Chapter 264

1955 REPLACEMENT PART

Domestic Water Supply Corporations

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GENERAL PROVISIONS

264.010 "County court" defined. As used in this chapter, "county court" includes board of county commissioners.

264.020 Election hours. At all elections subsequent to the election on the question of the formation of the corporation, the polls shall be open from 8 a. m. to 8 p. m. on election day. However, the governing body of the corporation may provide by resolution that the polls shall be open from 2 p. m. to 8 p. m. on election day if the election is a general election held on the first Monday of December for the purpose of electing one or more commissioners and no matter other than the election of commissioners is to be voted on at the election. [1955 c.676 §3]

264.030 to 264.100 [Reserved for expansion]

INCORPORATION

264.110 Incorporation of communities for supply of water; sale of surplus; exemptions. Communities may be incorporated as municipal corporations for the purpose of supplying their inhabitants with water for domestic purposes as provided in this chapter; and, in connection therewith, may supply, furnish and sell for any use any surplus water over and above the domestic needs of its inhabitants to any persons, corporations or associations, either within or without the district, or to other communities, water districts or municipal corporations. All railroad rights of way or improvements thereon or rolling stock moving thereover shall be excluded from such municipal corporations organized after June 9, 1943, and for purposes of ORS 264.110 to 264.170, 264.210 to 264.320 and 264.410 to 264.470 shall not be considered as property within the boundaries of such municipal corporations, unless the owner of the railroad property expressly consents to its inclusion.

264.115 Petition for incorporation. (1) Whenever 25 percent of the legal voters or 100 legal voters, whichever is less, of a designated area, which area may contain territory in one or more counties, desire the formation of a domestic water supply corporation pursuant to ORS 264.110, they may sign and present a petition to the county court of the county in which the proposed corporation, or largest area thereof, is located. The petition shall be substantially in the following form:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign said petition when he is not a legal voter.

Petition for the incorporation of the community of ——, in the County (or Counties) of ——, State of Oregon, for the purpose of obtaining water for domestic purposes for its inhabitants.

To the Honorable County Court of the State of Oregon for the County of——:

We, the undersigned, citizens and legal voters of the State of Oregon and the County (or Counties) of ——, and residents within the limits of the area in said county (or counties) hereinafter described, respectfully demand that there be submitted to the legal voters of the State of Oregon who reside and have continuously resided in said area for the three months immediately preceding the date of the election hereby petitioned for in the area described as follows, to wit: (Here insert description of the area embracing the community to be incorporated at a special election to be called by the county court) the question whether or not the area shall be incorporated as a municipal corporation to be known as (here insert proposed name) and to elect———(here insert the number of commissioners, not more than five) commissioners to carry out the purposes of the incorporation in accordance with ORS chapter 264, and each for himself says: I have personally signed the petition; I am a legal voter of the State of Oregon and the County of ——, and a resident of that portion of the county in the area described in this petition. My residence and postoffice address are correctly written after my name.

Name ——, Residence ——, Postoffice ——.

(Here follow 20 lines for signatures.)

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(2) Each sheet of the petition containing signatures shall be verified on its back substantially in the following form by the affidavit of the person who circulated the sheet:

State of Oregon, }ss.
County of——, }

I,——, being first duly sworn, say: (Here shall be legibly written or typewritten the names of the signers of the sheet) signed their names to this sheet in my presence. I believe that each has stated his name, postoffice address and residence correctly, and that each signer is a legal voter of the State of Oregon and resident within that area described in the petition.

(Signature and postoffice address of affiant.)

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

(Signature and title of officer before whom oath was made, and his postoffice address.)

(3) The forms given in this section are not mandatory, and if substantially followed are sufficient, disregarding any clerical and merely technical errors. [1953 c.681 §2; 1955 c.213 §1]

264.118 Notice of hearing of petition. (1) The county court shall examine the petition and if it finds that the petition satisfies the requirements of ORS 264.115, it shall set a date for a hearing on the petition and direct the county clerk to give notice of the hearing by:

(a) Posting a notice of the hearing in three public places in the area to be incorporated not less than 20 days before the hearing; and

(b) Publishing a notice of the hearing once a week for two successive weeks in a newspaper of general circulation printed or published within the area to be incorporated. If a newspaper is not so printed or published, the publication shall be made in a newspaper of general circulation printed and published within the county in which the largest part of the proposed corporation is located.

(2) The notice of hearing shall state:

(a) That a petition has been filed for establishment of a domestic water supply corporation.

(b) The name and boundaries of the proposed corporation.

(c) The time and place set for the hearing on the petition.

