day that the recall election is called or declared and ending at midnight of the day of the recall election.
 - (3) For any special election called to fill a vacancy: the period beginning the day that the special election is called or declared and ending at midnight of the day of the election.
- (i) "Entity" means any corporation, partnership, limited liability company, proprietorship, Candidate Committee, Political Committee, or other form of organization which creates an entity which is legally separate from an Individual.
- (j) "Expenditure" has the meaning set forth at ORS 260.005(8) and ORS 260.007, as of January 1, 2018, except that:
 - (1) It does not include a Communication to its members, and not to the public, by a Membership Organization not organized primarily for the purpose of influencing an election.
 - (2) The exception in ORS 260.007(7) does not apply.
- (k) "General Election Period" means the period beginning the day after the biennial primary election and ending the day of the biennial general election.
- (l) "Individual" means a citizen or resident alien of the United States entitled to vote in federal elections; however, when this Article expresses a limitation or prohibition, "Individual" means any human being.
- (m) "Membership Organization" means a nonprofit organization, not formed or operated for the purpose of conducting or promoting commercial enterprise, which has Individual members who have taken action to join the organization and have made a payment of money or volunteer time to maintain membership in the organization.
 - (1) It cannot have commercial enterprises as members.
 - (2) It can transfer to one and only one small donor committee not more than forty percent (40%) of the amount paid to the organization by each Individual member, with a limit of one hundred dollars (\$100) transferred per Individual member per calendar year.
 - (3) It shall within thirty (30) days of any such transfer notify each paying member of the amount transferred, expressed in dollars or as a percentage of the member's amount paid to the organization. Such notice may be provided by

regular mail or electronic mail to each affected member or by posting the information on the organization's main website. If the amount transferred is the same for each member or category of members (in dollars or in percentage of amount paid), the posting may state that amount or percentage without identifying Individual members.

- (n)** "Primary Election Period" means the period beginning on the 21st day after the preceding biennial general election and ending the day of the biennial primary election.
- (o)** "Prominently Disclose" means that the disclosure shall be readily comprehensible to a person with average reading, vision, and hearing faculties, with:

 - (1)** any printed disclosure appearing in a type of contrasting color and in the same or larger font size as used for the majority of text in the printed material;
 - (2)** any video disclosure remaining readable on the regular screen (not closed captioning) for a not less than 4 seconds;
 - (3)** any auditory disclosure spoken at a maximum rate of five words per second;
 - (4)** any website or email message in type of a contrasting color in the same or larger font size as used for the majority of text in the message;
 - (5)** any billboard or sign other than a Small Sign: in type of a contrasting color and not smaller than 10 percent of the height of the billboard or sign.
- (p)** "Small Donor Committee" means a Political Committee which has never accepted any Contributions except from Individuals in amounts limited to one hundred dollars (\$100) per Individual contributor per calendar year.
- (q)** "Small Sign" means a sign smaller than six (6) square feet.

CHAPTER 4 - CIVIL SERVICE

[Charter 1903, sections 306 - 327; 1914 sections 306 - 327 revised, sections 97 - 121; 1928 published, sections 97 - 121; November 6, 1934 amended, section 97; 1942 sections 97 - 121 recodified, sections 4-101 to 4-126; sections 4-101 to 4-126 amended and revised at subsequent elections; November 2, 1982 amended, section 4-101; November 4, 1986, effective July 1, 1987 repealed sections 4-102 to 4-129 and enacted in lieu sections 4-102 to 4-701; November 7, 2000 amended section 4-101; May 15, 2007, effective January 1, 2008, repealed sections 4-101 to 4-701 and enacted in lieu sections 4-101 to 4-601.]

ARTICLE 1. MERIT PRINCIPLE

Section 4-101. Merit Principle.

All appointments and promotions to positions in the classified service shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other objective evidence of competence. Such appointments and promotions shall provide fair and equal opportunity without regard to race, religion, gender, marital and family status, national origin, age, mental or physical disability, sexual orientation, gender identity, source of income, and such other criteria as determined by the City Council by ordinance. The goal of the merit system is a workforce that reflects the aspirations and values of the City it serves.

ARTICLE 2. MERIT SYSTEM.

Section 4-201. Merit System.

Consistent with all applicable federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies and rules necessary for effective administration of the employees of the City's offices, bureaus, and agencies, other than the Office of the Auditor, including but not limited to classification and pay plans, recruitment, examinations, disciplinary actions, types of appointments, relationships with employee organizations, and appeals and hearings. Such ordinances shall be consistent with the merit principles in Article 1. Employees in the Office of the Auditor shall be subject to the policies and rules established by the City Auditor under Chapter 2, Article 5 of this Charter. [Amended May 16, 2017, effective June 14, 2017.]

ARTICLE 3. CLASSIFIED SERVICE.

Section 4-301. Classified Service.

The classified service in the City shall consist of all positions in the government of the City except all officers chosen by popular election or by appointment by the City Council, all administrative staff of the Mayor and each City Council member, employees in the Office of the Auditor, the deputies of the City Attorney, members of all boards and commissions, and all bureau directors hired after December 31, 2000. In addition, at the recommendation of the person responsible for administration of personnel issues, and with approval of Council by ordinance, employees may be excluded from classified service if they are in a classification with a major role in the formulation of policy that requires the exercise of independent judgment and are hired after the effective date of such ordinance.

The Mayor ~~shall~~ appoints, subject to Council confirmation, and may remove the Chief of Police. [Amended May 16, 2017, effective June 14, 2017.]

ARTICLE 4. CIVIL SERVICE BOARD.

Section 4-401. Civil Service Board.

There shall be a Civil Service Board consisting of three members appointed by the Mayor and confirmed by Council. The appointments shall ensure that the perspectives of labor, management and the general public are reflected. Members of the board shall act impartially. The Mayor may remove any Civil Service Commissioner at any time and shall within five days of the removal notify Council of the reasons for dismissal. The term of office of each member of the Board shall be three years with the term of one Board member expiring every year. Board members may be reappointed for up to two additional terms. Each member of the board shall be a resident of the City.

Section 4-402. The Duties of the Board.

The Board shall:

1. Review classification actions alleged by employees in the classified service to have been made without rational basis, contrary to law or rule or taken for political reason(s) and as necessary, remand back to the person responsible for the administration of personnel issues for further review and action.
2. Review suspension, demotion or discharge of permanent employees in the classified service when employees allege discipline was not for cause. If an employee's allegations are found to be correct, reinstatement may be ordered under terms and conditions as may be deemed appropriate by the Board.
3. Review appeals of candidates for appointment or promotion to positions within the classified service when applicants allege that rules promulgated under this Chapter were not followed, were contrary to law or made for political reasons. If the Board finds an allegation to be correct, it shall order such actions necessary to fulfill the purpose and principles of this Chapter.
4. An appeal to Board of any of the actions listed in this subsection must be filed with the Board, in writing, within 21 days of the action or decision being appealed.
5. On at least an annual basis, the Board shall review any administrative rules and policies being considered or adopted by City Council or other City officials concerning the duties of the Board as listed in this section, and provide input to City Council and the person responsible for the administration of personnel issues.
6. The Board shall meet at least quarterly and shall report annually to City Council on its activities for the prior year.

Section 4-403. Judicial Review.

The final decision of the Board or any appeal to the Board shall be subject to review by a court of competent jurisdiction in the manner provided by statute for review of quasi-judicial decisions of lower tribunals.

ARTICLE 5. RIGHT TO BARGAIN COLLECTIVELY.

Section 4-501. Right to Bargain Collectively.

The right of City employees to bargain collectively, through representatives of their own choosing, shall not be abrogated by the City, provided that no provision of a collective bargaining agreement shall abrogate the provisions of this Charter.

ARTICLE 6. EFFECTIVE DATE AND RULES.

Section 4-601. Effective Dates and Rules.

These amendments shall take effect on January 1, 2008. All Civil Service Rules and Human Resources Administrative Rules in effect on the effective date of this Chapter 4 will remain in force until such rules are changed by the appropriate official or officials.

CHAPTER 5 - FIRE AND POLICE DISABILITY, RETIREMENT AND DEATH BENEFIT PLAN

[Chapter 5 am. June 2, 1913; am. June 2, 1914; am. June 7, 1915; am. Nov. 5, 1918; 1928 pub.; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod.; am. Nov. 2, 1948; am. Nov. 7, 1950; am. Nov. 2, 1954; am. May 18, 1962; rev. Nov. 3, 1964; am. May 20, 1986; amended and restated Nov. 7, 1989, effective July 1, 1990; amended and restated November 7, 2000, effective July 1, 2001; amended and restated November 7, 2006, effective January 1, 2007; amended by Ordinance No. 180917, effective May 26, 2007; amended November 6, 2007, effective December 5, 2007; amended by Ordinance No. 185140, effective March 9, 2012; amended and restated November 6, 2012, effective January 1, 2013.]

ARTICLE 1. FUNDING

Section 5-101. Creation of Fund.

The Fire and Police Disability and Retirement Fund originally created and established for the benefit of the sworn employees of Portland Fire & Rescue (hereinafter Bureau of Fire) and the Bureau of Police of the City of Portland (hereinafter Bureau of Police) and for the benefit of the Surviving Spouses and Dependent Minor Children of deceased sworn employees, by this Chapter on March 11, 1942 and revised in part by subsequent amendments through November 7, 2000 is hereby amended effective January 1, 2007 for the benefit of sworn employees of the Bureau of Fire and Police and their Surviving Spouses and Dependent Minor Children.

When used alone in this Chapter, the word "Fund" shall mean the Fire and Police Disability and Retirement Fund. References in this Chapter to the "Bureau of Fire" shall mean Portland Fire & Rescue or any bureau, department or agency, howsoever designated, hereafter succeeding to the functions of Portland Fire & Rescue. References in this Chapter to the "Bureau of Police" shall mean the Bureau of Police or any bureau, department or agency, howsoever designated, hereafter succeeding to the functions of the Bureau of Police.

Beginning January 1, 2007, the Fund shall have three programs.

- (a)** FPDR One consists of those sworn employees of the Bureau of Fire and Bureau of Police who pursuant to Section 5-401(b) and (c) of this Chapter receive benefits under Sections 5-113 through 5-123 and 5-126 of this Chapter.
- (b)** FPDR Two consists of sworn employees of the Bureau of Fire and Bureau of Police who are not FPDR One Members and were sworn before January 1, 2007, except as specifically excluded in Section 5-301. FPDR Two Members shall have retirement benefits as provided in Article 3 of this Chapter; service connected and occupational disability benefits as provided in Sections 5-306 and 5-308 of this Chapter; and non-

service connected disability benefits as provided in Sections 5-307 and 5-309 of this Chapter.

- (c) FPDR Three consists of sworn employees of the Bureau of Fire and Bureau of Police first sworn on or after January 1, 2007. Notwithstanding any other provision of this Chapter, FPDR Three Members shall have the following benefits: FPDR Three Members shall be enrolled in the Public Employees Retirement System of the State of Oregon (PERS) and shall have benefits as provided by PERS or any successor state program; service connected and occupational disability benefits as provided in Sections 5-306 and 5-308 of this Chapter; and non-service connected disability benefits as provided in Sections 5-307 and 5-309 of this Chapter. Employee contributions, employer contributions, payroll taxes, benefit payments and other costs of the retirement and disability plan provided to FPDR Three Members shall be paid from the Fund. Such costs shall be requirements levied under Section 5-103.
- (d) Unless otherwise specified, the term Member in Articles 1, 2, 3, and 4 refers to members of FPDR One, FPDR Two and FPDR Three.

Section 5-102. Sources of Fund.

The Fund shall consist of the following:

- (a) Existing Fund. All moneys, property and investments held in the Fire and Police Disability and Retirement Fund under the provisions of the Charter of the City of Portland, as in effect prior to the amendments effective in January 1, 2007, and all moneys hereafter earned by or paid into the Fund in accordance with Sections 5-103 and 7-110(5).
- (b) Member Contributions. Compulsory contribution to the Fund from each FPDR One Member who, as a result of Section 5-401, is subject to the provisions of Sections 5-113 through 5-123 and 5-126 of this Chapter, set out in Article 5, amounting to seven percent of such Member's then current salary but not to exceed seven percent of the then current salary of a First Class Fire Fighter, or whatever name said position shall hereafter bear, for Members employed in the Bureau of Fire, and not to exceed seven percent of the then current salary of a First Class Police Officer, or whatever name said position shall hereafter bear, for Members employed in the Bureau of Police and the contribution required by the Supplementary Retirement Program described in Subsection 5-401(d) from Members described in that Subsection.
- (c) Extraordinary Amounts. All bequests, fees, gifts or other emoluments paid or given on account of any extraordinary service of any Member (except when specifically allowed to be retained by such Member by the ~~Council~~Mayor.)

- (d) Other Moneys. All other moneys herein made available and all other moneys which may be hereafter made available by law, including loans from the General Fund and advances from the Reserve Fund created in this Article.

Section 5-103. Levy by Council.

- (a) Statement by Board. The Board of Trustees created in Article 2 shall annually, on or before the date set for such purpose by the ~~Council~~ Mayor, prepare and transmit to the Council and the Mayor a statement containing the following items:
1. The amount of money required for the next succeeding fiscal year to pay and discharge all requirements of the Fund, including employee contributions, employer contributions, payroll taxes, benefit payments, repayment of authorized loans and advances, and other costs, for such succeeding fiscal year.
 2. The estimated revenue to the Fund during the next succeeding fiscal year from all sources except the levy in this Section provided plus the estimated balance in the Fund at the beginning of said year.
 3. A statement of all payments made and estimated to be made from the Fund during the current fiscal year.
 4. The total amount paid into and estimated to be paid into the Fund from all sources except loans from the General Fund and advances from the Reserve Fund created by Section 5-104 of this Article, during the current fiscal year plus the balance in the Fund at the beginning of said year.
 5. A statement setting forth in dollars and cents the total amount of money required by the Fund to discharge its requirements, including employee contributions, employer contributions, payroll taxes, benefit payments, and other costs for the next succeeding fiscal year and the current fiscal year. This amount of money shall be computed by adding the amount that item 1 exceeds item 2, if any, to the amount that item 3 exceeds item 4, if any.
- (b) Levy. The Council shall levy each year, at the same time and in the same manner that other taxes are levied, a tax upon all taxable property within the City of Portland not exempt from taxation, not to exceed two and one-half (2-1/2) mills on each dollar valuation plus that amount provided under Chapter 7-110(5), sufficient to produce and provide a sum equal to said required amounts so prepared and transmitted by the Board.

- (c) Minimum Levy. Said levy shall in no event be less than one (1) mill on said dollar valuation, unless the Reserve Fund created in the following Section will as a result of said minimum levy exceed seven hundred-fifty thousand dollars (\$750,000) in which event said levy shall only be sufficient to provide the amount required and to maintain said Reserve Fund at seven hundred-fifty thousand dollars (\$750,000).
- (d) Status and Use of Levy. The additional tax herein provided for hereby is specifically authorized and shall not be computed as a part of the revenue raised by taxation which is subject to the tax limitation of Section 11, Article XI of the Constitution of the State of Oregon, and said tax levy hereby authorized shall be in addition to all other taxes which may be levied according to law. The proceeds of said tax levy to the extent of the amount required by the Fund shall be paid into the Fund. Any balance shall be paid into the Reserve Fund created in Section 5-104.

Section 5-104. Reserve Fund.

There is hereby created and established a Reserve Fund which shall consist of all moneys paid into it as provided in Section 5-103. Advances may be made by the Board of Trustees hereinafter created from said Reserve Fund to the Fire and Police Disability and Retirement Fund in cases where said Fund is depleted to the extent that it cannot meet its current obligations. The City Treasurer shall have the same powers of investment of the Reserve Fund that such officer has with the Fire and Police Disability and Retirement Fund. If the balance in the Reserve Fund exceeds \$750,000, the excess shall be transferred to the Fire and Police Disability and Retirement Fund.

Section 5-105. Salary Deductions.

It shall be the duty of the City officer responsible for accounting, in making out regular salary warrants or checks, to deduct and withhold from the salary of each Member described in Subsection 5-102(b) the amount provided during all the time such Member may be in the employ of the Bureau of Fire or the Bureau of Police. It shall be the duty of the City officer responsible for accounting to draw a warrant or check for the total amount so withheld, payable to the Fund at the times regular salaries are paid.

Section 5-106. Investments.

The assets of the Fund shall be deposited with the City Treasurer. The City Treasurer shall invest the Fund and the Reserve Fund in such investments as are lawful for the investment of public funds of cities in the State of Oregon.

ARTICLE 2. ADMINISTRATION

Section 5-201. Board of Trustees.

- (a)** Composition. This Chapter shall be administered by a Board of Trustees, which also shall supervise and control the Fire and Police Disability and Retirement Fund and the Reserve Fund. The terms of the existing eleven-member Board shall terminate on December 31, 2006, but members shall remain in office until the new Board is sworn in. Beginning January 1, 2007, the Board of Trustees shall be composed of five members who shall be the following: The Mayor or the Mayor's designee approved by the City Council (who shall act as Chairperson); one Active Member serving in the Bureau of Fire, to be elected to the Board by the Active Members in the Bureau of Fire; one Active Member serving in the Bureau of Police, to be elected to the Board by the Active Members in the Bureau of Police, and two citizens of the City of Portland who shall have relevant experience in pension or disability matters and shall be nominated by the Mayor and approved by the City Council. Neither the Mayor nor the Mayor's designee nor either of the citizen members shall be an active or past Member or a beneficiary of the Fund or have been employed by the City of Portland Bureau of Fire or Bureau of Police. Notwithstanding the change in Board memberships, the Board of the Fund shall continue in existence without interruption. All members of the Board shall receive orientation to the Board and serve without compensation. References in this Chapter to the "Board" shall mean the Board of Trustees created by this Section. The Chairperson shall designate another member of the Board who shall act as Chairperson in the event of the Chairperson's absence. At least three members of the Board must be present in order to constitute a quorum. An affirmative vote of at least three members of the board shall constitute an action of the Board. The Board shall keep a record of all of its proceedings and shall hold regular meetings at a time to be set by the Board.
- (b)** Election of Board Members. Elections of the Board members representing the Members of the Bureau of Fire and Bureau of Police shall be under the supervision of the City Auditor and shall be held in the month of December, at which election one Active Member from the Bureau of Fire and one Active Member from the Bureau of Police shall be elected to the Board for three-year terms to succeed the members whose terms expire the month following the time of said election. Members so elected in December shall take office the following January. Similar elections for unexpired terms shall be held to fill other vacancies within thirty days after they occur. Elections shall be held in a manner prescribed by the rules and regulations adopted by the Board, which must be in writing and filed with the Administrator of the Fund. A Board member who ceases to be an Active Member may complete the remainder of the Board member's term.

- (c) Appointment of Board Members. The appointments of the two citizen members shall be as follows: one for an initial one year term and every three years thereafter and the other for an initial two year term and every three years thereafter. The appointments shall be made in the month of January.
- (d) New Board members shall be appointed or elected for terms to begin January 1, 2007 or as soon thereafter as they are elected or approved by the City Council. Appointments or elections for unexpired terms shall be made to fill vacancies within thirty days after they occur. The Board may set rules for attendance and any member may be removed by the Board for failure to abide by the attendance rules of the Board.
- (e) Indemnity. The members of the Board and the Fund Administrator appointed under Subsection 5-202(f) shall be indemnified by the Fund from any claim or liability, including the cost of legal defense by counsel approved by the City Attorney, that arises from any action or inaction in connection with their functions under this Chapter subject to the following:
 - 1. Coverage shall be limited to actions taken in good faith that the person reasonably believed were not opposed to the best interest of the Fund.
 - 2. Coverage shall be reduced by the extent of any insurance coverage.

Section 5-202. Powers of Board and Fund Administration.

- (a) As to Benefits. The Board shall not decide applications for disability benefits provided by this Chapter. The Board shall have the power to prescribe rules and regulations for administration of this Chapter and to provide for enforcement of the same by forfeiture of any benefit payment or by denial of any claim, if such rules and regulations are not followed. The rules may provide for suspension or reduction of any disability benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment. The rules may provide for the designation of one or more licensed physicians or psychologists to act at any time with the physicians appointed by the City Personnel Director in the mental and physical examinations of applicants for membership in the Bureau of Fire or Bureau of Police. The rules may require applicants for benefits from the Fund and persons receiving benefits from the Fund to submit to and undergo mental and physical examinations by one or more licensed physicians or psychologists designated by the Fund Administrator for that purpose. The Board is hereby authorized and empowered to administer oaths, subpoena and examine witnesses, and to require the production and examination of papers and documents for the purpose of rulemaking.

- (b) The Board shall retain one or more independent hearings officers who shall be members of the Oregon State Bar, have relevant disability training and experience, and who shall not be a Member or beneficiary of a Member. The Board shall establish rules of evidence and procedure for the conduct of hearings.
- (c) The Board shall establish an independent panel to consider appeals from the hearings officer's decisions. One panel member shall be appointed for an initial one year term and then every three years thereafter; the second panel member shall be appointed for an initial two year term and every three years thereafter and the third panel member shall be appointed for an initial three year term and every three years thereafter. Panel members shall be members of the Oregon State Bar, shall have relevant disability training and experience, and shall not be a Member or beneficiary of a Member. Panel members may be removed by the Board for cause.
- (d) The Board shall pay from the Fund the expenses of vocational rehabilitation of disabled Members established in a vocational rehabilitation plan approved by the Fund Administrator to reduce disability benefits. The Board may, but has no obligation to, pay other financial incentives that demonstrate a reduction in disability costs.
- (e) The Board may pay its administrative expenses from the Fund and may borrow from the General Fund. The Board may purchase bonds or insurance covering any act or failure to act.
- (f) The Fund shall have a Fund Administrator. The Fund Administrator shall be appointed by the ~~MayerCity Administrator~~, approved by the Board and confirmed by the City Council. The Fund Administrator shall be a qualified disability expert. The Fund Administrator shall have the position of a bureau director and shall report to the ~~MayerCity Administrator~~, and the Board. The ~~MayerCity Administrator~~ may remove the Fund Administrator, for any reason, after seeking the advice of the Board. The Board and the Fund Administrator may appoint other agents or advisers to assist the Board or Fund Administrator, including actuaries and attorneys.
- (g) The Fund Administrator shall have the authority to settle and discharge all or part of the Fund's future obligations to any Member or Member's eligible beneficiaries for disability, retirement or death benefits as to any and all claims or entitlements to disability, retirement or death benefits as part of a settlement. The Board shall adopt Administrative Rules regarding the maximum amount that the Fund Administrator may expend to discharge all or part of the Fund's future obligations to any Member or Member's eligible beneficiaries for disability, retirement or death benefits as to any and all claims or entitlements to disability, retirement or death benefits as part of a settlement without the approval of the Board of Trustees. Any amount

exceeding the maximum amount set by Administrative Rule shall require approval of the Board.

(h) Disability Claims Processing.

1. Restoring injured workers physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable is an important aspect of any disability system.
2. All claims by FPDR Two and FPDR Three Members for service connected and occupational disability benefits under Sections 5-306 and 5-308, for nonservice connected disability benefits under Sections 5-307 and 5-309, benefits on service connected or occupational death before retirement under Section 5-308 and benefits for non service connected death before retirement under Section 5-309 shall be adjusted, administered and decided by the Fund Administrator. The decision of the Fund Administrator shall be made in accordance with this Charter and the rules and regulations adopted by the Board.
3. A FPDR Two or FPDR Three Member or a Surviving Spouse or Dependent Minor Child adversely affected by a determination of the Fund Administrator may appeal that decision to a hearings officer within 60 days of the date of the decision of the Fund Administrator. The hearings officer shall conduct an evidentiary hearing under the rules of procedure and evidence established by the Board. The hearings officer shall have the power to administer oaths, subpoena and examine witnesses, and require the production and examination of papers and documents. The decision of the hearings officer shall be in writing and shall be issued within 30 days after the close of the evidentiary record. The decision shall be based on the evidence presented at the hearing.
4. The decision of the hearings officer shall be final unless an appeal to the independent panel is filed by the Member, Surviving Spouse, Dependent Minor Child or the Fund Administrator with the Fund within 30 days of the hearings officer's decision. The decision of the independent panel shall be de novo on the record and shall be the final decision of the Fund and may be appealed to the circuit court as provided by state law.

(i) Subrogation.

1. By filing a claim for disability benefits the Member or the beneficiary of a Member agrees to be bound by the subrogation provisions of this Chapter.

2. If injury, death or medical condition of a Member is due to the negligent, intentional or wrongful action of a third party or product manufactured by a third party, the Member or beneficiary of the Member shall bring a cause of action or other claim against that third party or assign the cause of action or claim to the Fund. As used in this Chapter, "third party" includes any provider of medical care or vocational assistance to the Member and does not include any City employee acting in the course and scope of their employment.
3. In the event a Member or the beneficiary of a Member collects damages from a third person for injury, death or medical condition inflicted on such Member for which benefits are paid or payable by the Fund, the Member or beneficiary shall pay to the Fund the money so collected or the total amount paid to such Member for any benefits paid or payable by the Fund that are authorized to be recovered by any law or this Chapter. The amount so collected by the injured Member shall be distributed as provided in the Oregon Workers' Compensation statutes governing similar damage recoveries.
4. The Fund shall have a lien on any recovery equal to the value of all benefits paid or payable by the Fund, including but not limited to, disability payments, vocational rehabilitation expenses paid on behalf of a Member, and medical expenses for the injury or medical condition. The Fund lien shall include the present value of the Fund's reasonably expected future benefit payments.
5. No compromise or settlement of a cause of action or claim described in this Subsection (i) by a Member or the beneficiary of a Member shall be valid without the approval of the Fund Administrator. In the event the Member, beneficiary or third party fails to obtain the approval of the Fund Administrator for the compromise or settlement, the Fund Administrator retains the right to pursue any causes of action against the third party.
6. The Fund Administrator shall have the right to offset disability payments in the amount that is the lesser of the Fund's unsatisfied lien or the amount recovered by the Member or beneficiary of the Member from the third party.
7. The Fund Administrator shall have the authority to suspend, offset or reduce benefits if a Member or the beneficiary of a Member does not pursue or assign to the Fund the Member's or beneficiary's cause of action against a third party who causes the injury, death or medical condition of a Member for which the Fund pays or is obligated to pay benefits, or does not pay a Fund lien on recoveries from such third parties. Benefits so suspended or

reduced shall not be payable to the Member or beneficiary at any time unless the Fund lien has been satisfied.

8. The Board's right to bring a cause of action against a third party in the name of the Member or Member's beneficiaries shall be separate and independent of any other cause of action the City or Board may have.

[Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-203. Custodian and Disbursing Officer.

The funds created in Sections 5-101 and 5-104 shall be in the care and custody of the City Treasurer, and shall be paid out by the Treasurer on warrants or checks signed by the Mayor and countersigned by the Fund Administrator and not otherwise; provided, however, that no warrants or checks shall be drawn upon either of said funds except by order of the Board, which order shall be duly entered upon the record of the proceedings of the Board.

Section 5-204. Books and Accounts.

The books and accounts of the Fund, shall, at all times, be subject to the inspection of any person interested, and shall be audited annually at the expense of the Fund by a licensed public accountant or firm of accountants approved by the City. The City Auditor may audit the activities of the Fund. All securities, moneys and properties of the Fund which have come into the possession of the Treasurer shall be delivered at the expiration of the Treasurer's term to the Treasurer's successor.

Section 5-205. Claims Recordkeeping and Assessment of the Fund.

The Fund shall keep disability claims records in a manner comparable to the City's Workers' Compensation records. The Board shall retain an outside independent expert in disability management to conduct an initial audit to create benchmarks for comparison of the Fund going forward. The initial audit shall be conducted not later than nine (9) months after January 1, 2007. Twelve (12) months after the initial baseline audit, a subsequent audit shall be conducted.

Section 5-206. Legal Adviser.

It shall be the duty of the City Attorney to give advice to the Board of Trustees and Fund Administrator in all matters pertaining to their duties and the management of either of the Fund or the Reserve Fund whenever required by the Board or the Fund Administrator, and the City Attorney shall represent and defend the Board and the Fund Administrator as their attorney in all suits or actions at law or in equity that may be brought against them, and institute all suits and actions in their behalf that may be required or determined upon by said Board or Fund

Administrator; provided that the foregoing shall not prevent the Board or Fund Administrator from retaining other legal counsel to advise or represent them as provided in Section 5-202.

Section 5-207. Monthly Payments.

All benefits and allowances payable out of the Fund and hereinafter provided for and allowed by the Board shall be paid monthly out of the Fund by warrants or checks as herein provided, except where a different schedule of payment is provided in Article 3.

Section 5-208. Applications.

All applications under this Chapter except applications for FPDR Three retirement benefits or other benefits provided by PERS shall be made within such time and in such form as may be fixed by the rules and regulations of the Board. Applications for FPDR Three retirement benefits or other benefits provided by PERS shall be made within such time and in such form as may be fixed by PERS statutes, rules and regulations.

ARTICLE 3. FPDR TWO AND THREE BENEFITS

Section 5-301. Member, Surviving Spouse, Dependent Minor Child.

- (a)** Member. Retirement, termination and disability benefits shall be paid to Members in accordance with this Chapter. Members shall consist of those persons who are permanently appointed as sworn employees in the Bureau of Police or Fire, except as follows:

 - 1.** Persons other than FPDR Three Members who participate in the Public Employee Retirement System of the State of Oregon, or will so participate after a waiting period, shall not be Members.
 - 2.** The chief of the Bureau of Police or of the Bureau of Fire shall be a Member unless the terms of employment of such chief provide otherwise.
 - 3.** Persons first sworn on or after January 1, 2013 shall be a Member upon completion of six (6) consecutive months of employment as a permanently appointed sworn employee in the Bureau of Police or Fire.
- (b)** Active Member. An Active Member is a person who is actively employed as a Member in the Bureau of Fire or Police and does not include a Member receiving disability or retirement benefits under this Chapter.
- (c)** Surviving Spouse. Death benefits shall be paid to the Surviving Spouse of a deceased FPDR Two or FPDR Three Member in accordance with this Chapter. The Surviving Spouse is a person to whom the Member was legally married throughout the 12-month period preceding death and from whom the Member was not judicially separated or divorced by interlocutory or final court decree at the time of death. Death benefits paid to a Surviving Spouse of a FPDR Three member shall be adjusted in accordance with the offset provisions in this Chapter.
- (d)** Dependent Minor Child. Death benefits shall be paid to a Dependent Minor Child of a deceased FPDR Two and FPDR Three Member in accordance with this Chapter. A Dependent Minor Child is a child, natural or adopted, of a FPDR Two or FPDR Three Member who is substantially supported by the FPDR Two or FPDR Three Member, the FPDR Two or FPDR Three Member's Surviving Spouse or the FPDR Two or FPDR Three Member's estate and is under 18 years of age and unmarried. Death benefits paid to a Dependent Minor Child of a deceased FPDR Three member shall be adjusted in accordance with the offset provisions in this Chapter.

- (e) **More Than One Status.** No person shall receive more than one survivor benefit under this Chapter at the same time, despite qualifying under both of Subsections (c) and (d), or qualifying under Subsection (c) or (d) with respect to more than one Member. A person so qualifying shall receive in any month the greatest of the benefits payable for that month.

Section 5-302. Years of Service.

- (a) **Generally.** A FPDR Two or FPDR Three Member shall be credited with Years of Service for periods of service as an Active Member. One Year of Service shall be credited for each completed 12 months in such periods and 1/12th of a Year of Service shall be credited for each additional completed month. A FPDR Two or FPDR Three Member shall not be credited with more than 30 Years of Service. FPDR Three service is equivalent to FPDR Two service for purposes of determining eligibility for disability and death benefits.
- (b) **Military Service.** A FPDR Two Member who leaves active duty in the Bureau of Fire or Police to enter the military service of the United States and returns to active duty in one of those Bureaus with reemployment rights protected by federal law shall be credited with Years of Service on the same basis as though the military service had been service described in Subsection (a), if the FPDR Two Member pays the FPDR Two Member contributions, as determined under rules established by the Board, for any period of such service preceding July 1, 1990.
- (c) **Disability Service.** A FPDR Two Member receiving disability benefits under Section 5-306 or 5-307 shall be credited with Years of Service for the period such benefits are received. The amount credited for each year shall be a fractional Year of Service equal to the FPDR Two Member's disability benefits received during the year divided by 75 percent of the Base Pay for the year for the position held by the FPDR Two Member at disability.

Section 5-303. Base Pay and Final Pay.

- (a) **Base Pay.** As used in this Chapter, Base Pay means the base pay of the FPDR Two or FPDR Three Member's position in the Bureau of Fire or Police, including premium pay but excluding overtime and payments for unused vacation or sick leave.
- (b) **Final Pay.** As used in this Chapter, Final Pay means the highest Base Pay received by the FPDR Two Member for any of the three consecutive 365-day, or 366-day in a leap year, periods where the most recent day is the last day for which pay was received in the calendar month preceding the calendar month in which the FPDR Two Member retires, dies, or otherwise terminates employment with the Bureau of Fire

or Police. Final Pay for any such period does not include any retroactive payments received by the Member for days preceding such 365-day or 366-day period but does include adjustments to the Base Pay of the FPDR Two Member's position in the Bureau of Fire or Police that would have been received had the Member's applicable collective bargaining agreement been in effect during such 365-day or 366-day period.

Final Pay for any FPDR Two Member who retires, dies or otherwise terminates employment with the Bureau of Fire or Police and has either received FPDR disability benefits or who was employed in a part-time status by the Bureau of Fire or Police during any such 365-day or 366-day period shall be based on the Base Pay for a full-time employee in the FPDR Two Member's position in the Bureau of Fire or Police at the time of retirement, death or termination from employment.

Section 5-304. Retirement Benefits.

- (a) Eligibility. A FPDR Two Member shall be eligible to receive a retirement benefit upon termination of employment with the Bureau of Fire or Police on or after attaining age 50 if the FPDR Two Member has 25 or more Years of Service or on or after attaining age 55. A FPDR Two Member receiving disability benefits under Section 5-306 or 5-307 shall be eligible to receive a retirement benefit at Disability Retirement Age, which shall be the earlier of the date the FPDR Two Member earns 30 Years of Service under Section 5-302 or the date the FPDR Two Member attains social security retirement age. For purposes of this Subsection, social security retirement age means the retirement age provided in Section 216(l)(1) of the Social Security Act.
- (b) Amount of Benefit. The retirement benefit shall be 2.2 percent of the FPDR Two Member's Final Pay times the FPDR Two Member's Years of Service. The amount shall not exceed the maximum benefit permissible under Section 415 of the Internal Revenue Code of 1986 or any successor provision, and regulations issued thereunder, as they may be amended from time to time. The provisions of such Section 415 or its successor, and such regulations, are incorporated by this reference.
- (c) Form of Benefit. One-twelfth of the retirement benefit shall be payable monthly for the life of the FPDR Two Member, commencing with the month following retirement. The benefit shall be adjusted as provided in Section 5-312.
- (d) FPDR Three retirement benefits shall be provided as set out in the Oregon Public Employees Retirement System, as amended, and funded in accordance with this Chapter. The Fund shall pay the employee contribution required by the Public Employee Retirement System statutes. A FPDR Three Member shall also be credited with a contribution of three percent (3%) of salary, as defined in the PERS statute

and accompanying rule and regulations, to the Individual Account Plan, or successor defined contribution plan established under the Public Employees Retirement System. If the City of Portland is required by law, or the Members elect to enter the federal Social Security system, the three percent (3%) of salary contribution to the Individual Account Plan, or successor defined contribution plan under the Public Employees Retirement System in this Subsection shall cease as to those affected Members.

Section 5-305. Retirement Benefits Upon Termination.

- (a)** Eligibility. A FPDR Two Member whose employment with the Bureau of Fire or Police terminates after completing five Years of Service shall be eligible to receive the benefit on vested termination. A FPDR Two Member whose employment with the Bureau of Fire or Police terminates after completing one-half Year of Service and before completing five Years of Service shall be paid the benefit on unvested termination. A FPDR Two Member who fails to return to work upon recovery from disability shall be treated as terminating employment on the date of recovery.
- (b)** Amount of Benefit on Vested Termination. The benefit on vested termination shall be the FPDR Two Member's retirement benefit accrued under Section 5-304 to the date of the FPDR Two Member's termination of employment with the Bureau of Fire or Police based on Final Pay at such termination.
- (c)** Form of Benefit on Vested Termination. The benefit on vested termination shall be payable monthly for the life of the FPDR Two Member commencing on Earliest Retirement Date which shall be the date the FPDR Two Member would have been eligible to receive a retirement benefit under Section 5-304 assuming continued service as an Active Member. The benefit shall be adjusted as provided in Section 5-312.
- (d)** Amount and Form of Benefit on Unvested Termination. The benefit on unvested termination shall be a lump sum, payable at termination, equal to the sum of the following:

 - 1. The FPDR Two Member's contributions to the Fund prior to July 1, 1990, if any.
 - 2. Seven percent of the FPDR Two Member's Base Pay received after June 30, 1990, disregarding Base Pay received during the first six months after becoming a Member.

- (e) Reappointment. A FPDR Two Member who has received the benefit on unvested termination and is later reappointed as an Active Member may repay to the Fund the amount received within 60 days after such reappointment and have Years of Service before the earlier termination restored. If the Member does not make such repayment, the Member shall be a FPDR Three Member.

Section 5-306. Service-Connected and Occupational Disability Benefits.

- (a) Interim Disability Benefits. An Active Member may receive Interim Disability Benefits beginning with the payroll period when the Fund Administrator receives the required application for Service-Connected and Occupational Disability benefits, including a written statement from the Member's attending physician that the Member is unable to perform the Member's required duties because of an injury or illness arising out of and in the course of the Member's employment in the Bureau of Police or Fire. Interim Disability Benefits may be payable until the claim is approved, denied or withdrawn. If the Fund Administrator determines the Member is eligible for service-connected or occupational disability and approves the Member's application for benefits, disability benefits under Subsections (b), (c) or (d) of this Section will be payable during the period the Member continues to be eligible. If the application for benefits is denied or withdrawn by the Member, Interim Disability Benefits will cease immediately, and the Member shall repay the Fund the total amount of Interim Disability Benefits paid. The Board of Trustees shall provide by Administrative Rule the method of payment and repayment of Interim Disability Benefits.
- (b) Eligibility for Service-Connected Disability Benefit. An Active Member shall be eligible for the service-connected disability benefit when unable to perform the Member's required duties because of an injury or illness arising out of and in the course of the Member's employment in the Bureau of Police or Fire. The Fund Administrator shall determine the existence of a disability and whether it arises out of and in the course of such employment. A Member shall not be eligible for the service-connected disability benefit based on an injury suffered in assaults or combats which are not connected to the job assignment and which amount to a deviation from customary duties or incurred while engaging in, or as the result of engaging in, any recreational or social activities solely for the Member's personal pleasure.
- (c) A Member shall not be eligible for the service-connected disability benefit on the basis of a condition of stress or mental disorder unless:
 - 1. The employment conditions producing the stress or mental disorder exist in a real and objective sense;

2. The employment conditions producing the stress or mental disorder are conditions other than conditions generally inherent in police or fire employment or reasonable disciplinary, corrective, or job performance evaluation actions by the employer, or cessation of employment;
3. There is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community;
4. There is clear and convincing evidence that the stress or mental disorder arose out of and in the course of employment as an Active Member; and
5. The Member's employment conditions are the primary cause of the stress or mental disorder.

(d) Eligibility for Occupational Disability Benefit. An Active Member shall be eligible for the occupational disability benefit when unable to perform the Member's required duties because of heart disease, hernia of abdominal cavity or diaphragm, AIDS, AIDS-related complex, tuberculosis, hepatitis B, or pneumonia (except terminal pneumonia). A Member shall not be eligible for an occupational disability benefit because of heart disease unless the Member has five or more Years of Service when the disability arises. The Fund Administrator shall deny an occupational disability benefit if the Fund Administrator determines, by a preponderance of the evidence, that the disability was not contracted as a result of service as a police officer or fire fighter. No Member shall be eligible to receive a benefit for an occupational disability incurred while receiving benefits under Section 5-307, unless such occupational disability is incurred within two years after such Member had commenced and continued to receive benefits under Section 5-307, or unless such occupational disability is a recurrence of an occupational disability which became disabling and was compensated for under this Section.

(e) Amount of Benefits. During the period the Member continues to be eligible under Subsection (a), (b), (c) or (d) benefits shall be paid as follows:

1. During the first year from the date of disability, the Member shall be paid 75 percent of the Member's rate of Base Pay in effect at disability, reduced by 50 percent of any wages earned in other employment during the period the benefit is payable.
2. The Member shall continue to be paid the benefit described in Paragraph 1 after one year from the date of disability until the earliest date on which the Member is both medically stationary and capable of Substantial Gainful Activity. If not medically stationary sooner, the Member shall be treated as

medically stationary for purposes of this Section on the fourth anniversary of the date of disability, regardless of the Member's condition. The Member is capable of Substantial Gainful Activity if qualified, physically and by education and experience, to pursue employment with earnings equal to or exceeding one-third of the Member's rate of Base Pay at disability.

3. After the date described in Paragraph 2, the Member shall be paid 50 percent of the Member's rate of Base Pay at disability, reduced by 25 percent of any wages earned in other employment during the same period.
4. The minimum benefit shall be 25 percent of the Member's rate of Base Pay, regardless of the amount of wages earned in other employment.
5. The Fund Administrator may suspend or reduce the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.
6. Notwithstanding any other provision of the Chapter or the City Charter, a disabled Member receiving or eligible to receive Service-Connected and Occupational Disability Benefits under Section 5-306, or Non-Service Connected Disability Benefits under Section 5-307, shall not receive any such benefit for periods of time during which the member is incarcerated subsequent to and for the conviction of a crime. One-half of such benefit, however, shall be payable to the Member's spouse, if not incarcerated, or Member's minor children, during such periods of incarceration.

(f) Form of Benefits. The service-connected and occupational disability benefits shall be paid on the same schedule as the Member's regular payroll during the first year from the date of disability and paid monthly thereafter. The Board may adopt administrative rules which allow exceptions to the Form of Benefits in accordance with this Subsection. The benefits shall be adjusted to reflect changes in the rate of Base Pay of the position held by the Member at disability.

(g) Service-connected or occupational disability benefits to a FPDR Two Member shall cease at Disability Retirement Age under Subsection 5-304(a) unless the Fund Administrator determines that the service-connected or occupational disability is temporary. If the service-connected or occupational disability is determined by the Fund Administrator to be temporary, a FPDR Two Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Disability Retirement Age, whichever is later. At the end of such period, the disabled Member shall be entitled to receive only a retirement benefit. Service-connected or occupational disability benefits to a FPDR Three Member shall cease at Normal

Retirement Age under PERS unless the Fund Administrator determines that service-connected or occupational disability is temporary. If the service-connected or occupational disability is determined by the Fund Administrator to be temporary, a FPDR Three Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Normal Retirement Age, whichever is later.

(h) Medical and Hospital Expenses.

1. For members who are retired as of January 1, 2007, in addition to the benefits described above, a Member with a service-connected or occupational injury or illness shall be reimbursed from the Fund for reasonable medical and hospital expenses arising from the injury or illness, as determined by the Fund Administrator. Such reimbursement shall be allowed for expenses incurred while serving as an Active Member, while the FPDR Two Member's disability benefits under this Section continue and, if the FPDR Two Member continues to receive such benefits until Disability Retirement Age while retirement benefits under Section 5-304 continue to the FPDR Two Member. A FPDR Three Member shall receive a reimbursement for such reasonable medical and hospital expenses while serving as an Active Member, while the FPDR Three Member's disability benefit under this Section continue and, if the FPDR Three Member continues to receive such benefits until Normal Retirement Age under PERS while retirement benefits continue under PERS to the FPDR Three Member. The Fund Administrator may limit reimbursement to particular medical and hospital service providers with which it has made fee arrangements and may join in the purchase of services and administration of claims for other employees of the City of Portland.
2. For members who are not retired before January 1, 2007, in addition to the benefits described above, a Member with a service-connected or occupational disability accepted before retirement shall be reimbursed from the Fund for reasonable medical and hospital expenses arising from the injury or illness, as determined by the Fund Administrator. The Fund Administrator may limit reimbursement to particular medical and hospital service providers with which it has made fee arrangements and may join in the purchase of services and administration of claims for other employees of the City of Portland.
3. If the Fund Administrator determines by a preponderance of the evidence that a claim under Subsection 2 from a retired Member,

- a. is for medical or hospital expenses related to an injury or illness that was based upon fraud, misrepresentation, an omission, or illegal activity by the Member, or
- b. is for medical or hospital expenses related to an injury or illness that was accepted in good faith, in a case not involving fraud, misrepresentation, an omission, or illegal activity by the Member, and within two (2) years of the initial acceptance the Administrator obtains evidence that the claim is not a service-connected or occupational injury or the Fund is not responsible for the injury or illness, or
- c. that the medical or hospital expenses are not related to the service-connected injury or illness,

the Fund Administrator shall deny the claim for medical or hospital expenses pursuant to Subsection 2. Nothing in this Subsection shall limit the Fund's ability to recover costs, fees, and other remedies for other benefits previously received by the Member based upon fraud, misrepresentation, an omission, or illegal activity.

- (i) Waiver of Other Remedies. By applying for and accepting service-connected or occupational disability benefits, a Member waives any right to recover any other compensation or damages from the City of Portland as a result of such disability.
- (j) Offset. The monthly amount of service-connected or occupational disability benefits under this Charter shall be reduced by any monthly disability benefit payment made by PERS up to the amount provided in Subsection (e) of this Section. The Fund Administrator shall reduce any service-connected or occupational disability benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this Subsection.

Section 5-307. Nonservice-Connected Disability Benefits.

- (a) Eligibility. An Active Member shall be eligible for the nonservice-connected disability benefit if the Member has 10 or more Years of Service and is unable to perform the Member's required duties because of an injury or illness that does not qualify as service-connected or occupational under Subsection 5-306(a), (b), (c) or (d). No Member shall receive benefits under this Section as a result of the following: willful injuries; injuries sustained while, or illness contracted as a result of, willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from the habitual excessive use of or addiction to use of alcoholic beverages or illegal drugs.

- (b) Amount of Benefit. The benefit shall be 50 percent of the Member's Base Pay at disability, reduced by 50 percent of any wages the Member earns in other employment during the period the benefit is payable. The Fund Administrator may reduce or terminate the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.
- (c) Form of Benefit. The nonservice-connected disability benefit shall be payable monthly from the date of disability. The Board may adopt administrative rules which allow exceptions to the Form of Benefit in accordance with this Subsection. The amount shall be adjusted to reflect changes in the rate of Base Pay of the position held by the Member at disability. The benefit shall cease when the Member reaches Disability Retirement Age under Subsection 5-304(a).
- (d) Nonservice-connected disability benefits to a FPDR Two Member shall cease at Disability Retirement Age under Subsection 5-304(a) unless the Fund Administrator determines that the nonservice-connected disability is temporary. If the nonservice-connected disability is determined by the Fund Administrator to be temporary, a FPDR Two Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Disability Retirement Age, whichever is later. At the end of such period, the disabled FPDR Two Member shall be entitled to receive only a retirement benefit. Nonservice-connected disability benefits to a FPDR Three Member shall cease at Normal Retirement Age under PERS unless the Fund Administrator determines that nonservice-connected disability is temporary. If the nonservice-connected disability is determined by the Fund Administrator to be temporary, a FPDR Three Member shall be eligible to receive disability benefits for a period of two (2) years from the date of such disability or the Normal Retirement Age, whichever is later.
- (e) Offset. The monthly amount of nonservice-connected disability benefits under this Charter shall be reduced by any monthly disability benefit payment made by PERS up to the amount provided in Subsection (b) of this section. The Fund Administrator shall reduce any nonservice-connected disability benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this Subsection.

Section 5-308. Benefits on Service-Connected or Occupational Death Before Retirement.

- (a) Eligibility. A Surviving Spouse of a Member who dies before retirement as a result of an illness or injury that qualifies as service-connected or occupational under Subsection 5-306(a), (b), (c) or (d) shall be eligible to receive a death benefit. A Dependent Minor Child of such a Member shall be eligible to receive the benefit if the Member has no Surviving Spouse. If the Member has more than one Dependent

Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be minor and then paid to the Surviving Spouse.

- (b) Amount of Benefit. The benefit on service-connected or occupational death before retirement shall be 75 percent of the Member's rate of Base Pay at death until the earliest date on which the Member would have been eligible for retirement benefits under Section 5-304 if the Member had survived and continued in service as an Active Member. After such date, the benefit shall be 50 percent of the Member's Final Pay, as adjusted as provided in Section 5-312.
- (c) Form of Benefit. A Surviving Spouse shall be paid the benefit monthly starting with the month following the Member's death and continuing for the spouse's life. A Dependent Minor Child shall be paid the benefit until ceasing to be a minor. The benefit shall be adjusted as provided in Section 5-312.
- (d) Offset. The monthly amount of service-connected or occupational death benefits under this Charter shall be reduced by any monthly death benefit payment made by PERS up to the amount provided in Subsection (b) of this section. The Fund Administrator shall reduce any service-connected or occupational death benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this Subsection.