(d) That all persons interested may appear and be heard. [1953 c.681 §3; 1955 c.110 §1]

264.120 [Repealed by 1953 c.681 §13]

264.121 Hearing of petition. (1) At the time designated in the notice the county court shall hear the petition and may adjourn the hearing from time to time. The court may alter the boundaries set forth in the petition to include all territory which may be benefited by inclusion within the corporation. The court shall not modify the boundaries of the corporation as set forth in the petition so as to exclude from it any land which could be benefited by its formation, nor shall there be included in the proposed corporation any land which will not, in the judgment of the court, be benefited.

(2) If the court concludes that any land has been improperly omitted from the corporation and that the owner has not appeared at the hearing, it shall continue further hearing of the petition and shall order notice given to the nonappearing owner requiring him to appear and show cause, if any he has, why his land should not be included in the proposed corporation. The notice shall be given either by publication in the same manner as notice of the original hearing and for the same period or by personal service on each nonappearing owner. If notice is given by personal service, such service shall be made at least 10 days prior to the date fixed for the hearing. [1953 c.681 §4]

264.124 Order for election; polling places; judges of election. (1) If upon final hearing of the petition the county court approves the petition as originally presented or in its altered form, it shall make an order containing a description of the exterior boundaries of the proposed corporation as determined by the county court, the date on which an election shall be held in the proposed corporation and designating the polling place or places for the election. The order shall fix the date of the election which date shall be not less than 30 nor more than 50 days from the date of said order.

(2) At the time the order is made the county court shall select one or more polling places in the proposed corporation and shall make necessary arrangements for the election.

(3) The county clerk shall appoint three judges for each polling place. The judges shall be electors within the said district. [1953 c.681 §§5,7]

264.127 Notice of election. A copy of the order shall be posted for four successive

weeks prior to the election in three public places within the proposed corporation and shall also be published once a week for four successive weeks prior to the election in a newspaper of general circulation in the proposed corporation. If there is no such newspaper, the notice shall be published in some newspaper published and of general circulation in the county in which the largest area of the proposed corporation lies. [1953 c.681 §6]

264.130 [Repealed by 1953 c.681 §13]

264.140 Petitions for commissioner candidates; names on ballot. (1) Petitions for candidates to be voted for as commissioners shall contain the names of not less than 25 voters entitled to vote at the incorporation election, or 10 percent of the voters entitled to vote at the incorporation election, whichever is less, and shall be filed with the officer who makes up the ballot not less than 10 days before the election.

(2) The county clerk, at the time of making up the official ballot, shall place thereon to be voted on at the election for incorporation, the names of all electors petitioned for to run as commissioners whose petitions have been filed in the office of the county clerk not less than 10 days before the date of the election. [Amended by 1955 c.213 §2]

264.142 Ballot. The ballot shall contain a description of the area proposed to be incorporated into the corporation and the words "For Incorporation———Yes" and "Against Incorporation———No" or equivalent words. [1953 c.681 §8]

264.144 Qualifications of voters. No person is authorized to vote at the election unless he is an elector of the State of Oregon and has resided in the proposed corporation for a period of not less than 90 days next preceding the election. [1953 c.681 §9]

264.148 Election procedure. The polls shall be kept open between the hours provided for in the case of general elections and notice of such special election shall be given as provided for in ORS 264.127. The procedure for such elections, except as otherwise herein specifically set out, shall be as provided for in cases of general elections. [1953 c.681 §10]

264.150 [Repealed by 1953 c.681 §13]

264.154 Canvass of votes; orders regarding formation of corporation; contesting validity of formation. (1) If a majority of the votes cast favor formation of the corporation, the county court shall within 30 days of the date of the election make and cause to be entered in its journal an order that a corporation with the name and boundaries stated in the order calling the election and setting forth the boundaries has been established. No proceeding may be maintained contesting the validity of the formation of such corporation unless instituted within 30 days after the entry of said order.

(2) If the majority of the votes cast are against formation of the corporation, the county court shall within 30 days of the date of the election by order so declare. [1953 c.681 §11]

264.156 Certificates of election to commissioners. The county court shall also canvass the votes for commissioners and cause the county clerk to issue certificates of election to the number named in the petition for incorporation who received the highest number of votes. [1953 c.681 §12]

264.160 Mandamus to compel filing petition or calling election. If the county clerk refuses to accept and file the petition for incorporation, or if the county court refuses to call a special election as provided in ORS 264.118 to 264.127, any citizen of the territory may apply within 10 days after such refusal to the circuit court of the county for a writ of mandamus to compel the county court or county clerk to do so. If it is decided by the circuit court that the incorporation petition is legally sufficient and the requisite number of signatures is attached, the circuit court shall direct the county court to call the election. Such suit shall be advanced on the docket and decided by the circuit court as quickly as possible. Either party may appeal to the Supreme Court within 10 days after the decision is rendered by serving upon the adverse party or his attorney a notice of appeal and filing the original of the notice with the clerk of the circuit court.