Section 5-309. Benefits on Nonservice-Connected Death Before Retirement.

- (a) Eligibility. A Surviving Spouse of a Member who has one or more Years of Service and dies before retirement not as a result of a cause described in Subsection 5-308(a), shall be eligible to receive a death benefit. A Dependent Minor Child of such a Member shall be eligible to receive the benefit if the Member has no Surviving Spouse or if the spouse is under age 55. If the Member has more than one Dependent Minor Child, the benefit shall be divided equally among them. If the Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be minor and then paid to the Surviving Spouse.
- (b) Amount on Death Before 5 Years of Service. If the Member had less than 5 Years of Service, the benefit on nonservice-connected death before retirement shall be a lump sum equal to the amount of the Member's contributions as provided in Paragraph 5-305(d)1, less any benefits paid to the Member under this Chapter.

- (c) Amount on Death After 5 Years of Service. If the Member had 5 or more Years of Service, the benefit on nonservice-connected death before retirement shall be an annuity equal to 50 percent of the Member's accrued retirement benefit under Section 5-304, based on 2.6 percent of the Member's Final Pay instead of 2.2 percent.
- (d) Form of Benefit. A benefit payable under Subsection (b) shall be paid in a lump sum. A benefit payable under Subsection (c) to a Surviving Spouse shall be paid monthly commencing with the month after the Member's death if the spouse is age 55 or over and otherwise with the month after the spouse attains age 55 and shall continue for the spouse's life. A benefit payable under Subsection (c) to a Dependent Minor Child shall be paid monthly commencing with the month after the Member's death and shall continue until the child ceases to be a minor. A benefit payable under subsection (c) shall be adjusted as provided in Section 5-312.
- (e) Offset. The monthly amount of nonservice connected death benefits under this Charter shall be reduced by any monthly death benefit payment made by PERS up to the amount provided in Subsection (b) and (c) of this section. The Fund Administrator shall reduce any nonservice connected death benefit payable under this Chapter in the amount determined to be necessary by the Fund Administrator to meet the limitation imposed by this subsection.

Section 5-310. Benefits on Death After Retirement.

- (a) Eligibility. The Surviving Spouse of a FPDR Two Member who dies after retirement shall be eligible to receive a death benefit, except as provided in Subsection (b). The Dependent Minor Child of the FPDR Two Member shall be eligible to receive the benefit if the Member has no Surviving Spouse. If the Member has more than one Dependent Minor Child, the benefit shall be divided equally among them. If the FPDR Two Member has a Surviving Spouse and one or more Dependent Minor Children of a former marriage, one-half the benefit shall be paid to the Surviving Spouse. The other half shall be paid to the Dependent Minor Children until the last ceases to be a minor and then paid to the Surviving Spouse. Eligibility for death benefits after retirement shall be based on status as a Surviving Spouse or Dependent Minor Child at the date of the FPDR Two Member's death and without regard to a person's status at the time of the FPDR Two Member's retirement.
- (b) Certain Disabled Members. If the FPDR Two Member retired after a nonservice-connected disability and had less than 10 Years of Service, including service recognized by the Public Employee Retirement System of the State of Oregon for accrual of benefits or as a waiting period before such accrual begins, no death benefit shall be paid.

- (c) Amount of Benefit. The benefit on death after retirement shall be 100 percent of the Member's retirement benefit. A FPDR Two Member may make an irrevocable election at the time of retirement under rules established by the Board to be covered by a reduced death benefit and receive a retirement benefit under Section 5-304 based on a larger percentage of Final Pay as follows:
1. With a death benefit equal to 100 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.2 percent of Final Pay.
 2. With a death benefit equal to 75 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.4 percent of Final Pay.
 3. With a death benefit equal to 50 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.6 percent of Final Pay.
 4. With a death benefit equal to 25 percent of the FPDR Two Member's retirement benefit, the FPDR Two Member's retirement benefit shall be based on 2.8 percent of Final Pay.
- (d) No Spouse or Children. If a FPDR Two Member has no Surviving Spouse or Dependent Minor Child at death, no death benefit shall be paid except for the benefit based on return of FPDR Two Member contributions provided in Section 5-311, if any. In no event shall a FPDR Two Member receive a retirement benefit based on more than 2.8 percent of Final Pay regardless of not having a Surviving Spouse or Dependent Minor Child.
- (e) Form of Benefit. The benefit shall be paid monthly commencing with the month after death and shall continue until the later of the death of the Surviving Spouse or the date the last Dependent Minor Child ceases to be a minor. The benefit shall be adjusted as provided in Section 5-312.

Section 5-311. Return of Member Contributions.

If a FPDR Two Member's contributions under Paragraph 5-305(d)1 exceed the total of all benefits paid under this Chapter to the FPDR Two Member and to the FPDR Two Member's Surviving Spouse and Dependent Minor Children at the time the last of such benefits ceases to be paid, the excess shall be paid as an additional benefit. The additional benefit shall be paid in a lump sum to the person who was formerly a Dependent Minor Child of the FPDR Two Member receiving benefits under this Chapter or, if there is more than one such person, divided equally among

them. If there are no such persons, the additional benefit shall be paid to the estate of the FPDR Two Member's Surviving Spouse. If there was no Surviving Spouse, the additional benefit shall be paid to the FPDR Two Member's estate.

Section 5-312. Benefit Adjustments.

Benefits payable under this Chapter shall be adjusted, where so indicated in the Section of this Article in which each benefit is described, in accordance with this Section after payment commences. The Board shall determine the amount and timing of such adjustments in its discretion, except the percentage rate of change shall not exceed the percentage rate applied to retirement benefits payable to police and fire employees by the Public Employee Retirement System of the State of Oregon.

Section 5-313. Limits on Time and Form of Payment.

- (a) Payment to FPDR Two Members. Payment of benefits to a FPDR Two Member shall comply with the following restrictions:

 - 1. Payment shall begin no later than the April 1 following the calendar year in which the FPDR Two Member attains age 70 1/2 or retires, whichever is later.
 - 2. Payment shall be made over a period no longer than the lives or joint life expectancy of the FPDR Two Member and any designated beneficiary.
 - 3. The benefit form shall be limited so that the benefit payable after death is incidental to the plan's primary purpose of providing retirement benefits.
- (b) Payment to Beneficiaries. Payment of death benefits shall begin no later than one year after the FPDR Two Member's death and shall be made over a period no longer than the beneficiary's life or life expectancy.
- (c) Applicable Regulations. The restrictions of this Section shall be complied with by payments in accordance with Treasury Regulation Sections 1.401(a)(9)-1 and 1.401(a)(9)-2, or any successor provisions, as they may be amended from time to time. This Section shall override any inconsistent distribution options provided in this Chapter.

Section 5-314. Funeral Benefit.

A funeral benefit shall be paid on death of any Active Member or Member actively receiving disability or retirement benefits. The funeral benefit shall be one-half of the monthly salary at the date of death payable to the civil service classification of fire fighter if the Member was employed in the Bureau of Fire, or of police officer if the Member was employed in the Bureau

of Police. If such classifications cease to exist, the benefit shall be based on the salary of comparable successor positions. The funeral benefit shall be paid to the Member's Surviving Spouse or, if there is no Surviving Spouse, to the Member's estate.

ARTICLE 4. MISCELLANEOUS.

Section 5-401. Amendment of Chapter.

- (a)** Effective Date. Chapter 5 shall be amended and restated as set forth herein, effective January 1, 2013. These amended provisions shall apply after the effective date.
- (b)** FPDR One Benefits. The benefit rights of Members, Surviving Spouses and Dependent Minor Children actively receiving pensions or benefits on January 1, 1990 shall be controlled by Sections 5-113 through 5-123 and 5-126, set out in Article 5 of this Chapter, and by the Supplementary Retirement Program described in Subsection (d), instead of by Article 3, except as follows:

 - 1.** Death benefits payable to a spouse shall continue to be paid regardless of whether the spouse remarries.
 - 2.** The Surviving Spouse of a Member who dies after June 30, 1990 and after retirement and who has been married to the Member continuously for the 12-month period prior to death shall receive the death benefit provided by Section 5-118 regardless of not having 5 continuous years of marriage before retirement.
 - 3.** The Surviving Spouse of a Member who had a nonservice-connected disability, retired and then dies after June 30, 1990 shall receive the death benefit provided by Section 5-118 if the Member had 10 or more Years of Service.
 - 4.** The Board may permit a Member receiving disability benefits on January 1, 1990 to make the election described in Subsection (c) at the same time as other Members if the Member's disability is expected to be of less than one year in duration.
 - 5.** A Member receiving disability benefits on January 1, 1990 who was not permitted an election under Paragraph 4, who subsequently returns to service as an Active Member in the Bureau of Fire or Police capable of performing full duty without limitation and who earns two more Years of Service under Subsection 5-302(a) shall be given the opportunity, upon completing such two Years of Service, to make the election described in Subsection (c). Upon making such election, the Member shall receive a refund of the Member contributions paid during such two Years of Service.

- (c) Election. The provisions of Article 3 shall apply to persons who became Members before the date of enactment and who are not described in Subsection (b) only if such Members made an irrevocable election to have them apply. The election shall be made on forms and under procedures established by the Board. Benefits for a Member who made the election, and for the Surviving Spouse and Dependent Minor Children of such a Member, shall be determined under Article 3 and not Article 5. Benefits for a Member who did not make the election, and for the Surviving Spouse and Dependent Minor Children of such a Member, shall be determined under Article 5, as modified by Subsection (b), and by the Supplementary Retirement Program described in Subsection (d), and not under Article 3. A Member who retired between January 1, 1990 and June 30, 1990 chose at retirement the level of death benefit after retirement under Section 5-310, which applied starting July 1, 1990 unless the Member did not make the election described in this Subsection. A Member who made the election and started receiving retirement or disability benefits between January 1, 1990 and June 30, 1990 shall receive benefits determined under Article 3 effective July 1, 1990.
- (d) Supplementary Retirement Program. The benefits provided by the Supplementary Retirement Program created by Ordinance No. 136977, and amended by Ordinance No. 152182, of the City of Portland shall be paid from the Fund pursuant to this Chapter effective July 1, 1990 to:
1. FPDR One Members;
 2. Members described in Subsection (c) who did not make the election provided therein, and the Surviving Spouses and Dependent Minor Children of such Members.
- (e) Continuity of Rules and Regulations. The rules and regulations adopted prior to January 1, 2007 shall remain in effect until changed by the Board.
- (f) Notwithstanding any other provision of law or this Chapter, Chapter 5 shall be amended and restated as set forth herein, effective January 1, 2007, and said amendments shall apply to all matters existing or arising on or after January 1, 2007, regardless of the date of injury or the date the matter is presented. This amendment is intended to be fully retroactive so as to apply to all Members whenever sworn, except that the amendments shall not apply to any matter which has received Board approval on or before the date these amendments are approved by the voters and shall not be applied or operate in such a manner as to reduce FPDR One or FPDR Two benefits provided.

Section 5-402. Tax Qualification.

The benefits provided by this Chapter are intended to constitute a tax qualified pension plan that satisfies the requirements of Section 401(a) of the Internal Revenue Code of 1986, or any successor provision, as it may be amended from time to time.

Section 5-403. Changes ~~by Council~~.

- (a)** Mandated Benefits. If the City of Portland is required by law to extend to the Members additional benefits not described by this Chapter, the Council may provide for such benefits by ordinance and such additional benefits shall be paid from the Fund. Such ordinance may include reductions in corresponding benefits described in this Chapter, which shall override inconsistent provisions of this Chapter.
- (b)** PERS, Social Security and Workers' Compensation. If the City of Portland is required by law to cover all, or substantially all, of its police officers and fire fighters under one or more of the programs described in Paragraph 1, 2 or 3 below, or if the ~~Council~~ City acts voluntarily to do so and such action is ratified by the affirmative vote of a majority of the Active Members, the corresponding benefits provided by this Chapter, as determined by the Council, shall cease to be provided and the City's employer contributions, taxes, benefit payments or other costs of the newly extended program for police officers and fire fighters shall be paid from the Fund. Such costs shall be requirements levied under Section 5-103. The programs are:

 - 1.** The Public Employee Retirement System of the State of Oregon;
 - 2.** The federal Social Security system; and
 - 3.** The workers' compensation benefits required by statutes of the State of Oregon.
- (c)** Tax Qualified Status. The Council is authorized to change the benefits provided by this Chapter by ordinance to the extent necessary to comply with changes in the requirements for tax qualified status as described in Section 5-402.
- (d)** Advice by Board. The Council shall not take action under this Section without seeking the advice of the Board on the action proposed to be taken.
- (e)** Savings Clause. The Council is authorized to modify the provisions of this Chapter by ordinance to the extent necessary to provide a substantially equivalent benefit if any one or more sections, clauses, sentences or parts of this Chapter shall for any reason be adjudged unconstitutional or invalid, or the use of the levy to pay and discharge

any requirement, employee contributions, employer contributions, payroll taxes, benefit payments, or other costs of the Fund as provided in Section 5-103, is invalidated. In order to prevent payment of dual benefits, such ordinance shall require that the total benefits received by any Member do not exceed those provided in this Chapter before the 2007 amendments.

Section 5-404. Exemption from Execution.

All pensions, allowances or benefits due or paid under this Chapter shall be exempt from attachment, execution, garnishment or other process issued out of any court for the payment or satisfaction, in whole, or in part, of any debt, damage, claim, demand or judgment against the beneficiary thereof. The rights of Members and of their Surviving Spouses and Dependent Minor Children are personal and cannot be assigned or transferred to any other party in any way.

Section 5-405. Waiver of Benefits.

A person entitled to benefits under this Chapter may, before the beginning of the fiscal year, file a written notice with the Fund Administrator waiving such benefits or a portion thereof, for the ensuing fiscal year. Such waiver once filed and accepted by the Fund Administrator shall be irrevocable, except death of such person during the term of the waiver shall automatically terminate the effectiveness of the waiver. Any benefits, or portion thereof, so waived shall be forever forfeited.

Section 5-406. Invalidity.

If any part or section of this Chapter shall be declared invalid or unenforceable for any reason, it shall only void that part or section so declared and the remainder shall remain in full force and effect.

ARTICLE 5. FPDR ONE BENEFITS.

Section 5-113. Retirement, Resignation, and Discharge.

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

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

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

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

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

Any member who shall resign after five (5) years of active service shall receive at that time a refund of all the member's contributions made as a regular member during the member's entire

service in their Bureau, less the amount of non-service connected disability benefits paid to the member from the Fund or previously established pension funds.

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

Contributions made by a member while such member was a temporary employee shall not be included in computing contributions made by the member for funds. Any member who shall resign or be discharged before completing five (5) years of active service shall not be entitled to refunds of any contributions paid. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-114. Compulsory Retirement.

Any member who has reached their sixty-fourth (64th) birthday anniversary shall be retired by the Board forthwith, subject to the provisions of the following Section relating to retirement of members receiving benefits upon service-connected or occupational disabilities; provided, however, that the Chief Engineer of the Bureau of Fire (Chief of the Bureau of Fire) and the Chief of the Bureau of Police who hold such positions on the effective date of this Act shall not be retired under the provisions of this Section prior to August 1, 1968. Any member retired under the provisions of this Section having any service less than thirty (30) years, shall be retired at the member's earned portion of the maximum pension. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-115. Benefits for Service-Connected Disability or Occupational Disability.

Upon duly verified application of a member and a finding by the Board that through injury suffered in line of duty, or sickness caused by the performance of duty, the member is or has been unable to perform the member's required duties, said member shall be paid service-connected disability benefits equal to but not in excess of the member's full salary from the Fund until such member recovers or for a period of one (1) year, whichever period is shorter. A member accepting service-connected disability benefits waives any right such member may have against the City of Portland as a result of said disability. In the event that said member has not recovered at the end of one (1) year, the member shall receive after said first year and until the member recovers, but for a period of not to exceed three (3) additional years, service-connected disability benefits from the Fund equal to but not in excess of the member's full salary but in no event in excess of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be. If the service-connected disability continues after the end of four (4) years, the member shall be paid benefits from the Fund in an amount equal to sixty percent of the then current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, until the

member recovers or if the member does not recover until the member reaches compulsory retirement age. Upon reaching compulsory retirement age, said member shall be retired by the Board and shall receive the member's maximum earned pension. In the event a member, disabled from an injury in line of duty or sickness caused by the performance of duty, reaches compulsory retirement age before the expiration of one (1) year from the date of such disability, said member shall be paid benefits equal to the member's full salary from the Fund until the member recovers or for one (1) year from the date of such disability, whichever event first occurs, at which time the member shall be retired at the member's maximum earned pension. A member receiving service-connected disability benefits upon reaching compulsory retirement age, shall not receive any payments from the Fund in excess of such member's maximum earned pension except as hereinbefore provided plus such medical and hospital expenses as are authorized in this Article.

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

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

In the event of recovery of any member from service-connected disability or occupational disability prior to retirement, as attested by the member's attending physician, and the concurring approval of the Board's physician, the chief in charge of the respective bureau shall authorize return to work of such member, subject to the subsequent certification by the Board, which shall be retroactive to the time the member returns to work. Such return to work shall not

be subject to other time limitations on such return contained elsewhere in this Charter. Said member returning to service shall be restored to service in the rank the member occupied at the time of the member's disability and the member's disability benefits shall cease upon restoration to service.

In the event a member is unable to perform the member's required duties from a recurrence of a prior service-connected disability, the period of such recurrence or periods of successive recurrences from the same original sickness or injury shall be added to the period or periods of prior disability for the purpose of computing total disability benefits to which the member is entitled, provided, however, if one (1) year or more lapse from the date of recovery from such original sickness or injury, the subsequent period of such recurrence or periods of successive recurrences of such disability shall be treated as a new disability for the purpose of computing benefits.

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

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

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

No member shall be eligible to receive benefits under this section, in lieu of benefits under Section 5-116, for an occupational disability incurred while receiving benefits under Section 5-116, unless such occupational disability is incurred within two (2) years after such member had commenced and continued to receive benefits under Section 5-116, or unless such occupational

disability is a recurrence of an occupational disability which became disabling and was compensated for under Section 5-115. [Amended by Ordinance No. 190204, effective December 18, 2020.]

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

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

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

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

No member shall receive benefits under this Section as a result of the following: willful injuries; injuries sustained while willfully doing an unlawful act; or weakness, illness or disability resulting directly or indirectly from immoral practices or the habitual excessive use of or addiction to use

of alcoholic beverages or narcotic drugs. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-117. Benefits and Pensions to Surviving Spouses and Children in Service-Connected or Occupational Disability Deaths.

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

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

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

If any member shall die prior to retirement from any causes specified in the first paragraph of this Section, leaving a Dependent Minor Child or children of a former marriage or marriages and a qualified Surviving Spouse, then the qualified Surviving Spouse's benefits or pension, as the case may be, plus children's allowances to which the Surviving Spouse might be entitled were all the children of the Surviving Spouse, shall be divided with the Dependent Minor Child or children of all marriages, fifty percent to said qualified Surviving Spouse, and fifty percent to the Dependent Minor Child or children of all the marriages to be divided equally among said children. Any Dependent Minor Child's interest in said benefits or pension plus allowances, if any, shall cease when the child is no longer a Dependent Minor Child as defined herein, and any qualified Surviving Spouse's right to an additional allowance for a Dependent Minor Child shall cease under the same conditions.

A Surviving Spouse is disqualified and the Surviving Spouse's right to any benefits or pension from this Fund is thereafter and forever terminated when the Surviving Spouse remarries.

All persons deriving benefits from the death of any one member under the provisions of this Section may elect, if the Board after hearing finds it to be financially beneficial to the Fund, to receive collectively a five thousand dollar (\$5,000) cash settlement from the Fund in lieu of all further claims to benefits and/or pension. Said cash settlement shall not be paid if the deceased member was at the time of the member's death or within (1) one year thereafter would have been eligible for a maximum pension or would have reached compulsory retirement age. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-118. Benefits and Pensions to Surviving Spouses and Children on Deaths of FPDR One Members After Retirement or on Non-Service Connected Deaths Before Retirement. Deaths of FPDR One Members After Retirement.

Upon the death of any member who retires under the provisions of this Article, other than a member who retired prior to July 1, 1947, the Surviving Spouse of said deceased member until such Surviving Spouse's death or remarriage shall receive a monthly pension to be computed from the "Survivor Annuity Table," set forth below, and in accordance with this Section; provided, however, that as to any member relieved from service by the Board under Section 5-113 for a nonservice connected disability or retiring under Section 5-116 of this Act, the provision of this Section shall apply only to a member having twenty (20) years or more active service. Said table below shows the basis for computing the pension to which the Surviving Spouse shall be entitled. In using the table the difference between the member's and Surviving Spouse's ages shall be determined to the closest year. If at the time of said retired member's death, there be no Surviving Spouse, the Dependent Minor Child or children while so remaining shall receive the Surviving Spouse's pension as set forth in the "Survivor Annuity Table" below, computed on the basis of a member and Surviving Spouse of the same age, and said pension shall be divided equally among them, if there be more than one. If at the time of said retired

member's death, the Surviving Spouse fails to qualify for a pension under this section, but the deceased member leaves a surviving Dependent Minor Child or children, the Dependent Minor Child or children while so remaining shall receive a pension as set forth below in the "Survivor Annuity Table" computed as though the Surviving Spouse had qualified as a for a pension. If the Surviving Spouse qualifies for a pension under this Section and later dies or remarries and there is a surviving Dependent Minor Child or children of the member, the Dependent Minor Child or children while so remaining shall receive said Surviving Spouse's pension and said pension shall be divided equally among them, if there be more than one.

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

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

Non-Service Connected Deaths Before Retirement. If a member has less than one (1) year of active service and dies before retirement for any cause not in line of duty, the member's Surviving Spouse and/or Dependent Minor Child or children shall have no rights under this Fund.

If a member has at least one (1) year but less than twenty (20) years of active service and dies before retirement from any cause not in line of duty, the member's Surviving Spouse, if said Surviving Spouse has been married to the member for at least one (1) year, shall be entitled to an option to either: (1) the return of the member's contributions made to the Fund and previously established pension funds less the amount of nonservice-connected disability benefits paid to the member from the Fund and any previously established pension funds, or (2) a cash settlement of fifteen hundred dollars (\$1,500) plus an additional one hundred dollars (\$100) for every year of the member's active service up to twenty (20) years. If at the time of said member's death, there be no Surviving Spouse who has been married to the member for at least one (1) year, the deceased member's surviving Dependent Minor Child or children, if any, shall have the same rights of a qualifying Surviving Spouse as set forth above in this paragraph.

If a member has twenty (20) years or more of active service and dies before retirement from any cause not in line of duty, the member's Surviving Spouse, if said Surviving Spouse has been married to the member for at least one (1) year, shall be entitled to a pension to be computed from the "Survivor Annuity Table" set forth above, based upon the maximum earned pension of the deceased member; or said Surviving Spouse may elect at their option within one (1) year after the member's death, if the Board, after hearing so permits, to receive in lieu of further pension payments either: (1) a return of the member's contributions made to the Fund and previously established pension funds, less the amount of nonservice-connected disability benefits paid to the member from the Fund and any previously established pension funds; or (2) a cash settlement of thirty five hundred dollars (\$3,500). If at the time of said member's death there be no Surviving Spouse who has been married to the member for at least one (1) year, the deceased member's surviving Dependent Minor Child or children, if any, while so remaining shall be entitled to the same pension to which a qualifying Surviving Spouse of the same age as the member would have been entitled under the provisions of this paragraph. If a Surviving Spouse qualifies for and is receiving a pension under this paragraph and later dies or remarries, the surviving Dependent Minor Child or children of the deceased member while so remaining shall receive, in lieu of the Surviving Spouse, said Surviving Spouse's pension, and said pension shall be divided equally among them, if there be more than one.

Notwithstanding the above, if the member shall die before retirement from any cause not in the line of duty, leaving a Dependent Minor Child or children by a former marriage or marriages and

the Surviving Spouse qualifies to receive a pension under this Section, then the Surviving Spouse's pension shall be shared with the Dependent Minor Child or children of all marriages, fifty percent to the said Surviving Spouse and fifty percent to the Dependent Minor Child or children of all marriages, to be divided equally among said children, if there be more than one. No Dependent Minor Child shall share in such division of the fifty percent last named, after such child has ceased to be a Dependent Minor Child as that term is defined in this Article. When there is no longer a Dependent Minor Child, the entire Surviving Spouse's pension shall be paid to the qualified Surviving Spouse until the Surviving Spouse's death or remarriage. If the Surviving Spouse remarries or dies while there remain Dependent Minor Child or children, the entire Surviving Spouse's pension shall be paid to the Dependent Minor Child or children while they so remain, to be divided equally among said children, if there be more than one.