264.170 Compensation of members of election board. Each judge and clerk of the incorporation election shall receive for his services $4 and no more. [Amended by 1955 c.676 §1]

264.180 Bond to accompany petition; payment of costs of organization. A petition for the formation of a domestic water supply corporation shall be accompanied by a good and sufficient bond in the form and amount approved by the county court, conditioned that the petitioners will pay the costs of attempted formation, election and organization in case organization is not effected. In the event the corporation is organized the corporation shall be liable for such costs. [1955 c.676 §4]

264.190 to 264.200 [Reserved for expansion]

EXISTENCE AND POWERS

264.210 Existence, status and general powers of corporation. From and after the date of the proclamation pursuant to ORS 264.154, that part of the county embraced within the boundaries described in the proclamation shall be a separate public corporation for the purpose of supplying its inhabitants with water for domestic purposes, to be known by the name specified in the proclamation. As such it shall have perpetual succession. By that name it shall exercise and carry out the corporate powers and objects conferred and declared in this chapter. It shall make all contracts, hold and receive and dispose of real and personal property within and without its described boundaries and do all other acts and things which may be requisite, necessary or convenient in carrying out the objects of the corporation or exercising the powers conferred upon it as in this chapter set out and expressed, sue and be sued, plead and be impleaded in all actions and suits or other proceedings brought by or against it.

264.220 Disposal of taxes levied when organization declared invalid. When an attempt has been made to organize a district under the provisions of this chapter and subsequently by a decree of a court of competent jurisdiction it has been declared that the organization is invalid, but prior to such decree the invalid organization has levied taxes, the funds derived from the levy shall be disposed of as follows:

(1) If the area embraced in the invalid organization is embraced in a subsequently created organization composed of unincorporated or incorporated territory, or combinations thereof, for the purpose of furnishing domestic water to the inhabitants thereof, the custodian of the taxes collected for the invalid organization shall turn them over to the subsequent organization to be used only for the purpose of furnishing domestic water to such inhabitants.

(2) If the subsequent organization does not embrace all territory embraced in the invalid organization, such taxes as have been collected from the levy upon property in areas not embraced in the subsequent organization shall be refunded to the payers thereof by the custodian of the taxes before the balance is turned over to the subsequent organization.

(3) If no such subsequent organization is created to provide domestic water for the inhabitants of such an area, within a period of two years after the entry of the decree of invalidation, the taxes collected shall be refunded by the custodian of them to the taxpayers who paid them.

264.230 Territorial boundaries of corporation. The boundary lines of any municipal corporation created under this chapter shall include only such territory as may in reason be served by the corporation's water supply or system.

264.240 Corporation right of eminent domain; acquisition of property and property rights; obtaining or laying water pipe lines. A municipal corporation created under this chapter shall have and exercise within and without its boundaries the same rights and powers of eminent domain and of purchasing, selling, condemning and appropriating real property, water, water rights and riparian rights, which cities or other corporations have, to be exercised in any manner now or hereafter authorized. The corporation shall also have the right to purchase or obtain from other cities or like corporations, water or water rights, or an interest in water or water rights, or an interest in a water pipe line owned or operated by any such city or like corporation, or to obtain jointly with any such city or like corporation, any right, or to lay and own individually or jointly with any city or like corporation, any water pipe line for the purposes specified in ORS 264.110.

264.250 Power to borrow money and issue general obligation bonds. (1) For the purpose of carrying into effect all or any powers granted by 264.110 to 264.170, 264.210 to 264.300, 264.310 and 264.410 to 264.470, the corporation, when authorized at

any properly called election held for said purpose, shall have the power to borrow money and sell and dispose of general obligation bonds. Except as otherwise provided in this section, the bonds shall never exceed in the aggregate 10 percent of the assessed valuation of all property by law assessable for state and county purposes, within the limits of the corporation.

(2) The bonds shall be issued from time to time by the commissioners in behalf of the corporation as authorized by the electors thereof, and may be issued in an amount not to exceed two percent of said assessed valuation without a vote of the electors. The bonds shall mature serially within not to exceed 30 years from issue date, in like manner as bonds issued under authority of ORS 287.008, and shall bear interest not exceeding five percent per annum payable semiannually as the commissioners shall determine. The bonds shall be so conditioned that the corporation shall promise and agree therein to pay to the bearer at a place named therein, the principal sum, with interest at the rate named therein, payable semiannually, in accordance with the tenor and terms of the interest coupons attached.

(3) If the corporation has within its corporate limits a population of 300 or over, it shall be permitted to issue bonds in an amount which shall not exceed in the aggregate 10 percent of the actual valuation of all property by law assessable for state and county purposes within its limits. The amount of such valuation shall be determined by using as a basis of computation the percentage of actual value at which property within the county in which the corporation is located was last assessed for state and county purposes, as determined by the State Tax Commission.

(4) For the purpose of additionally securing the payment of the principal and interest on general obligation bonds issued under this section, the corporation shall have the power, by resolution of its governing body, which resolution shall constitute part of the contract with the holders of the bonds, to pledge all or any part of the net income or revenue of its water system. The governing body may adopt such a resolution without submitting the question of the pledge to a vote of the electors of the corporation.

264.260 Issuance of revenue bonds. In addition to the authority to issue general obligation bonds, the corporation, when authorized at any properly called election, shall have the power to sell and dispose of revenue bonds, and to pledge as security therefor all or any part of the unobligated net income or revenue of the corporation or system, to purchase, acquire, lay out, construct, reconstruct, extend, enlarge or improve a water system, or to install hydrants for fire protection along its mains, or to perform any of those acts in combination, for the purpose of obtaining water for the domestic use of consumers, or for fire protection, or both, within or without the boundaries of the corporation. The revenue bonds shall be issued in the same manner and form as are general obligation bonds of the corporation, but they shall be payable, both as to principal and interest, from revenues only, as specified in this section. The revenue bonds shall not be subject to the percentage limitation applicable to general obligation bonds and shall not be a lien upon any of the taxable property within the corporate limits of such corporation, but shall be payable solely from such part of the revenues of the corporation as remain after payment of obligations having a priority and of all expenses of operation and maintenance of the corporation, including any taxes hereafter levied against it. All revenue bonds shall contain a clause reciting that both the principal and interest are payable solely from operating revenues of the corporation remaining after paying such obligations and expenses.

264.270 Issuance of refunding bonds. Refunding bonds of the same character and tenor as those replaced thereby may be issued pursuant to a resolution duly adopted by the governing body of the corporation without submitting to a vote of the electors the question of authorizing the issuance of such bonds.

264.280 Bond sale procedure. All general obligation and revenue bonds, including refunding bonds, issued under ORS 264.250 to 264.270 shall be advertised and sold in the manner prescribed in ORS 287.002 for the sale of bonds of cities of this state.

264.290 Elections to authorize borrowing money and issuing bonds. Elections for the purpose of voting upon the question of borrowing money and selling and disposing of general obligation or revenue bonds as provided in ORS 264.250 to 264.280 shall be called and held in the same manner as pro-

vided in ORS 264.420 for the calling and holding of special elections of the electors of the district. Notice of any such bond election shall be posted or published as provided in ORS 264.420 for special elections of the electors of the district.

264.300 Tax assessment, levy and collection. (1) The corporation may assess, levy and collect taxes upon all property situate within its boundaries and by law taxable for state and county purposes, and each year not to exceed one percent. The proceeds of the tax shall be applied by it in carrying out the objects and purposes of ORS 264.110 to 264.170 and 264.210 to 264.290.

(2) The corporation may annually also assess, levy and collect a special tax upon all such property in an amount sufficient to pay the yearly interest on bonds theretofore issued by the corporation and then outstanding, together with any portion of the principal of such bonds maturing within the year. The special tax shall be applied only in payment of interest and principal of bonds issued by the corporation, but the corporation may apply any funds it may have toward payment of principal and interest of any such bonds.

(3) Any such taxes needed shall be levied in each year and returned to the county officer whose duty it is to extend the tax roll by the time required by law for city taxes to be levied and returned.

(4) All taxes levied by the corporation shall become payable at the same time and be collected by the same officer who collects county taxes, and shall be turned over to the corporation according to law. The county officer whose duty it is to extend the county levy shall extend the levy of the corporation in the same manner as city taxes are extended.

(5) Property shall be subject to sale for nonpayment of taxes levied by the corporation in like manner and with like effect as in the case of county and state taxes.

264.306 Regulations concerning use of water and corporation property. (1) Any domestic water supply corporation may adopt and promulgate rules and regulations concerning the use of water and the property of the corporation. The board of commissioners may refuse to supply any building, place or premises with water where the user fails after five days' written notice to comply with the rules and regulations of said district. The written notice shall be by registered mail and shall be deemed given when it is deposited in the United States Post Office properly addressed with postage prepaid.