In the event a cash settlement option is available and exercised pursuant by this Section, the election to accept it must be by or on behalf of all persons deriving or possibly entitled to derive benefits therefrom. [Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-119. Pensions for Previously Retired FPDR One Members and Their Surviving Spouses and Children.

The pension of any retired member of the pension or a Surviving Spouse or Dependent Minor Child or children of a deceased member, being paid as of July 1, 1947, shall be increased one-third ($\frac{1}{3}$) over and above the amount being paid on said July 1, 1947, and the total amount of such pension shall be paid from the Fund established by this Act, and not otherwise. The minimum pension for any person covered by this Section and on pension before July 1, 1947, shall be fifty dollars (\$50.00) per month after the above-mentioned one-third ($\frac{1}{3}$) increase has been effected. Effective July 1, 1962, the Board shall determine the percentage which the actual pension paid under this Section on July 1, 1949, is of the full salary of a First Class Police Officer or First Class Fire Fighter, as the case may be, as such salary was fixed on July 1, 1947; commencing July 1, 1962, and thereafter, increases or decreases shall be made annually at the beginning of each fiscal year of the pensions to be paid under this Section, subject to the minimum fixed above, by applying the percentage determined above to the full salary established by the City for a First Class Police Officer or First Class Fire Fighter, as the case may be, on July 1, 1962, and July 1 of each year thereafter, provided, however, in no event shall the amount paid as so computed, be less than the pension paid immediately prior to July 1, 1962. If a member who retired prior to July 1, 1947 dies or died after July 1, 1947, such member's Surviving Spouse or any Dependent Minor Child or children of such deceased member must qualify in the same manner as Surviving Spouse and children receiving a pension as of July 1, 1947, and those Surviving Spouses and children who qualify shall be paid a pension computed in the same manner as Surviving Spouses and children receiving a pension as of July 1, 1947.

Previously retired members of the Bureau of Police or Fire and their Surviving Spouses and Dependent Minor Children, by accepting any benefits provided herein, shall thereby waive any and all alleged, asserted or claimed rights under the provisions of any previous retirement and/or relief act in effect before the passage of this article.

Section 5-120. Variation in Amount of Benefit or Pension Payments.

All benefits and pensions granted and paid under this Act shall vary annually and shall be based upon the current salary of a First Class Fire Fighter or First Class Police Officer, as the case may be, computed annually at the beginning of the fiscal year. A person entitled to benefits or pension under this Act may, before the beginning of the fiscal year, file a written notice with the Board waiving said benefits or pension or a portion thereof, for the ensuing fiscal year. Said waiver once filed and accepted by the Board shall be irrevocable, except death of said person during the term of the waiver shall automatically terminate the effectiveness of said waiver. Any benefits or pension, or portion thereof, so waived shall be forever forfeited. This Section shall not apply to pensions for previously retired members and their Surviving Spouses and children coming under provisions of Section 5-119, which shall be governed solely by said Section.

Section 5-121. Temporary FPDR One Members.

A temporary fire fighter or police officer, or the Surviving Spouse and/ or Dependent Minor Children of either, shall only be eligible for the provisions of this Act relating to service-connected disabilities and service-connected death, not including occupational disabilities as herein defined, and not otherwise.

Section 5-122. Military Service.

FPDR One Members entering military service in time of a national emergency so declared by the President of the United States or inducted by the federal or State government into the armed forces or the reserve components thereof at a time of said national emergency shall receive credit for all time spent in said service toward retirement under this Act; provided said member returns to active duty in the Bureau of Fire or Police, as the case may be, within sixty (60) days after being relieved with a favorable discharge from said service and does not voluntarily remain in said service after the emergency; and provided further, however, that if a member shall become eligible, while in said service, to receive a pension according to years of service and age, as provided in Section 5-113, it shall not be necessary for such member to return to active duty in the Bureau of Fire or Bureau of Police in order to receive their retirement pension. In case of the member's death while in said service the member's Surviving Spouse and Dependent Minor Child or children shall be eligible for benefits as provided in Section 5-118. In case of injury or sickness contracted by said member while in said service, after being relieved from said service the member shall be entitled to the same benefits the member would have received under the

paragraph in Section 5-116 hereof providing for benefits upon nonservice-connected disabilities.
[Amended by Ordinance No. 190204, effective December 18, 2020.]

Section 5-123. Funeral Expenses.

Upon the death of any active or retired member, the Board shall pay to the person responsible for the funeral expenses of said deceased member a sum not exceeding two hundred dollars (\$200) to be used for funeral expenses.

Section 5-126. Definitions of Terms.

The following terms where used herein shall mean as follows:

1. The term "First Class Fire Fighter" shall mean a member of the Bureau of Fire who receives the maximum payment in the fire fighter classification, as set forth in the classification of positions in the Bureau of Fire by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Fire Fighter" is used it shall be that position by whatever name it may hereafter be called;
2. The term "First Class Police Officer" shall mean a member of the Bureau of Police who receives the maximum pay in the police bureau classification as set forth in the classification of positions in the Bureau of Police by the Civil Service Board, and in the event of the change of the name of said classification where the term "First Class Police Officer" is used it shall be that position by whatever name it may hereafter be called;
3. The term "Surviving Spouse" shall include widower, and shall mean the spouse of a member who was legally married to a member and not judicially separated or divorced by interlocutory or final decree of court from the member at the time of the member's death;
4. The term "Dependent Minor Child" shall mean a child, natural (including posthumous) or adopted, of a member, who is in fact substantially supported by said member, or such member's Surviving Spouse or estate, while said child remains under eighteen (18) years of age and unmarried;
5. The term "maximum pension" shall mean a pension equal to sixty percent of the then current salary of a First Class Fire Fighter for fire fighters, or that of a First Class Police Officer for police officers, as the case may be, and said pension shall vary annually as said salaries may vary from time to time;

6. The term "earned portion of maximum pension" or "maximum earned pension" shall mean that portion of a maximum pension that the member's years of service bear to the years of service required for a maximum pension, but in no event shall it exceed the maximum pension;
7. The term "active service" shall mean that period of time after the date of permanent appointment during which a member serves and is paid from the payroll of the respective bureau of which they are a member; and likewise shall include time spent on military leave to the extent provided in Section 5-122, leave of absence from the Bureau of Police or Bureau of Fire to serve as a Chief of the Bureau thereof, during which time the member shall be classified as a member, and time lost as a result of occupational disabilities and service-connected disabilities. Time served under temporary appointment before date of permanent appointment shall not be included in computing "active service." Time lost from active duty as a result of a nonservice-connected disability for which period of time benefits are paid to a member from the Fund shall not be included in computing "active service";
8. The term "in line of duty" shall mean those acts connected with or resulting from duties assigned, required or authorized of members of the Bureau of Police or Bureau of Fire, as the case may be, which occur during the period of time which elapses between the time a member reports for duty until the time the member is relieved from duty, and any other time the member is performing fire or police duties for the City of Portland, provided such acts are not in violation of departmental rules and regulations, City ordinances or State or federal laws;
9. The term "member" shall mean any person permanently and duly appointed in the Bureau of Fire or the Bureau of Police, under Civil Service rules and regulations, to perform the duties of a regular fire fighter or police officer, including police harbor pilots, fireboat pilots and fire department engineers, or any person permanently and duly appointed prior to July 1, 1947, who has paid into the established Fire fighter's and Policemen's Relief and Pension Funds prior to July 1, 1947, in the City of Portland, under whatever designation the member may be described, in any salary or budget ordinance providing compensation for the members of said Bureau of Fire or Bureau of Police; provided, however, that personnel of the Bureau of Fire or Bureau of Police, who are excluded from membership in the Fund pursuant to statutory authority shall not be deemed "members" under this Article;
10. The term "residence in the State of Oregon" or "resident of the State of Oregon" shall mean actually living in the State of Oregon as well as maintaining residence and domicile therein;

- 11.** The terms "current salary of a First Class Fire Fighter" or "current salary of a First Class Police Officer" shall mean all wages or salary paid on a monthly basis to a member for service in that Civil Service classification. The terms shall not include wages or salaries for extra duties or extra services. For the purposes of payments under this Article "current salary of a First Class Fire fighter" and "current salary of a First Class Police Officer" shall be computed annually at the beginning of the fiscal year;
- 12.** The term "full salary" shall mean the regular wages or salary paid on a monthly basis to a member in the member's particular salary range and step, but shall not include overtime pay;
- 13.** The term "fund" or "Fund" when not accompanied by any descriptive words shall mean the Fire and Police Disability and Retirement Fund created by Section 5-101 of this Article;
- 14.** The term "contributions" unless otherwise qualified, shall mean all moneys contributed by a member to the Fund established by this Act or to previously established fire and police pension funds of the City of Portland;
- 15.** Pronoun: In construing this Article, if the context so requires, the singular pronoun shall be taken to mean and include the plural and vice versa.

[Amended by Ordinance No. 190204, effective December 18, 2020.]

CHAPTER 6 (deleted)

[Chapter 6, Dock Commission, was deleted in 1984 pursuant to Charter Section 2-512, which authorizes the City Auditor to delete administratively, with Council approval, Charter provisions that have become inoperative. Ordinance No. 155423, passed by Council December 14, 1983, stated that the City Attorney and legal counsel for the Port of Portland had determined that Charter Chapter 6 was no longer operative since the Dock Commission had been consolidated into the Port of Portland as authorized by the voters in November, 1970, and all debts incurred in the name of the Dock Commission had subsequently been paid in full.]

CHAPTER 7 - FINANCE

ARTICLE 1. ACCOUNTING PROCEDURES AND TAXATION.

Section 7-101. Public Moneys and Accounting.

1. The ~~Council shall by ordinance~~ City must provide a system for the collection, custody and disbursements of all public moneys, not inconsistent with the provisions of statute and this Charter, and ~~shall by ordinance~~ must 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.
2. The City Officer responsible for accounting shall keep an account of all moneys paid into and out of the treasury. The City Officer responsible for accounting shall keep a register of warrants, check-warrants and checks, showing the funds upon which they are drawn, the numbers, in whose favor, and the appropriations, if any, applicable to the payment thereof.
3. The chief financial officer of the City shall give information as to the exact condition of the treasury and of every appropriation and Fund thereof under control of the Council, upon demand of the Mayor, or the Council, or any ~~Commissioner~~ Councilor or the Auditor. The chief financial officer of the City shall keep the records and accounts of the City in a complete and intelligible manner, but may keep a summary of departmental or bureau records and accounts where the chief financial officer of the City finds such summary to be sufficient. The chief financial officer of the City shall make an annual statement to the Council showing the receipts and disbursements of the City and the state of each particular Fund and the City's financial condition as soon as records are complete after the close of business on the last day of each fiscal year. The annual report shall contain an accurate statement in summarized form of the financial receipts of the City from all sources and of the expenditures of the City for all purposes, together with a detailed statement of the debt of said City, of the purposes for which said debt has been incurred, and of the accounts of said City with grantees of franchises and the names of the present owners of each thereof, and a summary of the assets and liabilities of the City. [May 3, 1913, new sec. 84; rev. 1914, sec. 185; 1928 pub., sec. 185; 1942 recod., sec. 7-101; am. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-102. Expenditures.

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

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

Any liability or liabilities willfully incurred by the Council to be paid in any fiscal year, which singly or in the aggregate shall be in excess of the revenues and receipts for such a 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 willfully incurred in excess of the amounts authorized by the Council, where the Council may so limit the expenditures of moneys, shall be null and void, and the Council shall not authorize any expenditures during any fiscal year, nor shall any liability or liabilities be incurred by or on account of the City of Portland, to be paid in any particular fiscal year ~~(for the payment of which approval of the Council shall be necessary)~~ which singly or in the aggregate shall be in excess of the revenues and receipts received or available during such year, applicable, or made applicable by transfer, to the payment of such liability or liabilities. Nothing contained in this Charter shall authorize the enforcement against or collection from said City, on account of any debt, contract or liability, of any sum in excess of the limitations prescribed in this Section.

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

Section 7-103. Demands for Payment.

Every demand upon the City for payment of money out of the treasury, must, before it can be paid, be presented to the chief financial officer of the City, who shall examine such demand to satisfy himself whether the money is legally due and payable, and out of what Fund it is payable. No demand shall be approved or paid unless it specify each several item, date and

amount composing it, and have endorsed thereon the legal authority for its payment. However, the provisions of this paragraph shall not apply to demands for payment out of funds from which any officers, ~~or boards or Commissioners~~ are empowered by this Charter or other law to require payment ~~without Council authorization~~, nor to requisitions, checks or warrants thereon. The chief financial officer of the City shall keep an official record of all demands examined by the chief financial officer of the City showing the number, date, amount, name of the payee and against what appropriation, if any, drawn and out of what Fund payable. The chief financial officer of the City shall not allow any demand out of its order to give priority to one demand over another drawn upon the same specific Fund, except that when liability for any claim presented is not sufficiently apparent to the chief financial officer of the City, the chief financial officer of the City may delay the payment thereof until such liability shall be determined. [Ch. 1903, sec. 274; rev. 1914, sec. 69; 1928 pub., sec. 69; 1942 recod., sec. 2-406 and 2-407; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-104. Demands, Nonallowance.

No demand shall be allowed by the chief financial officer of the City in favor of any corporation or person indebted to the City in any manner, except for assessments or taxes not delinquent, without first deducting the amount of any indebtedness then due of which the chief financial officer has notice, nor in favor of any person having the collection, custody or disbursement of public funds, unless such person's account has been presented, passed, approved and allowed as herein required, nor in favor of any officer determined by the Mayor ~~or Commissioner In Charge~~ to have neglected to make the officer's official returns or reports in the manner and at the time required by law, ordinance or the regulation of the Council, or to have neglected or refused to comply with any of the provisions of law regulating such officer's duties, nor in favor of any officer or employee found by the Mayor ~~or Commissioner In Charge~~ to have absented themselves without legal cause or duly granted leave of absence from the duties of their office during office hours, after such determination has been transmitted and filed with the chief financial officer. [Ch. 1903, sec. 277; am. May 3, 1913, sec. 101; rev. 1914, sec. 72; 1928 pub., sec. 72; 1942 recod., sec. 2-409; rev. Nov. 6, 1962; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-105. Warrants.

When payment of a demand has been authorized ~~by the Council~~ and approved as provided in this article, the Mayor and Auditor shall draw warrants on the Treasurer therefor. Such warrants must be signed by the Mayor and attested by the Auditor; but no warrants, except such as are issued upon funds created by special assessments, or warrants issued in settlement of judgments of the courts, shall be drawn signed by the Mayor or attested by the Auditor until the money for the payment thereof is in the hands or under the control of the City Treasurer. Check-warrants countersigned by the Treasurer, checks signed by the Treasurer, or other

method of payment authorized by law may be used in lieu of warrants. Such check-warrants or checks shall be drawn upon a bank in which the Treasurer has deposited money for such purpose. [Ch. 1903, sec. 280; rev. 1914, sec. 75; 1928 pub., sec. 75; 1942 recod., sec. 2-412; rev. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-106. Transfers from Funds.

It shall be lawful to transfer money from the General Fund to any other fund of the City and from the bonded indebtedness interest fund to the Improvement Bond Interest Fund, and to make any transfer permitted by statute, and the Council may provide that money transferred must be returned to the fund from which it was transferred. [Ch. 1903, sec. 115; am. May 3, 1913, sec. 89; rev. 1914, sec. 191; 1928 pub., sec. 191; 1942 recod., sec. 7-103; am. Nov. 6, 1962; am. May 18, 1994.]

Section 7-107. Reversions to General Fund.

When the necessity for maintaining any fund of the City has ceased to exist and a balance remains in such fund, the Council shall so declare by ordinance, and upon such declaration, such balance shall be forthwith transferred to the General Fund unless other provisions have been made in the original creation of the fund. However, the purposes of a special fund may be enlarged for similar objects. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942, recod., sec. 7-104; am. Nov. 6, 1962; am. May 18, 1994.]

Section 7-108. Investments.

Whenever bonds of the City of Portland are offered for sale, and there is a balance to the credit of any fund, not invested, said bonds may be awarded at par and accrued interest to the City Treasurer for the nearest practical amount, to consume said balance, and shall be held by the City Treasurer as an investment for said fund. When the bonds of the City of Portland are not offered for sale at a time or in sufficient amount to provide for the investing of any such balance, the ~~Council~~City may provide for investing the same in any general obligations of the United States Government, State of Oregon, the City of Portland, Multnomah County, School District No. 1 of Multnomah County or Port of Portland, or in any other bonds or investments permitted by statute, and to that end the ~~Council~~City may authorize the Treasurer to purchase the same on the open market if there is an established market therefor, or to submit a bid for any such bonds which are about to be issued for sale, or may authorize the Treasurer to advertise for proposals from persons holding any such bonds. Purchase of bonds upon bids shall be made by the ~~Council~~City on the basis of the most advantageous bid received, reserving the right to reject any and all bids. All interest received from such investments shall be credited to the fund from which the investment was made unless specifically provided otherwise by Charter or statute, provided, that two (2) or more funds may be joined in one investment, a

suitable provision being made for keeping an account of the amount invested from each fund and making an apportionment of the interest and principal when received. The ~~Council~~City may sell any bond or investment so purchased, when the same may not be payable at or near the time when such funds may be needed for the purpose for which the sinking fund or special fund was created, on the open market, if there is an established market for such investments, or, if there is no such established market, to the highest and best bidder after advertising for proposals in the City official newspaper by publication for at least five (5) days. Pending the investment as herein provided of any surplus or idle funds, the same shall be deposited in a depository bank which has qualified and been selected as a depository pursuant to statute. [Ch. 1903, sec. 116; am. May 3, 1913, sec. 90; rev. 1914, sec. 192; am. May 17, 1918; 1928 pub., sec. 192; 1942 recod., sec. 7-104; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-109. Independent Audits.

At the close of each fiscal year the books and accounts and the financial affairs and transactions of the City shall be audited by an independent licensed public accountant or firm of such accountants appointed by the City Auditor with the approval of the ~~Council~~Mayor. Such audits shall also be made for various departments, as provided in this Charter. The City Auditor may from time to time and as often as the City Auditor shall deem necessary, have like audit made of the books and accounts, and the financial affairs and transactions of the City or any part of City government. [May 3, 1913, new sec. 34; rev. 1914, sec. 195; 1928 pub., sec. 195; 1942 recod., sec. 7-106; am. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 7-110. Annual Tax Levy.

The Council shall, subject to applicable statutory provisions and at the time provided by law, levy upon all property not exempt from taxation, taxes for the coming fiscal year, as follows:

1. A tax to provide for the payment of the expenses of the City, subject to constitutional limitations, aside from any special levy or levies authorized for said year and aside from any levy for the payment of bonded indebtedness and interest thereon. The proceeds from the tax levy so made shall be credited to the General Fund.
2. Also a tax sufficient to meet the interest on the bonded indebtedness of the City to be credited to the Bonded Indebtedness Interest Fund.
3. Also a tax of not less than four-tenths of one mill on each dollar valuation not exempt from taxation to provide for the purchase of securities as an investment and/or payment or redemption of the bonded indebtedness of the City, to be credited to the sinking funds, or bond redemption funds. In all cases a tax shall be levied sufficient to provide for principal repayments on general obligations of the City.

4. Nothing herein contained authorizing general or special tax levies shall affect the right or power of other commissions to levy a tax as provided elsewhere in this Charter.
5. At the same time other levies of taxes are made and in addition to tax levies authorized by the Charter or other authorizations by the voters, the Council shall levy each year a special tax of three-tenths of a mill on each dollar of the assessed valuation of the property in the City of Portland not exempt from taxation, which shall be credited each year to the Fire and Police Disability and Retirement Fund provided for by Section 5-101 of the Charter and said special tax of three-tenths of a mill shall be in addition to all other taxes which may be levied according to law.
6. Nothing herein contained shall affect the right, power or duty of the Council to levy special taxes heretofore or hereafter authorized by the voters, and special taxes authorized and found necessary shall be levied.

[Ch. 1903, sec. 114; am. June 5, 1905; am. May 3, 1913, sec. 88; rev. 1914, sec. 190; am. July 1, 1926; 1928 pub., sec. 190; am. Nov. 6, 1928; am. Nov. 5, 1940; 1942 recod., sec. 7-110; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-111. Interim Borrowing.

The ~~Council of the City of Portland~~ is hereby authorized to borrow from time to time sufficient funds to meet the current expenses of the City of Portland during each fiscal year pending the collection of the annual tax levy for such fiscal year. [1942 recod., sec. 7-110, par. 7; rev. Nov. 6, 1962; am. May 18, 1994.]

Section 7-112. Limited Special Tax Levies.

Special taxes for fixed amounts or limited terms, may be levied and collected at the same time and in the same manner as other tax levies, upon approval by a majority of the City electors voting thereon. Measures for such special tax levies shall be submitted to the electors in the form of separate acts at a general or special election as authorizations or directions to the City Council or other levying body, without provision for amendment to this Charter. Copies of such measures approved by the voting majority shall be kept by the City officer responsible for accounting in a separate Current Special Tax Levy Register, and shall be public records having the same effect as though included in this Charter by amendment. All such authorizations for special tax levies not fully used or which have not fully expired by their terms, which were included in the City Charter at the time of passage of this amendment or approved at the time of passage of this amendment, shall be continued in full force and effect regardless of deletion from the Charter and shall be included by the City officer responsible for accounting in the Current Special Tax Levy Register. After the authority for a special tax levy has been fully used

or has expired, it shall be removed from the current register and placed in a File of Completed Special Tax Levies. This Section shall not apply to authorizations to levy special taxes which by the provisions thereof, grant continuing authority from year to year without period limitations, notwithstanding stated maximum amounts or millage limits on the taxes which may be levied for any one year. Such authorizations shall continue as part of this Charter. [New sec. Nov. 6, 1962; am. May 20, 1986; am. May 18, 1994.]

Section 7-113. Transient Lodgings Tax.

1. The Council may by ordinance impose and levy a tax not exceeding five percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons, for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, or public institutions, or permanent occupancy as defined by ordinance. Minimum rentals to which the tax shall apply may be fixed by ordinance. The tax imposed shall be collected by the owner or operator of the rental space in addition to the rental charge, at the time of payment of rent. City revenues from such taxes shall be credited to the General Fund of the City and used for general City purposes, as the Council may find appropriate, which may include provision for and the acquisition, construction, operation and maintenance of recreational, cultural, convention or tourist-related facilities or services.
2. In addition to any other tax authorized by this Section of the Charter the Council shall by ordinance impose and levy a tax of one percent on gross amounts of money, credit or other things of value paid to or received for lodging by the owner or operator of any hotel, motel, apartment or lodging house, mobile home or trailer park or court, or any other place in the City where space designed or intended for lodging occupancy is rented by any person or persons, for any period less than monthly. This tax shall not apply to hospitals, convalescent or nursing homes, public institutions, or permanent occupancy as defined by ordinance. Minimum rentals to which the tax shall apply may be fixed by ordinance. The tax imposed shall be collected by the owner or operator of the rental space in addition to the rental charge, at the time of payment of rent. City revenues from such one percent tax increase, after providing for the cost of administration and any refunds or credits authorized by ordinance, shall be used exclusively as provided hereinafter for the promotion, solicitation, procurement, and service of convention business and tourism in the City. Notwithstanding any other provision of this Charter, the City from time to time for periods not to exceed five (5) years, subject to annual review, shall negotiate contracts with a non-profit corporation or with non-profit

corporations organized under the laws of Oregon, whose primary purpose during the term of the contract or contracts is the promotion, solicitation, procurement and service of convention business and tourism in the City, for that corporation or corporations to expend revenues collected pursuant to this subsection for the purposes set forth in the subsection. In entering into the contract or contracts, the ~~Council~~ Mayor shall consider the recommendations of the persons subject to the tax imposed by this subsection. The Council shall in its sole discretion determine the portion of such revenues to be allocated between convention business and tourism. [Add. Dec. 14, 1971; Am. Nov. 7, 1978; am. May 18, 1994.]

- 3.** In addition to any other authority granted under this Charter, the City Council shall have power and authority to provide for the administration of, and interpretation of the terms in, this Section 7-113 by ordinance as legislative action, as the Council may deem necessary and appropriate. [Added May 16, 2017, effective June 14, 2017.]

ARTICLE 2. BOND ISSUES.

Section 7-201. Issuance of Bonds.

No bonds, other than bonds for public improvements payable out of assessments upon the property benefited and sewer bonds if otherwise authorized, shall be issued unless authorized by Charter or statute or unless approved by vote of the people at a general or special election. After the effective date of this amendment, measures for such bond issues limited in time or total amount shall be submitted to the electors, in the form of separate acts, without provision of amendment of this Charter, as authorizations or directions to the City Council or a commission established under this Charter. Copies of such measures approved by the voting majority shall be kept in a separate Book of Bond Issue Authorizations, and shall be public records, having the same effect as though included in this Charter by amendment. All such bond authorizations not fully used or which have not fully expired by their terms, which were included in the City Charter at the time of passage of this amendment or are approved at the time of passage of this amendment shall be continued in full force and effect regardless of deletion from the Charter and shall be included in the Book of Bond Issue Authorizations. After the authority for a bond issue or serial issues has been fully used and all the bonds issued thereunder have been paid or matured, the copy of the measure or authorization shall be removed from the current book and placed in a file of Completed Bond Issue Authorizations. This Section shall not apply to authorizations to issue bonds or other evidences of indebtedness which, by the provisions thereof, grant continuing authority without a stated total which may be issued thereunder, notwithstanding stated debt limitations or maximum amounts which may be outstanding at any one time. Such authorizations shall continue as part of this Charter. [May 3, 1913, new sec. 92; rev. 1914, sec. 227; 1928 pub., sec. 227; 1942 recod., sec. 11-101; rev. Nov. 6, 1962; am. May 20, 1986.]

Section 7-202. Refunding Bonds.

For the purpose of funding any bonded indebtedness, including water bonds, of the City of Portland, or any bonded indebtedness for which the City of Portland has become or will become liable by operation of law through annexation, merger or consolidation of any part or all of a municipal corporation or unit of government, already matured or to mature in the future, the City of Portland is authorized and empowered to issue and dispose of bonds of the City of Portland, Oregon, of the denominations of from one hundred dollars (\$100) to one thousand dollars (\$1,000) as the purchaser may desire, or as the Council may find appropriate, which bonds may be made general or limited obligations of the City. Such bonds shall be for a term fixed by the Council and the total amount of such refunding bonds shall not exceed the face or par value of the bonds to be refunded. Before such refunding bonds can be sold, the ~~Council~~ Mayor shall cause to be inserted for two (2) successive weeks in the City official newspaper and in at least one paper in New York City making a specialty of such matters, an advertisement inviting sealed bids for the purchase of said refunding bonds. Among equal

bidders preference in the sale and allotment shall be given to the bidders residing in the State of Oregon and subscribing for the smallest denominations. [Ch. 1903, part of sec. 118; rev. 1914, sec. 229; am. May 17, 1918; 1928 pub., sec. 229; 1942 recod., sec. 11-103; rev. Nov. 6, 1962.]

Section 7-203. Bond Issuance Procedure.

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

After approval by a majority of the electors voting on a bond measure, the Council shall, before issuing any such bonds, determine the denominations, form and term for such bonds. The Council shall prescribe the dates for the redemption of each bond issue and may authorize the issuance of bonds from time to time within the limitation of the amount authorized. Such bonds shall bear the facsimile signature of the Mayor and the Auditor of the City of Portland in the manner prescribed by the City in authorizing the sale of bonds. By each of such bonds the City shall be held in substance and effect to undertake and promise to pay to the holder of each of said bonds at the expiration of the time specified therein, the sum named therein, in lawful money of the United States of America, and promise to pay interest thereon in like lawful money at such rate as the Council may determine, not exceeding the percentage fixed by the Council, payable at such periods as shall be provided by the Council. The Council may prescribe other features of such bonds.

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

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

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

Whenever a commission has been or shall be authorized to issue bonds, by an existing Charter provision or provision approved simultaneously with adoption of this Section or any future measure, acts required or authorized by this Section to be done by the Council shall be required or authorized to be done by such commission. [1942 recod., see Chapter XI; new sec. Nov. 6, 1962; rev. May 15, 1984.]

Section 7-204. Bonded Debt Limitation.

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

CHAPTER 8 - ADVERTISING AND CONTRACTS

ARTICLE 1. AUTHORIZATION.

Section 8-101. Annual Contract for Official Advertising.

A contract for official advertising shall be let periodically by the ~~Council~~ Mayor to the lowest responsible bidder publishing a daily newspaper in the City of Portland and which has a bona fide circulation therein.

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

If the City official newspaper ceases to be published, or for any cause the contract in effect is canceled or terminated, a new contract for the unexpired term of the current contract shall be let to the lowest responsible bidder publishing a daily newspaper as provided in this Charter, and until such new contract is let the ~~Council~~ Mayor shall designate a daily newspaper in which all advertising shall be published, which newspaper shall be known and designated for the time being as the "City official newspaper." [May 3, 1913, new sec. 38; rev. 1914, sec. 144; 1928 pub., sec. 144; 1942 recod., sec. 8-101; am. Nov. 6, 1962; am. May 17, 1988.]

Section 8-102. Place for Advertisements.

All advertising and publications provided for in this Charter must be made in the City official newspaper and may be made in such other publications as the ~~Council~~ Mayor may direct. [May 3, 1913, new sec. 40; rev. 1914, sec. 146; 1928 pub., sec. 146; 1942 recod., sec. 8-103; rev. Nov. 6, 1962.]

Section 8-103. Definitions, "Successive" and "Consecutive."

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

Section 8-104. When Written Contracts Required.

The City of Portland shall not be bound by any contract nor in any way liable thereon, unless the same is ~~authorized by an ordinance and~~ made in writing and signed by some person or persons duly authorized ~~by the Council.~~ But ~~an ordinance~~ the Mayor may authorize any board,

body, officer or agent to bind the City without contract in writing for the payment of any sum not exceeding twenty thousand dollars (\$20,000); such amount to be adjusted annually based on the average inflation rate for the Portland Metropolitan Area as determined from the U.S. Department of Labor statistics. Notwithstanding the provisions of this Section, however, the ~~Council~~ Mayor may waive the written contract requirement when work, materials or supplies are necessary for an emergency involving public safety or health. [Ch. 1903, sec. 6; am. May 3, 1913, sec. 3; rev. 1914, sec. 148; 1928 pub., sec. 148; 1942 recod., sec. 8-105; rev. Nov. 6, 1962; am. Nov. 7, 1978; am. May 17, 1988; am. May 14, 1994.]

Section 8-105. When Formal Bids Required.

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

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

If the ~~Council~~ Mayor has rejected all bids on the ground that the same were excessive, identical, collusive, non-responsive or otherwise unacceptable in the public interest, further advertising may be waived by the ~~Council~~ Mayor, and purchases or improvements may be authorized within ninety (90) days after such rejection without bids on a negotiated basis. [Ch. 1903, sec. 164; am. May 3, 1913, part of new sec. 96; rev. 1914, sec. 150; 1928 pub., sec. 150; 1942 recod., sec. 8-106; am. May 21, 1954; rev. Nov. 6, 1962.]

Section 8-106. Contract for Animal Pound.

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

CHAPTER 9 - LOCAL IMPROVEMENTS; ASSESSMENTS; COLLECTIONS

ARTICLE 1. GENERAL PROVISIONS.

Section 9-101. Definition, "Street."

As used in this Charter, "street" includes any street, avenue, boulevard, alley, lane, bridge, bicycle path, road, walk, public thoroughfare or public way, and any land over which a right of way has been obtained, or granted and accepted for any purpose of public travel. [Ch. 1903, sec. 75, am. May 3, 1913, sec. 57; 1914 rev., sec. 255; 1928 pub., sec. 255; 1942 recod., sec. 9-102; rev. Nov. 8, 1966.]

Section 9-102. Definition, "Sewer."

As used in this Charter, "sewer" includes all trunks, mains and extensions thereof, pipes, ducts, laterals, branches, manholes, lampholes, catch-basins, pumping stations and appurtenances, ditches, canals, ducts, aqueducts, gates and all other apparatus, structures and devices which the council finds reasonably necessary or proper for the disposal of sanitary sewage, or for drainage including storm water drainage, and also the relaying, repairing, reconstruction or renewal thereof. The term includes widening, deepening, straightening and diverting channels of streams, improving water fronts, filling or grading lakes, ponds or other waters and increasing or diminishing the flow of waters in natural or artificial channels, and other acts and things found necessary or appropriate for sewerage, drainage and proper disposal thereof. Use of the term "sewer" shall not require that all purposes set forth above be handled by a single facility, and construction and use of a sewer may be limited to any one or any combination of said purposes. [June 4, 1917, new sec. 275c; 1928 pub., sec. 275c; 1942 recod., sec. 9-503; rev. Nov. 8, 1966.]

Section 9-103. County Roads as Streets.

All County roads lying within the limits of the City of Portland which have not been laid out or accepted as streets by authority of the City shall remain and be County roads until they are laid out or accepted by the City as streets, and be under the jurisdiction of the County court or the Board of County Commissioners of the County in which such road is located, and shall be worked, maintained and improved as County roads outside the limits of the City are worked, maintained and improved.

The ~~Council~~ Mayor may, ~~by resolution~~, upon order of the County signifying its willingness to accept the same, relinquish to the County for the purpose of work or improvement, control of all or any portion of any street connecting with a County road. Thereupon such street to that extent shall be under County control and shall be worked and improved in like manner as

County roads until the County relinquishes its jurisdiction, and the City accepts the same. [Ch. 1903, sec. 422; 1914 rev., sec. 276; 1928 pub., sec. 276; 1942 recod., sec. 9-103; rev. Nov. 8, 1966.]

Section 9-104. Costs of Improvement.

For estimated assessment and final assessment purposes the cost of a local improvement shall be the actual cost as defined by ordinance. Allowances for engineering and superintendence as part of the actual cost shall be fixed by the Council by general ordinance from time to time. [May 17, 1918, new sec. 284-b; 1928 pub., sec. 284-b; am. Nov. 4, 1924; 1942 recod., sec. 9-106; rev. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-105. Progress Payments.

The ~~Council~~Mayor may make progress payments for all local improvement work by the issuance of interest-bearing warrants against the special assessment fund to be created for such improvement. [Nov. 2, 1920, new sec. 337; 1928 pub., sec. 337; 1942 recod., sec. 9-108; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-106. Payment for Work.

Payment for costs of a local improvement shall be drawn against and payable solely from a special assessment fund. Into this fund shall be paid all money collected from assessments for local improvements. The fund shall be used for payment of actual costs of the improvements. Each local improvement project shall be accounted for separately in the special assessment fund. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-107. Local Improvements.

The definition of a local improvement and the procedures for making local improvements shall be governed by this Charter, ordinance, or State law. [New sec. Nov. 3, 1992.]

Section 9-108. Condemnation.

Whenever the Council finds it necessary to take private property for a public purpose, it may purchase the same or may direct proceedings to be taken under the general laws of the State or the general ordinances of the City to obtain the property or interest therein. [New sec. Nov. 3, 1992.]

ARTICLE 2. STREET GRADES.

Section 9-201. Original Establishment.

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

Section 9-202. Authority to Change Grades.

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

Section 9-203. Initial Engineer's Report.

Whenever the Council deems it expedient to change the grade of any street or part thereof within a district continuously affected by the change of grade, ~~it shall~~ the Mayor directs the Engineer to report thereof. The Engineer shall thereafter, as soon as convenient, file with the Auditor a report showing the location and nature of grade changes which in the Engineer's judgment should be made. The report shall also describe the area which the Engineer deems to be affected by the proposed change of grade. [Nov. 7, 1922, new sec. 258; 1928 pub., sec. 258; 1942 recod., sec. 9-203; am. Nov. 8, 1966.]

Section 9-204. Notices and Hearing.

The Council may approve the initial report of the City Engineer by resolution, or make changes therein, and declare its intention to make such change of grade, stating the location and nature of the proposed grade change. The Auditor shall publish in five (5) successive publications of the City official newspaper notice of the proposed change of grade, setting forth the nature of the proposed change, the time within which objections against such proposed change of grade and claim for damages may be filed in writing with the City official designated by ordinance, and the time when said matter and objections will be heard by the Council. Objections and

claims for damages may be filed within twenty (20) days from the first publication of the notice. The time for hearing shall be the next regular meeting of the Council following said twenty (20) days. Within five (5) days from first publication of the notice, the City Engineer shall cause to be posted on the street or streets affected by the proposed change of grade, a notice headed, "Notice of Change of Grade," containing a legible copy of the notice published. One of such notices shall be posted at or near each street intersection where the proposed change of grade is to be made. If no intersection is affected by the change of grade then the posting of one notice at or near the intersection closest to the maximum point of change of grade shall be sufficient. The City Engineer shall maintain in the project file an affidavit of posting stating the date when and the places where the notices were posted. The Auditor also shall send notice to the persons named as owners of the property within the affected area designated in the Engineer's report as adopted by the Council. If the address of any named owner is unknown and if that person has an agent whose name and address is known, notice shall be mailed to that agent; otherwise it shall be mailed to the named owner addressed at Portland, Oregon. However, failure of any such person or the true owner to receive the mailed notice shall not invalidate the proceedings. [Nov. 7, 1922, new sec. 259; 1928 pub., sec. 259; 1942 recod., sec. 9-204; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-205. Objections, Claims for Damages.

At the time of hearing, if the Council finds that no claims for structural damages have been presented by property owners and that any objections filed do not represent three-fifths in area of the property affected, the Council may by ordinance make such change of grade without awarding damages and without further proceedings, or may determine that a further report concerning damages to owners of property injured and benefits to owners of property specially benefitted should be made by the City Engineer. If the Council finds that the owners of more than three-fifths in area of the property affected have filed written objections, no further proceedings shall be taken for a period of six (6) months, except on petition of the owners of more than half in area of the affected property, or unless the Council determines that an award of damages shall be made for probable injuries to property. If the Council determines at the hearing that there are probable injuries to affected property as a result of the proposed change, then the Council may direct the City Engineer to report on damages and benefits. All owners' claims for damages shall be verified and shall state the facts upon which the claim is based and the amount thereof. [Nov. 7, 1922, new sec. 260; 1928 pub., sec. 260; 1942 recod., sec. 9-205; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-206. Award of Damages and Assessment of Benefits.

A report by the City Engineer on damages and benefits shall state the amount of damages which in the Engineer's judgment should be awarded to the owner of each property injuriously affected by the proposed grade change and a detailed proposed assessment on each lot and parcel of land in the Engineer's judgment specially benefitted, proportionate to its share of

benefits resulting from the change. Upon the filing of the report the same procedural steps shall be taken with like force and effect as provided for municipal condemnation proceedings. [Nov. 7, 1922, new sec. 261; 1928 pub., sec. 261; 1942 recod., sec. 9-206; am. Nov. 8, 1966.]

ARTICLE 3. ELIMINATION OF GRADE CROSSINGS.

Section 9-301. Authority of Council.

The Council has authority to determine whether any railroad crossing of any street within the corporate limits of the City at or near street grade is dangerous, and to provide for the elimination of that grade crossing. [June 2, 1913, subdn. a of new sec. 372 1/2; 1928 pub., sec. 265; 1942 recod., sec. 9-401; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-302. Plans and Specifications.

Whenever the Council finds that a railroad grade crossing should be eliminated, ~~it may by ordinance~~ the Mayor directs ~~require~~ the City Engineer to prepare plans and specifications for, and estimates of, the cost. [June 2, 1913, subdn. b, new sec. 372 1/2; 1928 pub., sec. 266; 1942 recod., sec. 9-402; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-303. Conference with Railroad Engineer.

In preparing plans, specifications and estimates, the City Engineer shall confer with the Civil Engineer of any railroad company having an interest in the crossing, for the purpose of determining a reasonable plan and method for eliminating it. If the City Engineer is unable to agree with the Engineer of the railroad company, the City Engineer shall proceed to determine a proper and reasonable plan and method of eliminating said grade crossing; provided, however, that if the civil engineer of an interested railroad company does not confer with the City Engineer after ten (10) days written notice, the City Engineer may proceed with the preparation of plans, specifications and estimates without a conference. [June 2, 1913, subdn. c, new sec. 372 1/2; 1928 pub., sec. 267; 1942 recod., sec. 9-403; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-304. Filing of Plans and Objections.

The City Engineer shall file with the Auditor a report on elimination of the grade crossing with the necessary plans, specifications and estimates of the cost. ~~The City official designated by ordinance shall~~ Mayor ~~notify~~ ies in writing each interested railroad company, and any company shall have thirty (30) days from date of the notice to file with the Auditor objections thereto, or to propose modifications thereof, or to file other or different plans and specifications, together with the estimates of the cost. [June 2, 1913; subdn. d, new sec. 372 1/2; 1928 pub., sec. 268; 1942 recod., sec. 9-404; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-305. Consideration of Plans and Report of Damages.

Within three (3) months after the thirty (30) day period for filing objections, the Council shall consider the report, objections, plans, specifications and estimates filed, or may refer the

matter to a ~~commissioner~~Councilor or committee of ~~commissioners~~Councilors for this purpose, in which event ~~the City official designated by ordinance~~the Mayor shall mail five (5) days notice in writing to any company interested when the ~~commissioner~~Councilor or committee will consider the matter, and at the time specified any company may attend and be heard thereon. Upon filing of the ~~commissioner's~~Councilor's or committee's findings and recommendations, the Council may adopt a plan and method for eliminating the grade crossing and adopt specifications therefor, or it may dismiss the proceedings. If it appears that change of street grade will be required in eliminating the grade crossing, the Council shall determine whether such grade shall be changed, with or without considering damages to adjacent property. If the Council determines to consider damages to adjacent property, ~~it shall require~~the City Engineer to report the estimated damages that property may sustain by reason of the change of street grade, based on the depreciation, if any, in market value on account of the change of street grade. In estimating the depreciation of market value, the City Engineer shall take into account the benefits, if any, the effect which the proposed improvement will have upon market value of the property, and the probable assessment against the property for the improvement. [June 2, 1913, subdn. e, new sec. 372 1/2; 1928 pub., sec. 269; 1942 recod., sec. 9-405; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-306. Apportionment of Damages and Benefits.

Upon filing of the City Engineer's report on damages, the Auditor shall publish in four (4) successive publications in the City official newspaper a notice that such report has been filed, stating the amount of damages to each property as estimated by the City Engineer, the date when the report of the City Engineer will be heard by the Council, and that written objections thereto may be filed with the Auditor any time prior to the day of hearing. The date of hearing shall be not less than five (5) days after the last publication of notice. The Auditor shall also send a copy of the published notice to each person interested in land affected. If the address of such person is unknown, and if such person has an agent whose name and address is known, notice shall be mailed to the agent; otherwise it shall be mailed to the owner addressed at Portland, Oregon. At the time of hearing the Council shall consider the report and all objections thereto and may refer it to any committee or commissioner for further hearing and report. At any time thereafter the Council may determine the damages to be awarded for the change of street grade.

If construction is contemplated by the Council in order to effect the elimination of a railroad grade crossing, no proposed assessment to property benefitted by the change of street grade need be made in the proceedings for change of street grade, but rather a statement may be made that such damages will be assessed as a part of the total improvement cost or will be financed in a particular manner. Thereafter the cost of making the change and improvement shall include, as part of the cost, the total damages awarded on account of such change of street grade. The Council shall determine whether any portion of the total cost of the

improvement shall be financed by assessment of benefits to property within an assessment district as a local improvement, and if so, the total cost shall be apportioned as follows: sixty percent shall be paid by the company or companies owning or controlling the railroad trackage at the crossing; no more than twenty percent shall be assessed against the property benefitted thereby within the district fixed by the Council; and the balance may be paid by the City, or as the Council may determine. Total cost shall include the cost of raising or lowering tracks within street boundaries, but the raising or lowering of tracks outside street boundaries shall be the sole responsibility and expense of the railroad company. Total cost shall also include all other costs and expenses of the improvement, plus damages to property within the district. Whenever the street is occupied or used by more than one railroad company, the railroad's share of the total cost of the improvement shall be apportioned among them. The cost and expense of raising or lowering the grades or tracks outside street area to be borne by the affected companies shall be apportioned by the Council unless, within thirty (30) days after the Council orders the improvement, all affected companies file with the Auditor their mutual agreement thereon. [June 2, 1913, subdn. f, new sec. 372 1/2; 1928 pub. sec, 270; 1942 recod., sec. 9-406; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-307. Advancement to Special Fund.

If damages are allowed to adjacent property owners because of the change of street grade, upon final determination of the amount to be awarded to each property owner and upon determination by the Council to proceed with the improvement as provided in Section 9-408, the Council shall loan or otherwise transfer from any available fund to the special assessment fund, an amount sufficient to pay all such awards. The warrants then shall be drawn in favor of the persons entitled thereto in the amounts awarded, payable upon demand, with interest as set by ordinance. No such warrant shall be delivered to a property owner who has been allowed damages until the owner applies therefor and files written acceptance of such allowance, or until the amount of award has been finally determined. The advancement authorized herein, with interest as set by ordinance, is part of the cost of the improvement and the amount of the advancement with interest shall be returned to the fund from which it was advanced, subject to the apportionment of the City's share, if any. [June 2, 1913, subdn. g, new sec. 372 1/2; 1928 pub., sec. 271; 1942 recod., sec. 9-407; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-308. Remonstrances, Assessments and Collections.

If a portion of the cost of eliminating a railroad grade crossing is to be financed by local improvement assessments, the procedures for establishing a local improvement district and assessing property shall be followed. Remonstrances may be filed with the Auditor by property owners within the time to be fixed by resolution. Upon the expiration of that time, the Council shall determine whether or not to proceed with the matter. If the Council determines to proceed it may overrule any and all remonstrances. Assessments made hereunder shall be entered in the docket of City liens and collected in the same manner as other assessments and

the amount to be paid by a railroad company also shall be entered on the docket of City liens and shall constitute a lien against all property of the company in the City. If any railroad company fails to pay or bond the assessment within the time provided for paying or bonding assessments for street improvements, the City may proceed by court process to require payment, or may proceed to collect the same by suit or action as other assessments are or may be collected, or by both procedures. [June 2, 1913, subdn. h, new sec. 372 1/2; 1928 pub., sec. 272; 1942 recod., sec. 9-408; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-309. Bonding of Assessments; Changes of Grade.

Persons, including railroad companies whose property has been assessed for the improvement eliminating a railroad grade crossing, have the right to bond their assessments in the same manner as provided for bonding assessments for other local improvements. No further proceedings shall be required to change the grade of the street than as specified in this Article, and upon the completion of the improvement, the grade of the street shall be deemed changed to the grade established by the improvement. [June 2, 1913, subdn. i, new sec. 372 1/2; 1928 pub., sec. 273; 1942 recod., sec. 9-409; am. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-310. No Impairment of Duty Under Franchise or Ordinance.

Nothing in this Article shall impair the right of the City to require the holder of a franchise or other person, required by ordinance or otherwise to pave a portion of street, to move any facility at their own expense or to improve a portion of street, to carry out their obligation without expense to the City. For this purpose, elimination of grade crossings is a public work and improvement. No duty, express or implied, of the holder of a franchise, contract or permit shall be impaired by amendments to this Chapter subsequent to the grant of franchise, contract or permit. [June 2, 1913, subdn. j, new sec. 372 1/2; 1928 pub., sec. 274; 1942 recod., sec. 9-410; rev. Nov. 8, 1966; am. Nov. 3, 1992; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 9-311. Construction of Article.

The provisions of this Article relating to change of grade affect other provisions relating to change of grade in this Chapter. The provisions of this Article shall be construed as an additional procedure which the Council may follow in eliminating railroad grade crossings. [June 2, 1913, subdn. k, new sec. 372 1/2; 1928 pub., sec. 275; 1942 recod., sec. 9-411; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-312. Elimination of Several Crossings in One Proceeding.

The Council may provide in one proceeding under this Article for the elimination of the grade crossings of two (2) or more streets by any railroad or railroads in a district. [June 7, 1915, new

sec. 275 1/2; 1928 pub., sec. 275 1/2; 1942 recod., sec. 9-412; am. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 4. STREETS AND STREET IMPROVEMENTS.

Section 9-401. Definition of "Improve" and "Improvement."

As used in this Article, the terms "improve" and "improvement" include all construction, reconstruction, grading, regrading, paving, repaving, surfacing, resurfacing, bettering and repairing roadways, bridges, trestles, means of access and egress, underpasses, overpasses, sidewalks, crosswalks, pedestrian ways, gutters, curbs, street drainage facilities and appurtenances therefor within any street. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-402. Improvement Procedure.

The Council hereby is authorized: to order from time to time all or part of the streets of the City to be improved; to determine the character, kind and extent of each improvement; to levy and collect an assessment upon all lots and parcels of land specially benefitted by the improvement to defray the whole or any portion of the cost; and to determine what lands are specially benefitted by the improvement and the amount to which each parcel or tract of land is benefitted. The procedural steps for an improvement shall be prescribed by ordinance. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-403. Remonstrances.

Street improvement procedures established by ordinance shall provide for mailed notice to the property owners within the proposed district of the Council's intention to improve any street, and an opportunity for the owners of the property within the proposed assessment district to make and file written objections or remonstrances against the proposed improvement. The period for filing of written objections or remonstrances shall be set by ordinance but shall not exceed sixty days from the date notice is mailed. If the owners of three-fifths or more in area of the property file objections, further proceedings in the making of such improvement are barred for a period of six (6) months unless the owners of one-half or more of the property affected subsequently petition therefor. If an objection, remonstrance or petition is signed by the agent or attorney of any property owner, the agent or attorney's authority to sign shall be filed with the Auditor within the time provided for the remonstrance or petition or the signature shall be disregarded. If objections or remonstrances legally signed by the owners of three-fifths of the property affected are not filed, the Council may order the improvement. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-404. Use of Earth.

When the Council by ordinance provides for making an improvement, the City may, at its option, remove, alter, dispose of or otherwise use all earth within the street lines for that improvement. [New sec. Nov. 3, 1992.]

Section 9-405. Completion of Work; Spread of Assessments.

When a street improvement is wholly or partially completed to the satisfaction of the City Engineer, the completed work may be accepted and property within the district assessed for the cost under procedures established by ordinance, with opportunity for objections to be heard. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-406. Improvement by Permit.

Whenever the grade of any street has been established, the ~~Council~~City may authorize any person to cut or fill the street in front of such property according to such grade, or to improve the same, or both, as the City Engineer may direct, at the expense of that person. This authority shall not be granted after notice has been given of the Council's intention to improve the street so long as the Council retains jurisdiction for the proposed improvement. In giving this authority, the ~~Council~~City may impose such terms and conditions as it may find appropriate. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

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

Sidewalks may be improved either as a part of a general street improvement or by separate proceedings. The ~~Council~~City may determine the grade and width of all sidewalks, materials to be used and specifications for construction. It is the duty of all owners of land abutting any street in the City to construct, reconstruct and maintain in good repair the adjoining sidewalks. If the owner of any parcel of land allows an adjoining sidewalk to be out of repair, the City Engineer shall post notice on the property directing the owner, agent or occupant thereof immediately to repair it in accordance with City specifications. If the owner, agent or occupant of any parcel of land does not properly make the sidewalk repairs within the time designated in the notice, the City Engineer may make the repairs, keeping an account of the cost and reporting it to the ~~Council~~Mayor with description of the parcel of land abutting the repaired sidewalk. The ~~Council~~City has the same general authority and supervision over sidewalk repairs as over street improvements. If the Council finds the costs reported by the City Engineer to be reasonable, it shall approve them and thereafter, at least once a year, by ordinance assess upon each of the parcels of land abutting repaired sidewalks, the cost of making the repairs with an additional overhead charge to defray the cost of notice, engineering and advertising. All such assessments may be combined in one assessment roll and they shall be entered in the docket of City liens and collected in the same manner as are other local improvement assessments. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-408. Damages for Negligence.

Owners of land within the City are liable for all damages resulting from their failure to put an adjoining sidewalk in repair after notice to repair as provided in this Article. No action shall be

maintained against the City by or for any person injured because of any sidewalk defect. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 5. SEWER IMPROVEMENTS.

Section 9-501. Assessment District; Remonstrances.

When the Council has declared its intention to construct a sewer or sewer system and has fixed the boundaries of the assessment district to be benefitted and assessed therefor, the Auditor shall mail notice of such intention to the property owners within the proposed district, in accordance with procedures prescribed by ordinance. The procedures shall provide that an owner of any property within the proposed assessment district or such owner's agent who files proof of their authority, may file with the Auditor a written remonstrance against the proposed sewer or the plans therefor, and the Council, upon hearing the remonstrance, may discontinue proceedings in the matter. The period for filing of written objections or remonstrances shall be set by ordinance but shall not exceed sixty days from the date notice is mailed. The Council, however, may overrule any and all remonstrances and may order the improvement. The Council also may require changes in the proposed plans or changes in the boundaries of the proposed assessment district, and declare by resolution its intention to proceed on the revised basis. Such resolution shall be published and remonstrance period given as in the first instance. The improvement shall conform substantially to the plans and specifications adopted by the Council. [New sec. Nov. 8, 1966; am. Nov. 3, 1992; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 9-502. Joint Construction with County.

The ~~Council~~ Mayor may take action ~~and proceedings~~ for the construction of any sewer or drain jointly with any County; ~~may levy and collect special assessments of benefits therefor; and~~ may enter into an agreement or agreements with any county for the construction, maintenance and use of sewers or drains and paying the cost thereof; The Council may levy and collect special assessments of benefits for any sewer or drain constructed jointly with any County; may issue bonds to finance that portion of the cost agreed to be chargeable to property outside of the City; may do all other things necessary or proper to provide for the construction of sewers or drains when the design, plan or method of construction will render them beneficial to property both within and without the limits of the City; and may perform all acts necessary to implement statutes relating thereto. [Sections 95-1818 to 95-1846 O.C.L.A.; June 4, 1917, new sec. 275a; 1928 pub., sec. 275a; 1942 recod., sec. 9-501; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-503. Issuance and Sale of Bonds.

Bonds may be issued and sold after construction of any such sewer or drain has been authorized, and each bond issue shall be limited to an amount that does not exceed the portion of the cost of such sewer or drain agreed upon with the County as the amount justly and equitably to be borne by property lying beyond the City limits. Such bonds shall not be issued for longer than twenty (20) years, and may be general obligations of the City. No bonds shall be

issued when the total of such bonds then outstanding would exceed five hundred thousand dollars (\$500,000). In lieu of issuing bonds, the Council may provide for financing part or all of the cost agreed upon as chargeable to property outside of the City from City funds. The Council has authority to levy and collect an assessment against the property benefitted by any sewer or drain lying beyond the City limits whenever that property is included within the City limits, if no previous assessments therefor have been made on the property, and to apply the money so collected toward payment of such bonds, or to reimburse the City for any payment, expenditure or advancement for such sewer or drain. Any agreement with the County may provide for the levy and collection by the County of an assessment against property whenever the sewer or drain may immediately benefit the property because of construction of an extension, lateral, branch, or otherwise. [June 4, 1917, new sec. 275b; 1928 pub., sec. 275b; 1942 recod., sec. 9-502; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 6. OTHER IMPROVEMENTS.

Section 9-601. Fire Stops.

As used in this Article, "fire stop" includes any fireproof wall or other device to prevent the spread of fire. The ~~Council~~City has authority by agreement or by condemnation to acquire property, easements and rights needed for the construction of fire stops; to perform the work of erecting fire stops either by direct employment of labor or by awarding contracts; and to provide for the payment of the costs thereof by the levy and collection of local assessments according to benefits for the improvement. Before fire stops are constructed an estimate shall be made of the probable cost and of the probable saving in fire risks and insurance expenses. Where a fire stop is to be constructed at the expense of property benefitted and assessed therefor, the ~~Council~~City shall take proceedings similar to those required for constructing sewers. The method of making and collecting assessments shall be the same as for other local improvements. The cost of acquiring property, easements or rights shall be included in the cost of the fire stop. [June 7, 1915, new sec. 294; 1928 pub., sec. 294; 1942 recod., sec. 9-601; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-602. Lighting Districts.

Whenever the owners of fifty percent or more in area of the property within any district make and file with the Auditor a petition to establish a special street lighting system within that district, the ~~Council~~City has authority to install, operate and maintain such a system as a local improvement and to furnish electrical current therefor. The improvement may include initial installation, continuance or change of an existing installation, substitution of different materials or special styles or locations of lights or related facilities within the district, replacements, or any combination of those items. The ~~Council~~Mayor may award contracts for all or a portion of the work, maintenance or electrical energy. The Council may levy and collect local assessments on property benefitted thereby for all or a portion of the cost. The Council may authorize contribution from City funds to the cost of energy, operation and maintenance in the amount it finds an appropriate allowance for regular street lights rendered unnecessary by the special lighting system. Whenever all or part of the cost of a system is to be assessed to property benefitted, the Council shall take proceedings similar to those required for street improvement districts. [Nov. 4, 1924, new sec. 338; 1928 pub., sec. 338; 1942 recod., sec. 9-602; rev. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-603. Other Local Improvements.

When the Council determines that a local improvement as defined by this Charter or by ordinance affords a special and peculiar benefit to property within a particular district different in kind or degree from that afforded to the general public, the Council may classify it as a local improvement and provide for the payment of all or a portion of the cost thereof by levy and

collection of local assessments on the property benefitted. The procedure for street improvements shall be followed. Jurisdiction of the Council shall depend upon the extent and strength of remonstrance; provided, however, if the Council determines that the public health or public safety demands immediate construction, the Council may overrule any and all remonstrances and shall proceed as provided for sewer improvements. The Council may combine in one proceeding a street improvement, sewer improvement, street lighting improvement, and any other improvement allowed by this Charter. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

ARTICLE 7. ASSESSMENTS AND COLLECTIONS.

Section 9-701. Assessment District.

If the Council finds that a particular lot, tract, or parcel of land within the boundaries of a local improvement assessment district does not in fact receive any special and peculiar benefit from that improvement, it may exclude that property or show the assessment at zero (0) when apportioning costs of the local improvement in accordance with benefits and spreading the assessment. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-702. Procedures for Assessments; Assessments Confirmed.

The Council shall establish procedures by ordinance for the estimated assessment, assessment, and reassessment of benefitted properties. An assessment shall not exceed the apportioned share of actual costs nor exceed the amount of the benefits. Each parcel of land shall be considered benefitted by the local improvement to the full amount of the assessment levied on it. Delays, mistakes, errors or irregularities in any act or proceeding in an improvement, in notices, in entry of assessment or in any related matter shall not prejudice or invalidate any final assessment, but the defect may be corrected by subsequent action. [New sec. Nov. 8, 1966; am. Nov. 3, 1992.]

Section 9-703. Assessment Lien; Payment.

The docket of City liens is a public writing, and from the date of entry of any assessment, the sum entered is a lien upon the land against which it is entered. Assessment liens shall have priority over all other liens and encumbrances. The sum assessed for a local improvement shall be due and payable from the date of entry upon the lien docket, and if not paid or bonded as provided by law within thirty (30) days from that date, the amount of assessment then shall be delinquent and shall bear interest at the rate fixed by ordinance from the date of assessment. [am. Nov. 3, 1992.]

Section 9-704. Delinquency and Sale for Unpaid Assessments.

The Treasurer shall proceed to collect the unpaid assessments by advertising and selling the assessed land in the manner provided by State law or City ordinance. Rates of penalty and interest shall be determined by ordinance. The sale price shall include all assessment principal and interest due, penalties and charges due, and all costs associated with the sale of the property.

Whenever the market valuation for tax purposes of land assessed and subject to sale for collection of unpaid assessment exceeds the sum payable to the City of the unpaid assessment, interest and estimated costs plus the total of any past due taxes by twenty-five percent or more

of the City and tax liens, the Treasurer may, subject to general guidelines of the ~~Commissioner In Charge and/or~~ the Council, withhold or withdraw such property from public sale and in lieu thereof may sell the property by private sale to the City upon payment by the City from the Assessment Collection Fund, elsewhere provided in this Charter, of the unpaid assessment, interest and costs. If land is not valued for tax purposes, the market value estimated by the City shall be considered the market valuation for tax purposes under this Section.

The Treasurer shall report to the ~~Council~~ Mayor the sales and collections on delinquencies and the City official designated by ordinance shall make proper entries in the lien docket. Thereafter no transfer or assignment of any certificate of sale hereunder shall be valid unless entry of that transfer or assignment has been noted in the lien docket after appropriate filing with the City. In case any property remains unsold, that property again may be offered for sale in like manner. [New sec. Nov. 8, 1966; am. Dec. 14, 1971; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-705. Redemption.

The City ordinance authorizing sale of property for delinquent assessments and the notice of sale to persons with an interest in the property stating that the property has been sold shall clearly state the provisions for redemption of the property by the prior owner as provided by State law or City ordinance. [am. Nov. 3, 1992.]

ARTICLE 8. FINANCING LOCAL IMPROVEMENTS; BONDING.

Section 9-801. Applications for Bonding.

Within thirty (30) days after notice of an assessment, deficit assessment or reassessment for a local improvement is first mailed, if the assessment exceeds a minimum fixed by the Council, the owner of the property assessed may file a written application to pay the assessment in installments. The application shall provide that the owner agrees to pay the assessment in installments including interest and charges as specified by the Council. The application also shall describe the applicant's property assessed for the improvement. [June 7, 1915, new sec. 278; 1928 pub., sec. 278; 1942 recod., sec. 9-701; rev. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-802. Final Assessment Bond Lien Docket.

After the time expires for filing applications to pay assessments in installments, the City official designated by ordinance shall enter all applications received in a docket kept for that purpose under separate heading for each improvement. Thereafter, that docket shall stand as a bond lien docket in favor of the City for the amount of the unpaid assessments docketed therein, with interest on unpaid assessments at a rate determined by ordinance, against each parcel of land assessed, until the assessments and interest are paid. All unpaid assessments and interest are a lien upon each parcel of land in favor of the City, and that lien shall have priority over all other liens and encumbrances. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-803. Improvement Bonds.

After the bond lien docket is made up for the particular local improvement, the Council shall authorize by ordinance the issuance of bonds not exceeding the actual costs of the unpaid improvement assessments as shown on the bond lien docket. [New sec. Nov. 8, 1966; May 20, 1986; am. Nov. 3, 1992.]

Section 9-804. Installment Payments; Delinquency and Collections.

Bonded assessments shall be paid in installments, plus accrued interest, penalties, and charges, as specified by ordinance. If payment of any installment is delinquent thirty (30) days, the entire unpaid balance is immediately due and payable, and the installment contract may be declared void. The property owner may execute a new agreement as provided by City Code, or the City may collect the total amount due in the manner as provided by ordinance. Prior to sale of the property for collection, the owner may remove the property from the sale list in the manner provided by Code. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992; am. May 18, 1994.]

Section 9-805. Sinking Funds; Investment; Bond Reissuance and Rebonding.

After issuance of improvement bonds covering unpaid bonded assessment for a particular improvement, the City official designated by ordinance shall keep an account of money paid upon bonded improvement assessments separate from other City funds, as provided by ordinance.

Whenever improvement bonds issued upon bonded assessments are redeemable and it appears to the Council advantageous to redeem them, but money available in the sinking fund account is insufficient, the Council may transfer money from another sinking fund or sinking fund account as a temporary loan to the sinking fund account to be redeemed, to be repaid with interest at the rate fixed by the Council. The Council may authorize and provide for issuance and sale of new bonds upon bonded assessments to redeem outstanding bonds. Such new bonds shall be limited in amount to the amount of bonds to be redeemed from the proceeds, shall bear interest, be sold and be redeemable as provided in this Charter. In case of a temporary loan, if property owners fail to pay into the sinking fund a sufficient amount to repay the temporary loan, when needed, the Council shall provide money for repayment by the sale of bonds as provided in this Section. [New sec. Nov. 8, 1966; am. May 20, 1986; am. Nov. 3, 1992.]

Section 9-806. Assessment-Collection Bonds; Assessment Collection Fund.

To facilitate collection of delinquent assessments and to assist in financing local improvements, the Council may issue and dispose of bonds to be known as Assessment-Collection Bonds. The total amount of these bonds shall not exceed one million five hundred thousand dollars (\$1,500,000) outstanding at any one time. The bonds shall be general obligations of the City and shall be issued and sold in any denominations in the same manner as other bonds of the City. The rate of interest thereon shall not exceed the maximum rate permitted under State law, and their maturity shall not exceed twenty (20) years.

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

In selling property purchased from the Assessment Collection Fund, or Treasurer's certificates thereon, no transfer of certificate of sale or deed to the City shall be held void or insufficient because of any omission, error, defect or objection, jurisdictional or otherwise, in the assessment or other proceedings if, at some stage of the proceedings before assessment was made, notice was given, and if the description of the property in the certificate or deed is

reasonably sufficient to identify it. This provision is intended to be curative as fully as the people may enact, as to all matters affecting the validity of the certificate or deed. Every certificate of sale or deed shall be presumptive evidence of the regularity and sufficiency of all things affecting its validity. In any case where this curative provision is found insufficient, the money realized from the attempted sale shall be treated as not applying to the payment of the attempted assessment, and shall not discharge any obligation of the owner of the property to bear a fair and just proportion of the cost of the local improvement for which the attempted assessment was made. Proceeds from the attempted sale shall be refunded to the Assessment Collection Fund and the Council may make a reassessment against that property.

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

The Council may provide for the sale and assignment of certificates of sale and the assignment or conveyance of the rights of the City in such property either before or after receiving the deed from the City Treasurer or from County officials; may provide for sale of the property under contract for not more than ten (10) years; may pay real estate commissions, court costs, legal and clerical services and all other expenses related to the purchase and clearance of title; may purchase or redeem any Treasurer's certificates of sale outstanding against the property; may pay any tax liens outstanding against the property; may transfer money from the Assessment Collection Fund to the General Fund, provided that provision is made for redemption of outstanding Assessment-Collection Bonds; may provide for waiving all or part of accrued penalties; and may pay any bonded or open liens outstanding against the property and cancel assessments against it; and may enact ordinances to give full effect to this Section.

The Assessment Collection Fund may also be used to purchase and hold warrants issued upon any special local improvement fund formed or to be formed. The face amount and interest on warrants so purchased shall be credited, upon payment, to the Assessment Collection Fund. [New sec. Nov. 8, 1966; am. Dec. 14, 1971; am. May 20, 1986; am. Nov. 3, 1992.]

CHAPTER 10 - PUBLIC UTILITIES AND FRANCHISES

ARTICLE 1. PUBLIC UTILITIES.

Section 10-101. Definition, "Public Utility."

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

Section 10-102. General Provisions.

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

Section 10-103. Power of Construction and Acquisition.

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

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

Section 10-104. Debt Limitation.

No indebtedness shall be incurred for the acquisition of any public utility under the provisions of this Charter, which, together with the existing bonded indebtedness of the City, shall exceed at any one time seven percent 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 City officer responsible for accounting shall annually report to the ~~Council~~Mayor, in detail, the amount of revenue from each such undertaking, and whether there is any, and if so, what, deficit in meeting the requirements above set forth. [Ch. 1903, sec. 88; rev. 1914, sec. 160; 1928 pub., sec. 160; 1942 recod., sec. 10-105; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-105. Supervision and Regulation.

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

Section 10-106. Investigations and Rate Fixing.

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

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

construction or acquisition of any plant or property rendering a public service and of any improvement or additions thereto the person or corporation having charge thereof shall record with the City Officer responsible for accounting a description of all property which such person or corporation shall intend to present for such valuation and all later improvements when made, together with full information as to the cost thereof and vouchers supporting the same, to the end that a complete record of all property to be valued under this Section shall be at all times available. [May 3, 1913, new sec. 62; rev. 1914, sec. 156; 1928 pub., sec. 156; 1942 recod., sec. 10-107; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-107. Quarterly Reports.

Every person or corporation operating a public utility within the City rendering service to be paid for wholly or in part by the users of such service shall keep full and correct books and accounts and make stated quarterly reports in writing to the ~~Council~~Mayor, 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~~Mayor may require. Such reports shall be public and a summary thereof shall be printed as a part of the City's annual financial report, and the ~~Council~~Mayor 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~~Mayor 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.

[May 3, 1913, new sec. 63; rev. 1914, sec. 157; 1928 pub., sec. 157; 1942 recod., sec. 10-108; rev. Nov. 8, 1966; am. May 20, 1986.]

Section 10-108. Orders, Rules, and Regulations.

The ~~Council~~City 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 Section 10-107, 10-216, 10-213 or 10-214 of this Charter for a period of thirty (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~~City shall take effect at a time to be therein specified, and shall continue in force until modified or abrogated by the ~~Council~~City 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, such person or corporation may test its justice or reasonableness by a proper action in the courts commenced within thirty (30) days after service of any such order, rule or regulation, and in such action such further order may be entered in the premises as shall be warranted by the facts developed upon the trial and the law applicable thereto. [May 3, 1913, new sec. 64; rev. 1914, sec. 158; 1928 pub., sec. 158; 1942 recod., sec. 10-109; rev. Nov. 8, 1966.]

Section 10-109. Bridges and Ferries.

All ferries now or hereafter owned or leased, and all bridges together with approaches and terminals, heretofore erected or leased, or hereafter to be erected or leased, by the City of Portland across the Willamette River shall be operated by the county of Multnomah, as now provided by law, or as may hereafter be provided by law at the expense of said county of Multnomah. No exclusive franchise or privilege shall be granted to any person, firm or corporation, for the use of the whole or any part of such bridges, approaches or terminals. All privileges or franchises that may be granted by the City of Portland for the use of the whole or any part of such bridges, approaches or terminals shall be for a term not exceeding twenty-five (25) 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 (\$.03) 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. [Nov. 2, 1912, new sec. 118-3/4; rev. 1914, sec. 184; 1928 pub., sec. 184; 1942 recod., sec. 10-110; rev. Nov. 8, 1966.]

ARTICLE 2. FRANCHISES.

Section 10-201. Control by Charter Provisions.

Every franchise hereafter granted shall be expressly subject to all the provisions of the foregoing sections and the power of control and regulation as authorized by such sections cannot be limited, 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. [May 3, 1913, new sec. 65; rev. 1914, sec. 159; 1928 pub., sec. 159; 1942 recod., sec. 10-201.]

Section 10-202. Property Nature of Franchises.

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

Section 10-203. Authorization of Industrial Tracks.

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

Section 10-204. Agreements with Railroads.

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

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

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

Section 10-205. Limited Time.

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

Section 10-206. Nonexclusiveness.

No exclusive franchise shall be granted nor shall any franchise, lease or rights be granted for a longer period than twenty-five (25) years. [May 3, 1913, new sec. 72; rev. 1914, sec. 171; 1928 pub., sec. 171; 1942 recod., sec. 10-206.]

Section 10-207. Method of Granting.

Every franchise shall be embodied in an ordinance, which shall contain all the terms and conditions of the proposed grant, and shall be filed with the Auditor. Thereupon such proposed ordinance shall be published in full, once in the City official newspaper. There shall also be published, in a conspicuous place in such daily newspaper of the City having a circulation in excess of fifteen thousand (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 (20) 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 (5) 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 (20) 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 (30) days after the first reading nor within twenty (20) days after any amendment thereto, and the affirmative vote of ~~four (4) Commissioners~~ nine (9) Councilors shall be required to pass the same. [May 3, 1913, new sec. 73; rev. 1914, sec. 172; 1928 pub., sec. 172; 1942 recod., sec. 10-207.]

Section 10-208. Effective Date.

No franchise shall take effect until sixty (60) 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 two thousand (2,000) registered voters shall be sufficient to call a referendum upon any franchise ordinance. [May 3, 1913, new sec. 74; rev. 1914, sec. 173; 1928 pub., sec. 173; 1942 recod., sec. 10-208.]

Section 10-209. Specific Conditions.

Every franchise granted by the City of Portland shall contain full and explicit statements of its conditions in the following particulars:

- (a) In case of railroads and street railways it shall specify plainly the streets or other public places or parts thereof to which they apply. Any other franchises shall state the boundary of the district or districts within which they shall be exercised.
- (b) The amount and manner of payment of the compensation to be paid by the grantee for the right. The ~~Council~~ City shall make an estimate of the cash value of any franchise upon the filing of the application, or an estimate for 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~~ City may ~~at its option~~ declare what will be a reasonable reduction of fares, rates or charges, either at the beginning or progressively from time to time, to be made by the grantee in compensation for the grant.
- (c) The time of beginning the construction or other work thereunder, the estimated total cost of such work, the monthly or yearly sums of money to be expended thereon, and in case of franchises to transportation companies or other franchises covering certain streets or portion of streets, the time within which the work under such franchise shall be completed upon such streets or portions of streets, respectively.

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

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

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

Section 10-210. Conditions and Restrictions.

Every franchise granted by the City shall be subject to the conditions and restrictions hereinafter provided, to wit:

- (a) That the City may in 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~~City 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 proceedings 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~~City 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~~City, and shall pave, improve, or repair and maintain from time to time in the manner and within the time directed by the ~~Council~~City, that portion of the street occupied by it lying between the rails of any track and extending one foot outside of such rail and portion of the streets lying between the tracks.

In addition any franchise granted to any street or other railroad, for the operation thereof, may provide that the holder thereof for the time being shall pave, repave and keep in repair at the time and in the manner required by the ~~Council~~City 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~~City, shall constitute an offense punishable by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each and every day such refusal or neglect shall continue.

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

Section 10-211. Additional Conditions.

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

Section 10-212. Written Acceptance.

Every grantee of any franchise, right or privilege shall within thirty (30) days after the ordinance granting the same shall be enforced, file with the City ~~Auditor~~Recorder a written acceptance of the same, and a failure on the part of the grantee to file such written acceptance within the time specified shall be deemed an abandonment and rejection of the rights and privileges conferred, and the ordinance granting the same shall thereupon be null and void; such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in the ordinance granting the same. [May 3, 1913, new sec. 76; rev. 1914, sec. 175; 1928 pub., sec. 175; 1942 recod., sec. 10-212; am. May 20, 1986.]

Section 10-213. Statements.

Within ninety (90) days after this Charter shall take effect, the holder of any franchise shall file with the Auditor a full and correct statement of the franchise, rights and privileges owned or claimed to be owned, 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 (\$10) and not more than one hundred dollars (\$100) 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 (60) 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 sixty (60) days after the same shall have been made, file such certified copy as required by this Section and consented to as provided in Section 10-216 of this Charter, also unless the Council agrees to such sale by an ordinance expressly passed for that purpose, as provided by Section 10-216.

The Auditor shall file all such documents and shall make and keep an index of the same in a book to be kept by the Auditor for that purpose, which book shall be a part of the public

records of the City. [May 3, 1913, new sec. 80; rev. 1914, sec. 179; 1928 pub., sec. 179; 1942 recod., sec. 10-213.]

Section 10-214. Records.

The City officer responsible for accounting shall keep a separate record for each grantee of a franchise from the City rendering 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 City business hours. Such information, in addition to any further data which may be required by the City, under this Charter, shall be furnished by the grantees or holders of such franchises upon request, and at such grantee's 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, 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 proceedings and in addition may impose a fine of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for every such offense. All fines collected under this Section shall be paid into the General Fund. The procedure on such application shall be as far as possible analogous to that on mandamus.

[May 3, 1913, new sec. 81; rev. 1914, sec. 180; 1928 pub., sec. 180; 1942 recod., sec. 10-214; am. May 20, 1986.]

Section 10-215. Nonabandonment.

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

Section 10-216. Assignments.

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

Section 10-217. Forfeiture.

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

Section 10-218. Common Transportation Terminal.

It shall be the policy of the City of Portland to create a common transportation terminal, both land and water, embracing both sides of the harbor for its full extent in the City, which shall be subject to entry and use throughout its full extent by all common carriers on equal terms, as far as the property, rights and jurisdictions of the City may apply to secure same; and all such property, rights and jurisdictions of the City within one thousand (1,000) feet of meander line specified in Section 1-104 of this Charter shall be subject to use and demands for such common

terminal purposes and needed connecting roadways, tracks and appurtenant facilities; provided that the public docks may be furnished with warehouses subject to lease.

All proposed franchises, grants, privileges, and public improvements and other improvements as far as the jurisdiction of the City may extend, affecting such territory must be considered in relation to said common terminal and adapted thereto in a systematic way, and shall to that end be submitted to the City Engineer and the official or officials in charge of the public docks for approval. Without the approval of these, it shall require ~~a four-fifths~~ the affirmative vote of the Council at least nine (9) Councilors to pass such measure. If the Council pass such measure without the approval aforesaid, the Mayor shall have the measure placed upon the ballot at the next ensuing regular election for approval or rejection by the people.

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

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

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

All acts and parts of acts in conflict with this act are hereby repealed. [June 2, 1913, new sec. 93-1/2; rev. 1914, sec. 183; 1928 pub., sec. 183; 1942 recod., sec. 10-218.]

CHAPTER 11 - SPECIAL SERVICES

ARTICLE 1. WATER WORKS

Section 11-101. General Authority.

The City may construct, reconstruct, purchase or otherwise acquire, keep, maintain, improve, alter and change water works and all plants and facilities found appropriate by the ~~Council~~City for furnishing water to the City, its property, its inhabitants, and the places and people along or in the vicinity of the pipes, conduits or aqueducts constructed or used for that purpose. The City may acquire by purchase or otherwise, own and possess real and personal property or interests therein, within and without the limits of the City, which the ~~Council~~City finds necessary or convenient. The ~~Council~~City may establish and maintain headworks and supply sources, with all convenient reservoirs, tanks, pumps, supply systems, distribution and related facilities, including land and interests in land; may enter into mutual aid agreements with other government entities, tribes and utilities; and may acquire other water systems serving property within present or future boundaries of the City. The Council may make all necessary expenditures to carry out these purposes, ~~and The Mayor~~ may enter into contracts for supply of water by the City or supply of water to the City or its inhabitants. Any surplus water may be sold to persons, public or private, outside the City, on terms and conditions the ~~Council~~ Mayor finds appropriate. [New sec. Nov. 8, 1966; am. Dec.4, 2019.]

Section 11-102. Administration.

The City may employ personnel, contract for services and perform services under contract or otherwise, found necessary or convenient to carry out the powers granted in this Article. The ~~Council~~Mayor may obtain materials and supplies and do any acts in the operation, maintenance, improvement and extension of City water works which the ~~Council~~Mayor finds necessary or advantageous.

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

In the Bureau of Water, the Engineer in charge of the engineering staff, the person in charge of the business office, and the head of the Bureau shall not be subject to Civil Service requirements of this Charter. [New sec. Nov. 8, 1966.]

Section 11-103. Water Bonds.

In order to provide funds for construction, reconstruction, replacement, extension, acquisition and maintenance of water plant and property, and the acquisition of water systems, the Council may issue bonds of the City in denominations and for terms the Council determines, in the same manner other bonds of the City are issued. These bonds shall be general obligations of the City, but primarily payable from water revenue. These bonds shall not be included within the debt limit elsewhere prescribed in this Charter. No bonds shall be issued under this section in any year which, with the net outstanding water bond indebtedness, would exceed the total original cost of existing plant and property of the water works and system. [Nov. 8, 1932, new sec. 228-1/2; 1942 recod., sec. 11-201; am. May 16, 1952; rev. Nov. 8, 1966.]

Section 11-104. Funds.

After payment of expenses for issuance of water bonds, the proceeds shall be placed in the Water Construction Fund.

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

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

Section 11-105. Rates and Charges.

For each fiscal year the Council shall fix water rates which will provide an estimated income to equal expenses and debt service relating to water bonds. No charge shall be made for water used in extinguishing fires in the City.

The Council may fix special charges for connections, disconnections, turn-ons, discontinuances of service, all special services or work, and other contingencies, situations or conditions, which

it finds advantageous or appropriate from time to time. Charges and bills may be adjusted as found just and equitable. [New sec. Nov. 8, 1966.]

Section 11-106. Collections.

The ~~Council~~City may make regulations, impose conditions, penalties and forfeitures and institute civil or penal process it finds necessary or appropriate to collect bills for water or charges, and in addition may refuse or discontinue water service to premises for which a bill or charge remains unpaid. Penal enforcement is subject to the penalty limitations fixed in the Charter for ordinance violations. [New sec. Nov. 8, 1966.]

Section 11-107. Bull Run Watershed Protections.

The Bull Run Watershed Closure Area, as defined in City Code and containing the federally designated Bull Run Watershed Management Unit, is dedicated to the production of pure, high quality drinking water and the protection and stewardship of the Bull Run's natural environment. Policies and practices established in the Charter affecting City lands within the Bull Run Watershed Management Unit are constrained by and must conform with applicable federal and state law, federal and state administrative policy, and tribal treaty rights if any. Only the following individuals may enter City lands within the Bull Run Watershed Closure Area: authorized employees or authorized contractors of the United States Forest Service, the United States Bureau of Land Management, or the Portland Water Bureau; persons accompanied by such authorized employees; law enforcement personnel; or emergency response personnel.

Recreational use of City lands in the Bull Run Watershed Closure Area is prohibited. Residential, industrial or commercial uses are prohibited, except as necessary for protection, enhancement, operation or maintenance of the water supply system and facilities for electric power generation and transmission. Domestic animals may not run at large within the Bull Run Watershed Closure Area and grazing is prohibited.

Tree cutting or removal, including salvage, is prohibited on City lands within the Bull Run Watershed Closure Area except for the following purposes: protection, enhancement or maintenance of water quality; protection, enhancement or maintenance of water quantity; construction, expansion, protection or maintenance of municipal water supply facilities; construction, expansion, protection or maintenance of facilities for the transmission of energy through the Bull Run Watershed Management Unit or of hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities; or management of dangerous or hazardous trees that pose a threat to human safety or City infrastructure.

City land or infrastructure within the Bull Run Watershed Closure Area that is integral to the delivery of municipal water shall not be transferred to any private entity. City land or infrastructure within the Bull Run Watershed Closure Area that is integral to the delivery of

municipal water shall not be transferred to any public entity unless the transfer is approved by ordinance passed by City Council.

Development in the Bull Run Watershed Closure Area that is allowed by the Charter must first seek to avoid, then minimize and mitigate for impacts to water quantity and quality, cultural resources, and the natural environment including soils, vegetation, and fish and wildlife and related habitat, to the greatest extent practicable. Public notice of development inside the Bull Run Watershed Closure Area is required and all development must comply with the Bull Run Watershed Protection provisions of the Portland City Code. [New sec. Dec. 4, 2019.]

ARTICLE 2. SPECIAL FACILITIES.

Section 11-201. Municipal Auditorium.

The ~~Council~~City may construct, reconstruct, repair and maintain a building or buildings for use as municipal auditorium and related facilities. The Council may fix fees and impose charges for the use of auditorium facilities and services, and may waive or reduce the fees and charges to the extent it finds appropriate in the public interest. The ~~Council or the Commissioner in Charge~~City may make rules and regulations for management and control of the auditorium facilities and services. The Council may delegate management and control to any commission established by Charter, notwithstanding stated functions and limitations on that commission, or to any commission established by ordinance for that purpose. Employees and positions connected with the Municipal Auditorium and related facilities are not within the classified Civil Service of the City unless included therein by vote of the people. In case the revenues from the auditorium and any related facilities are insufficient to pay for maintenance and operation, the Council may pay the deficit out of the General Fund. The ~~Council~~Mayor may permit use without charge of any surplus space in a building or facility, for the purposes of a nonprofit organization devoted in whole or in part to the preservation of matters of historical interest, and for use and occupancy by any bureau, department or office of City government. [June 5, 1911, new sec. 425-3/4; 1914 rev., secs. 239-248; 1928 pub., secs. 239-248; 1942 recod., sec. 11-1001; rev. Nov. 3, 1964, sec. 11-201; am. Nov. 8, 1966.]

ARTICLE 3. SEWAGE DISPOSAL OR PURIFICATION.

Section 11-301. Sewage Disposal or Purification System.

The ~~Council~~City may construct, reconstruct, enlarge, alter, modify, equip, operate and maintain a sewage disposal or sewage purification system within or without the corporate limits or both, including but not limited to: all methods of storm drainage, intercepting sewers, diversion sewers, relieving or interconnection sewers, sewers to separate storm and sanitary sewage, pump or ejector stations and equipment, and plants for the treatment and disposal of sewage. For that purpose the City may acquire by any lawful means property, real or personal, interests in property, equipment, and related facilities and may make all expenditures which the ~~Council~~City finds necessary or appropriate to carry out such purposes, either within or without the corporate limits. The City may sell or otherwise dispose of any or all by-products or salvage products from this operation. The City also may contract with any other person, public or private, to further purification of public waters or protection of the public health. [Nov. 8, 1938, new sec. 347; 1942 recod., sec. 9-604; rev. Nov. 8, 1966.]

Section 11-302. Service Charges.

For all purposes relating to design, construction, acquisition, operation, maintenance and contract requirements of sewage treatment or purification facilities and related facilities, the City may fix fees and charges for connection or use or both of sewers and sewage purification or disposal systems to be paid by property which is served or is capable of being served for use of the sewage disposal system. Sewer user service charges may be collected by the Water Bureau which shall be compensated for such service as determined by the ~~Council~~Mayor. The City may establish procedures for collection and may provide for penalties, interest and costs. The City may establish requirements and impose regulations as it finds appropriate. Sewer user service charges shall be paid for all premises connected with City sewers, directly or indirectly, notwithstanding that such premises may have been assessed or may in the future be assessed for construction of sewers under local improvement assessment procedures or may have otherwise paid for sewers.

The City may enter into contracts relating to sewage disposal, treatment or purification or all such functions. The City may impose charges for sewage transportation, disposal, treatment or purification or any or all such functions, on property outside the City served through City facilities, at rates no less than those imposed for similar service inside the City to similar classifications.

Proceeds of such charges shall be placed in the Sewage Disposal Fund, and may be expended for any matter connected with the sewer or sewage disposal or treatment system of the City, and bonded debt and debt service related thereto. [Added Nov. 8, 1938, sec. 347; 1942 recod., sec. 9-604; Nov. 8, 1960, new sec. 9-606; rev. Nov. 8, 1966 as sec. 11-302; am. May 26, 1970.]

Section 11-303. Use of Sewers.

The ~~Council~~City may require any property located within one hundred (100) feet of a right of way in which there is a City sewer to connect to that sewer.

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

To facilitate sewage treatment and protect the City's sewage facilities, the City may limit the classes or kinds of sewage that may be discharged or may continue to be discharged into public sewers, may prohibit discharge of wastes other than domestic sanitary sewage into public sewers or facilities, and may require private pretreatment before discharge, upon terms fixed by the Director of the Bureau of Environmental Services. [New sec. Nov. 8, 1966; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 11-304. Intent of Article.

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

CHAPTER 12 - PUBLIC FACILITIES AND WORKS

ARTICLE 1. RECREATION AREAS.

Section 12-101. Parks and Recreational Areas and Facilities.

The ~~Council~~City may establish parks, playgrounds, recreation areas and facilities of all kinds. For that purpose the ~~Council~~City may acquire by purchase, condemnation, gift, grant, donation, exchange or otherwise, real and personal property and any interest therein; may rent or lease property of any kind for public use; and may construct, reconstruct, remodel, alter, repair, maintain, improve and equip areas and facilities which the ~~Council~~City finds necessary, appropriate or desirable, either inside or outside the City. The ~~Council~~City may exchange any property for other property which it deems more suitable or convenient for park and recreation use, and may dispose of the property not needed for those purposes. The ~~Council~~City may establish exhibits and conduct programs for the education or the furtherance of public enjoyment and recreation, and may change, alter or discontinue them. The ~~Council~~City may construct, reconstruct, alter, remodel, furnish and equip improvements found necessary or appropriate for the convenience of the public using park and recreation facilities, or of persons or employees conducting or assisting park or recreational programs or maintaining parks, areas, facilities, or improvements. The ~~Council~~Mayor may contract with any public or private person in any matter relating to services or programs. The ~~Council~~City may do all things ~~if the City~~ finds necessary or convenient to promote recreational facilities and aesthetic enjoyment of the people, and the beautification of City property. [May 19, 1950, new sec. 9-605; rev. Nov. 8, 1966.]

Section 12-102. Regulations and Restrictions.

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

Section 12-103. Fees and Charges.

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

ARTICLE 2. FINANCING OF REVENUE PRODUCING FACILITIES.

Section 12-201. Revenue Bonds.

For financing the acquisition of any public utility operating or to be operated within City jurisdiction, or of utility plant or property used or useful in connection with operation within the City, or for the construction, establishment or betterment of a facility inside or outside the City owned or to be owned by the City, and producing or intended to produce revenue, the City may issue and sell interest bearing revenue bonds. Revenue bonds shall not be a general liability of the City and shall be paid solely from the revenues derived from the facility and other pledged facilities or from the rental, lease or sale thereof. The Council may secure these bonds by mortgage or similar encumbrance upon the plant and property, may pledge the revenues thereof and revenues from similar facilities, and may agree in the bond that the rates and charges shall be fixed at specific, general or minimum amounts. Issuance of the bonds shall be pursuant to ordinance which shall be subject to referendum. The bonds shall be issued and sold the same as other bonds of the City. The proceeds derived from the sale of the bonds may be used for the costs of advertising, bond issuance and sale, legal fees and costs, planning, engineering, inspection, administrative costs, the acquisition by any lawful means of plant and property, real or personal, and interests in land and structures, construction, reconstruction, remodeling, equipment betterment, additions to and supply of the particular facility, and related matters. [New sec. Nov. 8, 1966.]

ARTICLE 3. PERFORMANCE OF PUBLIC WORKS.

Section 12-301. Contract or Direct Labor on Public Work.

Subject to other requirements of this Charter, the ~~Council~~Mayor may enter into contracts ~~if the~~the Mayor finds in the public interest, for the design, construction, reconstruction, alteration, remodeling, repair or maintenance of any public work, improvement, facility or structure, including any local improvement, or may at ~~it~~the Mayor's option directly employ labor for this purpose or any portion thereof or function connected therewith. The ~~Council~~Mayor may by practice or regulation classify various improvements and functions, some of which may be performed under contract and others of which may be performed by direct labor. [New sec. Nov. 8, 1966.]

Section 12-302. Production of Materials.

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

CHAPTER 13 - CHARTER REVISION AND INTERPRETATION

ARTICLE 1. REPEALS, AMENDMENTS AND RE-ENACTMENTS.

Section 13-101. Effect of Repeal, Amendment and Substitution.

When a particular grant of authority contained in the Charter subsequently is removed, expressly or by implication, the prior grant of authority nevertheless shall continue in force unless specifically forbidden, to the following extent: if the City has contracted with another person under such authority, if the City has begun a public work, facility, structure, project or program pursuant thereto and termination would entail risk of City liability for damages, or if the ~~Council~~Mayor finds that third persons have materially changed their position in reliance upon ~~Council~~City action thereunder, then the authority previously contained in the Charter shall continue until the contract, public work, facility, structure, project or program is completed, or the action carried out.

When a particular procedure is changed, expressly or by implication, proceedings pending or in process under the prior procedure may continue as though unchanged, or the ~~Council~~City may use the changed procedure for the balance of the proceedings after the change, or the ~~Council~~City may use the prior procedure in part and the changed procedure in part, as it finds appropriate or convenient. [New sec. Nov. 8, 1966.]

Section 13-102. Continuance of Original Charter Provisions as Ordinances.

Ordinance provisions originally included in a Charter, subsequently continued as ordinances and not amended, repealed or superseded, shall continue in full force and effect as ordinances until amended, repealed or superseded by the Council. Reinclusion of the same authority or procedure in the Charter removes authority of the Council to affect them. [May 3, 1913, part of new sec. 96; 1914 rev. sec. 283; 1928 pub. sec. 283; 1942 recod., sec. 12-103; rev. Nov. 8, 1962.]

Section 13-103. Procedural Ordinances.

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

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

ARTICLE 2. CONSTRUCTION AND INTERPRETATION.

Section 13-201. Restrictions and Limitations.

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

Section 13-202. Intent of Reinclusion of Former Charter Provisions.

Whenever a provision in a City Charter has been continued as an ordinance provision and subsequently reincluded in the Charter without substantive change, the reincluded provision shall be a continuance of the prior Charter provision to the extent of its reinclusion as though continued in the Charter without interruption. [New sec. Nov. 8, 1966.]

ARTICLE 3. PROVIDE FOR PERIODIC CHARTER REVIEW.

Section 13-301. Charter Commission.

- (a) From time to time, but no less frequently than every 10 years, the Council shall convene a Charter review commission ("Charter Commission") to review and recommend amendments to this Charter provided, however, that the first Charter Commission shall be convened no later than two (2) years after the effective date of this Article. The Charter Commission shall be reflective of the City in terms of its racial and ethnic diversity, age and geography. It shall be comprised of twenty (20) residents of the City. ~~Each member of the Council~~ The Mayor shall ~~nominate four~~ four Charter Commission members who ~~shall be~~ are subject to confirmation by the Council. The term of office of each member of the Charter Commission shall be no less than two years. The Council may reappoint members to additional terms of office or to subsequent Charter commissions. The Charter Commission shall determine its own rules of procedure. No member of the Charter Commission shall serve as an elective officer of the City during the member's service on the Charter Commission. The Mayor or Council may request that the Charter Commission review specific sections of the Charter, but the work and recommendations of the Charter Commission shall not be limited to such specific sections. The Commission shall provide a written report of its findings to the City Council.
- (b) A vacancy exists on the Charter Commission upon a member's resignation, death, inability to serve or failure of a member without cause to attend three successive regular meetings. If there is a vacancy on the Charter Commission, the Mayor ~~Council member who made the original nomination, or that member's successor in office, shall~~ nominate a person to fill the unexpired term of office, subject to confirmation by Council. [New Section May 15, 2007, effective January 1, 2009; amended May 15, 2012, effective June 13, 2012; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 13-302. Submission to Voters.

All Charter amendments proposed by the Charter Commission supported by an affirmative vote of at least fifteen (15) members of the Charter Commission, after a public hearing process prescribed by the Council, shall be submitted to the voters of the City of Portland at the next primary or general election that is at least 120 days after the date the recommendations are presented to the City Council. All Charter amendments proposed by the Charter Commission supported by an affirmative vote of a majority but less than least fifteen (15) members of the Charter Commission shall be considered as recommendations to the City Council. The Council may, but is not required to, refer such proposed amendments to the voters of the City of Portland. [New Section May 15, 2007, effective January 1, 2009.]

Section 13-303. Effective date.

This Article 3 of Chapter 13 shall take effect on January 1, 2009. [New Section May 15, 2007, effective January 1, 2009.]

CHAPTER 14 (Deleted)

[Chapter 14, Exposition – Recreation Commission, was added May 21, 1954; Rev. Nov. 2, 1976; Rev. 1984; Chapter Deleted May 15, 2012, effective June 13, 2012.]

CHAPTER 15 - PROSPER PORTLAND

[Chapter amended by Ordinance No. 190204, effective December 18, 2020.]

ARTICLE 1. ADMINISTRATION, POWERS AND DUTIES.

Section 15-101. Agency.

There exists an agency of the City of Portland known as Prosper Portland (Agency). [New sec. May 16, 1958; am. July 1, 2007; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 15-102. Prosper Portland Board of Commissioners.

The Agency shall be administered by a Prosper Portland Board of Commissioners (Commission) consisting of five (5) members who shall be appointed and may be removed by the Mayor, subject to approval by the Council. Appointment shall be made for a three (3) year term. A vacancy shall occur upon the death, resignation, removal, inability to serve, or failure of a member without cause to attend three (3) successive regular meetings. Resignation when made shall be addressed to and accepted by the Mayor. Successors shall be appointed by the Mayor, subject to Council approval, for the unexpired term of any such vacancy. Commission members shall serve without salary or compensation of any nature. The Commission shall make provision for regular meetings at fixed times and may adopt bylaws, rules and regulations to govern its own procedures. The Commission may delegate to one or more of its members as a special board or boards, such duties and responsibilities as it may deem proper, subject to the administrative provisions contained in this Chapter. [New sec. May 16, 1958; am. July 1, 2007; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 15-103. General Powers and Duties.

The Commission shall implement the vision and goals of the City as adopted by City Council relating to urban renewal, economic development and affordable housing. The Commission shall advance social equity in carrying out all of its duties and shall involve the constituencies of the City to create, maintain and promote a diverse, sustainable community in which economic prosperity, quality housing and employment opportunities are made available to all residents.

The Commission shall be and serve as the Urban Renewal and Redevelopment Agency of the City of Portland, pursuant to ORS Chapter 457, as amended. In carrying out its urban renewal duties, the Commission shall have all the powers and authority to perform any act or carry out any function authorized or permitted by ORS Chapter 457, as now provided or hereafter amended, subject to the authority of the City Council to approve Urban Renewal Plans and substantial amendment to Urban Renewal Plans and to the other powers of the City Council

provided in ORS chapter 457, and the Commission shall serve as the local public agency and shall perform all the functions prescribed therefore in Title 42 U.S. Code, relating to slum clearance, urban renewal and urban development and redevelopment within the City boundaries, or in an area within five miles from the City boundaries. In connection therewith, the Commission shall have authority to enter into agreements with any other public body or any department or bureau of the City and enter into any other contracts to carry out its urban renewal and redevelopment functions. The Commission may impose conditions or restrictions by deed or lease upon the use of land or property within an urban renewal area. The work of carrying out an urban renewal plan or redevelopment plan shall be deemed a public project.

In carrying out its economic development duties, the Commission shall, among other things, promote business and industrial recruitment, expansion and location within or near the City, and in connection therewith may acquire, improve, lease or exchange property, real or personal, or interest therein, to the extent permitted by law. Except as otherwise directed, the Commission shall perform the duties set forth in Section 2-126, except for appropriations and expenditures from the General Fund for advertising the advantages of the City, which power shall be exercised only by the Council.

In carrying out its affordable housing duties, the Commission shall promote home ownership and the creation and retention of multifamily housing, and implement other housing policies that may be adopted by the Council, through acquisition of property, real or personal, or interest therein, through financial and technical assistance to private and nonprofit housing developments and organizations, renters, homeowners and homebuyers, or through any other mechanism authorized by the Council. [New sec. May 16, 1958; am. July 1, 2007; amended by Ordinance No. 190204, effective December 18, 2020.]

Section 15-104. Administrative Powers and Procedures.

The Commission shall have power for and on behalf of the City to perform the following acts, and the following administrative procedures shall be followed:

1. The Commission shall have authority to make orders, rules and regulations in the form of resolutions to carry out the authority granted the Commission in this Chapter, certified copies of which resolutions shall, forthwith upon their adoption, be transmitted to the Auditor of the City, who shall cause the same to be transcribed at length in a record kept for that purpose or to be filed in a special record of such resolutions. Such record shall be public and copies thereof shall be accessible to the public under like terms as ordinances and resolutions of the City of Portland. All such resolutions of the Commission (other than purely administrative regulations, or those of a temporary nature) shall be subject to amendment, repeal or alteration or enactment under the referendum or initiative to the same extent as ordinances of the City of Portland. All such resolutions shall require an affirmative vote of three (3)

members of the Commission and shall take effect thirty (30) days after adoption by the Commission unless some other date is fixed in such resolution. If a date earlier than thirty (30) days from adoption is so fixed as the effective date, such resolution must receive the affirmative vote of at least four (4) members and all of the members present at the time of adoption. All actions undertaken by the Commission must conform to the State Government Standards and Practices Statutes as set forth in Oregon Revised Statutes as it may be amended.

2. The Commission shall have authority to appoint, employ and discharge such officers, employees and agents as the Commission finds necessary or convenient for the efficient and economical performance of its duties, and to fix and provide for their compensation. The Commission shall administer a merit based personnel system that provides all persons with a fair and equal opportunity for public service; establishes conditions of service which will attract and retain officers and employees of good character, technical knowledge, skill and ability; and improves the efficiency and economy of the Commission by the improvement of methods of personnel administration. The personnel system shall include the opportunity for employee appeals to be resolved by an impartial and objective officer or panel, and be in accordance with any other public policy goals as provided in Chapter 4 of this Charter.
3. The Commission may obtain the advice, services, recommendation and assistance of any officer, board or commission of the City of Portland, and the City Attorney and the City Attorney's staff shall render legal assistance and advice as required by the Commission. Payment for such legal service or other service of departments, officers or employees of the City shall be made to the City by the Commission. This shall not prevent the employment of technical assistance nor the employment of special legal counsel. Purchases need not be made through the purchasing agent of the City, but otherwise the limitations and restrictions on purchases contained elsewhere in this Charter shall apply.
4. The Commission may establish offices in or outside the City hall or other building within City limits, as space may be available or convenient.
5. The Commission shall have authority to incur expenses for administration and such maintenance, construction, reconstruction, alteration, rehabilitation, replacement, repair or purchase or other mode of acquisition or rental of equipment, property or facilities as the Commission may find necessary or convenient. All property acquired shall be acquired in the name of the City of Portland. The Commission may purchase material and supplies and make such other disbursements and incur such other expenses as the Commission finds necessary or appropriate to carry out the purposes set forth in this Chapter. The Commission shall control and manage and

may lease in the name of the City, to the extent permitted by Oregon Revised Statutes, all properties placed under its administration by the City Council for development and redevelopment purposes, and may improve any property which it acquires or controls to make it available or suitable for such purposes.

6. The Commission shall have power to borrow money, negotiate federal advances of funds and execute notes as evidence of obligations, accept gifts, federal grants-in-aid, advances or other moneys, negotiate loans and advances, and pledge property acquired or any part thereof, and the Council may make loans to the Commission from any available City fund.
7. All moneys received by the Commission will be deposited with the Treasurer of the City of Portland, and shall be maintained in distinct funds and deposited in the name of the City of Portland for the use of the Commission. All moneys received in connection with an urban renewal plan or property acquired in connection therewith shall be maintained in a separate and distinct fund or funds to be known as the Urban Redevelopment Fund(s). The Commission shall also have authority to establish reserve funds, special funds or sinking funds for the payment of indebtedness, obligations or interest thereon as may be permitted by law. The Commission may transfer money from its General Fund to its special or reserve funds and may transfer surplus of money to its General Fund, and may transfer surplus money to the General Fund of the City. Disbursements shall be made from the City Treasurer accounts on checks signed by the Chairperson or designee and the Secretary or designee. The Commission may maintain a separate bank account for meeting salaries, wages and current miscellaneous expenses. Such account shall be designated as a revolving fund and may be drawn upon for such purposes by officials designated by the Commission.
8. The Commission shall be responsible for the design, installation and maintenance of an accounting system which will conform to the requirements of generally accepted accounting principles, state laws and Charter provisions regarding budgeting, expenditure, receipt and custody of public funds, as they may be amended, except as specifically modified in this Chapter.
9. The Commission shall provide for an annual comprehensive independent audit of all funds and accounts of the Commission by a qualified Certified Public Accountant or firm of such accountants selected with the approval of the City Auditor. The Commission and its operations shall be subject to performance audits by the City Auditor on a schedule determined by the Auditor. The Commission shall bear the cost of the performance audits and the yearly financial audit. Copies of each audit report shall be furnished to the City Council and Mayor for ~~its~~ review and filed with the City Auditor, and a copy of each financial audit shall be sent to the Tax Supervising

and Conservation Commission. [New sec. May 16, 1958; am. Nov. 5, 1974; am. May 20, 1986; am. July 1, 2007.]

Section 15-105. Budget and Reports.

The Commission shall annually prepare and adopt a budget that incorporates the City goals adopted by the City Council. The budget shall be prepared and adopted in accordance with state law and submitted to the Council and the Mayor in conjunction and in conformity with the City's budget process, for inclusion as a part of the total City budget. If authorized by state law, the City Council shall be the budget committee for the Commission and shall have the duties and responsibilities of a budget committee as provided in state law. In exercising its responsibilities as a budget committee, however, the primary goal of the City Council shall be to assure that the budget is aligned with the City's adopted policy goals and priorities. As soon as possible after the close of each fiscal year, the Commission shall prepare and present a comprehensive annual report to the City Council and the Mayor that evaluates the activities of the Commission with respect to the City's adopted visions and goals. [New sec. May 16, 1958; am. July 1, 2007.]

Section 15-106. Issuance of Revenue Bonds.

Upon the request of the Commission, the Council may from time to time issue revenue bonds, certificates or debentures, to be repaid, to the extent permitted or to be permitted by law, solely out of: revenues from an urban renewal and redevelopment; or from the sales of property involved in an urban renewal and redevelopment; or from tax revenues attributable to improvements existing or subsequently constructed on property in an urban renewal and redevelopment project, or tax revenues exceeding a specified level within such project, to the extent that such is permitted by law; or any combination of such methods of repayment, and to that end the Commission, with the concurrence of the Council, may, to the extent permitted or to be permitted by law, pledge such tax revenues or other revenues as hereinbefore mentioned. Such bonds or other evidences of indebtedness shall be issued by the Council in accordance with the procedures established by law and as the Council may prescribe by ordinance, and shall bear the facsimile signatures of the Mayor and Auditor and be known as "Urban Renewal and Redevelopment Bonds, Series " [New sec. May 16, 1958; Am. Nov. 5, 1974; am. July 1, 2007.]

Section 15-107. Effective Date.

These amendments shall take effect on July 1, 2007. [Replaced sec. July 1, 2007.]

July 8, 2022

Via Email:

auditorhullcaballero@portlandoregon.gov

Mary Hull Caballero
City Auditor

Via Email:

Louise.Hansen@portlandoregon.gov

Louise Hansen
City Elections Officer

Re: Charter Commission Measure Unconstitutionally Combines Multiple Subjects

Dear Auditor Hull Caballero and Elections Officer Hansen,

On December 16, 2020, you rejected Prospective Initiative Petition ID 2020-PDX01 (“2020-PDX01”) for violating the constitutional requirement that a proposed law must not include multiple subjects.¹ You reasoned that “changing the operations of City Council is not logically connected to changing the voting system for all elected City officials.” *Id.*

Now, the Charter Commission proposes a measure nearly identical to 2020-PDX01, except that the new proposal includes *even more provisions that are not logically connected*.

To quote your letter about 2020-PDX01, as applicable to the Charter Commission proposal, some of the key elements of both proposals are as follows:

- Increase the number of City Council members.
- ~~Require mandatory town hall meetings, in addition to weekly Council meetings.~~
- Change Council voting requirements.
- Change Council member qualifications.
- Change the management structure of internal bureaus.
- Change term durations of City Council members.
- Change frequency of elections.
- Change at-large elections to district elections.
- Change the voting system from a simple majority to ranked-choice voting.
- Create elective council districts and a district map.

Id. (direct quote from your decision; single difference from 2020 measure in ~~strike through~~).

The Charter Commission has now added even more key elements, which are not logically connected to all the key elements above or to each other:

- Require multimember council districts.
- Require ranked-choice voting for some positions but single transferrable voting for others.
- Require Mayor and City Manager to advance specified values like anti-racism and equity.
- Require Mayor and City Manager to advance efforts to mitigate the human-made climate crisis and prioritize environmental justice initiatives.

¹ Louise Hansen, City Elections Officer, *Constitutionality Review Determination, City of Portland Prospective Initiative Petition 2020-PDX01: “Portland Council Reformation” – Notice of Insufficiency* – (December 16, 2020), <https://www.portland.gov/sites/default/files/2020/2020-pdx01-constitutionality-determination.pdf> (applying two-part constitutional framework: “First, is there a unifying principle logically connecting all provisions in the measure? Second, if a unifying principle exists, are other matters in the proposed law properly connected to the unifying principle?”).

Under your own analysis, the Charter Commission proposal violates the constitutional single-subject requirement. A city elections officer has authority—indeed a constitutional duty—to conduct pre-election review of proposed measures to ensure they comply with constitutional procedural requirements and to reject those that do not comply.²

Put simply, the constitutional requirements for both state and local “initiative and referendum powers” are the same per Article IV, section 5. Those powers include any measure referred by a governing body per Article IV, section 3(c). Most importantly, the single-subject requirement applies to any “proposed law” per Article IV, section 1 (2)(d). *See also* Article IV, Section 20. Thus, the Charter Commission proposal violates the single-subject requirement.

This is the city’s long-time approach. In a legal memo to the Charter Commission in March, the Portland City Attorney noted that Portland has historically ensured that ballot measures referred to voters by the Portland City Council or by the Portland Charter Commission meet the single-subject requirement.³

Your duty is especially important since numerous Portland voters, such as members of my client the Portland Business Alliance, support many reforms proposed by the Charter Commission but not others.⁴ By rejecting the current proposal promptly, you leave time for the Charter Commission to re-submit the same reforms to the voters in multiple measures that ensure voter choice and follow single-subject requirements.

Allowing voters to express nuanced preferences is part of the very purpose of the single-subject requirement, which stops the abuse of inserting into one measure “two or more unrelated provisions so that those favoring one provision could be compelled, in order to secure its adoption, to combine with those favoring another provision, and by this process of log-rolling the adoption of both provisions could be accomplished.”⁵

Please advise as to your decision by July 13. We urge you to protect voting rights for all Portland voters by ensuring they decide what parts of the Charter Commission reforms to support or reject instead of being forced to accept all or nothing.

Yours truly,

SHERMAN, SHERMAN, JOHNNIE & HOYT, LLP

s/ Steve Elzinga

steve@shermlaw.com

² *See also* *Bowers v. Betschart*, 313 Or. App. 294, 311-14, 496 P.3d 1034, 1044-46 (2021), *review denied*, 369 Or. 504, 506 P.3d 412 (2022) (local elections officer authority); *Foster v. Clark*, 309 Or. 464, 469–71, 790 P.2d 1, 4–5 (1990) (same); *Geddry v. Richardson*, 296 Or. App. 134, 146, 437 P.3d 1163, 1170 (2019) (discussing analogous pre-election duty of Secretary of State).

³ City Attorney, *Memorandum to Charter Commission re: Oregon Constitutional Requirements for Ballot Measures* (March 2, 2022), <https://www.portland.gov/sites/default/files/2022/memo-to-charter-commission-re-constitutional-requirements-for-ballot-measures.pdf>

⁴ *See also* Sophie Peel, Willamette Week, *Two Political Action Committees Plan to Push Back Against Portland Charter Reform Ballot Measure: One of them is a PAC launched by Commissioner Mingus Mapps last fall explicitly to support charter reform* (June 28, 2022), <https://www.wweek.com/news/city/2022/06/28/two-political-action-committees-plan-to-push-back-against-portland-charter-reform-ballot-measure/>

⁵ *State v. Mercer*, 269 Or. App. 135, 138, 344 P.3d 109, 111–12 (2015) (citations omitted).



July 12, 2022

Mr. Steve Elzinga
Sherman, Sherman, Johnnie & Hoyt, LLP
P.O. Box 2247
Salem, OR 97308

Via email:
steve@shermllaw.com

This letter is in response to your July 8, 2022, request on behalf of the Portland Business Alliance that the Auditor's Office conduct a constitutional review of the ballot measure proposed by the Charter Commission. I am declining to conduct a review in this case because City Code does not include such a review for Charter Commission measures as it does for initiative-petition measures.

Portland City Code 2.04.055 and ORS 250.270 require the Elections Officer to determine whether a prospective petition meets Oregon's constitutional requirements. A prospective petition is filed by a chief petitioner prior to circulation for signatures. A Charter Commission proposed measure is not an initiative petition and does not require signatures. Portland City Code 2.04.110 governs the process for bringing a Charter Commission measure to the voters and requires neither a prospective petition nor a constitutional review. Instead, it states that the Auditor's Office "shall" file the Charter Commission measure to be placed on the ballot.

The constitutional review in 2020-PDX01, which you referenced in your request, was of a prospective initiative petition, not a measure proposed by the Charter Commission. Prior City decisions regarding measures referred by City Council or a Charter Commission did not undergo a constitutional review by the Auditor's Office.

For these reasons, I decline to conduct a constitutional review of the measure proposed by the Charter Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mary Huebner". The signature is fluid and cursive.

City Auditor of Portland





CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

Robert Taylor, City Attorney
1221 S.W. 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax: (503) 823-3089

March 2, 2022

INTEROFFICE MEMORANDUM

TO: Charter Commission

FROM: Maja K. Haium, Deputy City Attorney
Robert Taylor, City Attorney

SUBJECT: Oregon Constitutional Requirements for Ballot Measures

Introduction

The Charter Commission has requested information on the constitutional requirements for ballot measures proposing amendments to the Portland City Charter.¹ This memo sets forth the constitutional requirements and summarizes recent decisions on those requirements. Our office expects that additional court decisions in the next few months may affect the interpretation of these requirements, and we are tracking those developments closely.

This memo does not analyze any proposed amendments. Once the Charter Commission begins to develop specific proposals, our office will continue to work with the Commission to ensure conformance with constitutional requirements.

Oregon Constitutional Requirements

The Oregon Constitution requires ballot measures to meet two requirements: (1) the full-text requirement; and (2) the single-subject requirement. Article IV, section 1(2)(d) of the Oregon Constitution provides, in relevant part: “An initiative petition shall include the full text of the proposed law or amendment to the Constitution. A proposed law or amendment to the Constitution shall embrace one subject only and matters properly connected therewith.”²

The constitutional requirements cited above explicitly apply to “initiative petitions.”³

¹ Neither the Portland City Charter nor the Portland City Code impose substantive requirements on charter amendments.

² Legislative acts of the Oregon State Legislature are also required to meet a single-subject requirement. “Every Act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title.” Oregon Constitution, Article IV, section 20.

³ See Or. Const. Art. IV, section 1(5) (“The initiative and referendum powers reserved to the people by subsections (2) and (3) of this section are further reserved to the qualified voters of each municipality and district as to all local, special and municipal legislations of every character in or for their municipality or district.”).

However, we have found no case law defining ballot measures referred by a local government – including ballot measures referred by the Charter Commission – as initiative petitions. Initiative petitions require a petitioner and a certain number of signatures to be placed on the ballot,⁴ while measures referred by a local government are placed on the ballot by a majority vote of the governing body of the local government. A persuasive argument could be made that ballot measures referred by a local government are not initiative petitions that must meet the constitutional requirements cited above. Nevertheless, the city of Portland has historically taken the approach most likely to avoid legal challenge by ensuring that ballot measures referred to voters by the Portland City Council or by the Portland Charter Commission meet the full-text and single-subject requirements.

Full-Text Requirement

Article IV, section 1(2)(d) of the Oregon Constitution provides, in relevant part: “An initiative petition shall include the full text of the proposed law[.]” The purpose of the full-text requirement is to “provide sufficient information so that the registered voters can intelligently evaluate whether to sign the initiative petition.” *Kerr v. Bradbury*, 193 Or App 304, 320 (2004).

While the purpose of the full-text requirement is clear (e.g. voters need sufficient information to evaluate how to vote), the scope of the requirement is not clear (e.g. how much information is required to allow voters to evaluate how to vote). Only two recorded cases interpret the full-text requirement. First, in 1964 the Oregon Supreme Court ruled that “[n]o useful purpose would be served by quoting at length * * * the related statutes referred to in the proposed measure but left unchanged thereby[.] * * * Since such matter is no part of the proposed law, it need not be made a part of the initiating petition.” *Schnell v. Appling*, 238 Or 202, 204-205 (1964). Second, in 2004 the Oregon Court of Appeals ruled that an initiative petition would have changed the meaning of certain existing statutes, even though the petition did not seek to change any of the words of those statutes. *Kerr*, 193 Or App at 6. Accordingly, the initiative petition was required to include the full text of the existing statutes whose meaning the proposed initiative petition would change, together with the full text of existing statutes whose actual text would change. The Oregon Supreme Court did not review the lower court’s ruling in *Kerr* because the initiative petition failed to gain enough signatures to qualify for the ballot, rendering the issue moot.

Because *Schnell* and *Kerr* can be read to provide conflicting standards for the full-text requirement, the approach most likely to avoid legal challenges to ballot measures referred

⁴ Portland City Code (PCC) defines “initiative petition” as “a petition to initiate a measure for which a prospective petition has been filed but that is not yet a measure.” PCC 2.02.010 (F). “Initiative petition” is not defined in state law. Both Oregon statute and Portland code define “prospective petition” identically as “the information, except signatures and other identification of petition signers, required to be contained in a completed petition.” ORS 250.005 (4); PCC 2.02.010 (K).

by the Charter Commission would be to include the full text of laws whose words would be amended and the full text of laws whose meaning may be impacted.

Additional legal developments of note:

2022 Initiative Petitions⁵ to Limit Campaign Contributions

- Relying on *Kerr*, Secretary of State Fagan rejected three petitions for failure to include the full text of the law at issue, including the complete text of a statute that would remain textually unchanged.
- Petition supporters have stated their intent to appeal Secretary Fagan’s rejection to the Oregon Supreme Court.

2018 Initiative Petition to Enact Portland Clean Energy Community Benefits Program

- City Elections Officer Scroggin determined that the initiative petition met the constitution’s full-text requirement.
- Petition opponents challenged Officer Scroggin’s determination.
- The Multnomah County Circuit Court upheld Officer Scroggin’s determination.⁶

Single-Subject Requirement

Article IV, section 1(2)(d) of the Oregon Constitution provides, in relevant part: “A proposed law or amendment to the Constitution shall embrace one subject only and matters properly connected therewith.” Caselaw provides a two-part analysis that governs whether a proposed law comports with the single-subject requirement. First, is there a unifying principle logically connecting all provisions in the measure? Second, if a unifying principle exists, are other matters in the proposed law properly connected to the unifying principle? *Anantha v. Clarno*, 302 Or App 196, 284-285 (2020).

In *Anantha*, the Court of Appeals overruled Secretary of State Clarno’s determination that three proposed initiative petitions failed to comply with the single-subject requirement. In its decision overruling Secretary Clarno, the Court stated that the single-subject requirement “should be liberally construed to uphold legislation” and the term subject “‘is to be given a broad and extensive meaning’ to give legislative drafters ‘full scope to include in one act all matters having a logical or natural connection.’” *Id.* at 285 (internal citations omitted). The petitions at issue sought to protect forests and included provisions to tighten the state’s aerial herbicide spraying laws, restricted logging in landslide-prone areas and prohibited conflicts

⁵ Because the initiative petition certification process can be lengthy, it’s not uncommon for a campaign to submit multiple petitions – with slightly different wording – for certification before choosing one of the certified petitions to circulate for signature gathering.

⁶ ORS 250.270 provides that “[t]he review by the circuit court [of a City Auditor’s determination that an initiative petition meets constitutional standards] shall be the first and final review, and shall be conducted expeditiously to ensure the orderly and timely circulation of the petition.”

of interest for appointees to the state Board of Forestry. The Court reasoned that “it is relatively easy to identify a logical, unifying principle connecting the provisions of each measure: the regulation and protection of forestlands. All of the provisions in each measure address that subject or * * * are matters ‘properly connected’ to the regulation and protection of forestlands.” *Id.* at 286. Ultimately, the measures’ supporters and opponents negotiated an agreement on forest protections and the measures were not placed on the ballot.

Measures referred to Portland voters by the Charter Commission will meet the single-subject requirement if each measure has a unifying principle logically connecting all provisions in the measure and if other matters in the measure are properly connected to the unifying principle.

Additional legal developments of note:

2022 Initiative Petitions to Permit School Choice

- Secretary of State Fagan rejected the petitions for violating the single-subject requirement because by asking for changes to school funding laws and laws barring state funding of religiously-based education, the petitions were actually geared at changing several constitutional statutes.
- Petition supporters have stated their intent to appeal Secretary Fagan’s rejection.

2020 Initiative Petitions to Support Clean Energy

- Secretary of State Clarno rejected the petitions for violating the single-subject requirement because the inclusion of fair labor standards for clean energy projects was too far removed from requiring Oregon to produce all of its electricity using renewable energy and carbon-free sources by January 1, 2045.
- The Marion County Circuit Court overruled Secretary Clarno and held that labor standards and clean-energy mandates could be encompassed within a single subject.

2020 Initiative Petition to Reform the Portland City Council

- City Elections Officer Hansen determined that the initiative petition did not meet the full-text requirement because the petition did not clearly set out the changes to existing law it proposed to make. City Elections Officer Hansen also determined that the initiative petition did not meet the single-subject requirement because no unifying principle connected the provisions to increase the number of City Council members with the provisions changing the number and names of internal bureaus.
- The petitioner did not challenge Officer Hansen’s determination.

2015 Initiative Petition to Reform the Portland City Council

- City Elections Officer Scroggin determined that the initiative petition met the single-subject requirement. The petition sought to change Portland’s Council to nine

members, with seven elected by district, and managed by a Mayor with executive authority.

- The petitioner did not submit signatures for the petition, rendering the petition void.

Single-Subject versus Separate-Vote Requirement

The single-subject and the separate-vote requirements in the Oregon Constitution are often conflated, so the separate-vote requirement is quickly described here. The separate-vote requirement is a more strenuous requirement that applies only to proposed amendments to the Oregon Constitution. The separate-vote requirement does not apply to measures placed on the ballot by the Portland City Council or the Charter Commission.

Article XVII, section 1 of the Oregon Constitution states: “When two or more amendments shall be submitted to the voters of this state at the same election, they shall be submitted so that each amendment shall be voted on separately.” A proposed amendment violates the separate-vote requirement if it makes more than one substantive change to the Oregon Constitution and those changes are not “closely related.” *Armatta v. Kitzhaber*, 327 Or 250, 277-284 (1998). An amendment that proposes constitutional changes that are not closely related violates the separate-vote requirement “because it would prevent voters from expressing their opinion as to each proposed change separately.” *Meyer v. Bradbury*, 341 Or 288, 297 (2006).

MKH/ks