(2) Whenever the household supply of water is being jeopardized by nonhousehold use of water, the corporation can order the nonhousehold use of water to be immediately discontinued. For the purposes of this subsection, nonhousehold use includes irrigation of lawns or fields. [1953 c.660 §3]

264.308 Requiring cash deposits of water users. Any domestic water supply corporation created pursuant to ORS 264.110, may require a reasonable cash deposit to insure payment for the use or rent of water to be furnished by the corporation to, in or upon any building, place or premises. [1953 c.660 §1]

264.310 Rates for water furnished; contracts to sell surplus water. The corporation shall charge consumers for the water furnished and fix and collect the rates therefor. Rates charged may be fixed and classified according to the type of use and according to the amount of water used. Any contract entered into by the corporation with individuals, corporations or associations other than domestic users shall provide for immediate cancelation whenever no surplus supply of water exists over and above any and all demands of domestic users. The corporation also may contract with other communities, water districts, individuals or corporations, private or municipal, to supply, furnish and sell them surplus water on such terms and conditions and at such rates as the commissioners may deem advisable.

264.314 Shutting off water if delinquent in payment of water bill. In case prompt payment of water rent or charge is not made, a domestic water supply corporation may shut off the water supply to the building, place or premises to which the corporation supplied the water. [1953 c.660 §2]

264.320 Refund of cost of water main extension. If any person is required by a municipal corporation incorporated pursuant to ORS 264.110 to pay the cost of extending a water main adjacent to property other than his own so that water service for domestic use is provided for such other property without further extension of the water main, the corporation shall require the owner of the other property, prior to providing

water service to that property, to refund to the person required to pay the cost of extending the water main, a pro rata portion of the cost of the extension. The right to require such refund shall not continue for more than 10 years after the date of installation of the extension of the water main. The amount to be refunded shall be determined by the water district and such determination shall be final.

264.330 Hydrants for fire protection; regulations and rates therefor. Any corporation created pursuant to ORS 264.110 may install hydrants for fire protection along its mains at such points as its board of commissioners may determine, and furnish water for such purpose. The board of commissioners of the corporation shall establish, from time to time, regulations governing such installations, and furnishing of water therefrom and any rates and charges thereon. No equipment other than the hydrants and water therefor shall be furnished at the general expense.

264.340 Purchase and maintenance of fire equipment; contracting for fire protection; elections to authorize; tax levy to defray expense; application of section. (1) Any corporation created pursuant to ORS 264.110, when authorized by the legal voters thereof as provided in this subsection, may purchase fire apparatus and equipment and maintain, service and operate the same, and may contract with any city, town, rural fire protection district or other municipal corporation for fire protection for its inhabitants, or to do either or any combination of the foregoing. Such power shall only be given the board of commissioners of the corporation by a majority of the votes cast by legal voters thereof at a special election called for such purpose by the board of commissioners.

(2) (a) When the power is so granted, the board of commissioners may levy a tax not exceeding six mills on the dollar per annum upon all assessable property within the district for defraying the expense of providing, maintaining, operating and servicing such fire apparatus and equipment, and of contracting with any city, town or rural fire protection district for the protection of its inhabitants from fire.

(b) Upon approval of the majority of the votes cast by legal voters of the district at a special election called for that purpose by the board of commissioners, after due notice given in the manner provided in ORS 264.420, the district may levy a special tax not to exceed 10 mills on the dollar for defraying such expenses.

(c) No revenues of the corporation, except the revenues received from the tax provided for by this subsection, shall be used for defraying such expenses.

(3) This section shall not apply to any municipal water supply corporation which on July 16, 1949, was wholly or partially within any legally organized rural fire protection district. [Amended by 1955 c.163 §1]

264.342 Election to adopt fire prevention code. Any community heretofore or hereafter incorporated as a municipal corporation for the purpose of supplying its inhabitants with water for domestic purposes, which has provided for the protection of its inhabitants from fire under ORS 264.340, may, at any general election held in the district or at any special election called for that purpose, submit to the legal voters of such district for adoption or rejection at such election, a fire prevention code. Notice of such election shall be given as provided in ORS 264.420. [1953 c.206 §1]

264.344 Scope of fire prevention code. The fire prevention code referred to in ORS 264.342 may provide reasonable regulations relating to:

(1) Prevention of fires.

(2) Storage and use of combustibles and explosives.

(3) Construction, maintenance and regulation of fire escapes.

(4) Means and adequacy of exit in case of fires in factories, asylums, hospitals, churches, schools, halls, theaters, amphitheaters, all buildings, except private residences, which are occupied for sleeping purposes, and all other places where large numbers of persons work, live or congregate from time to time for any purpose.

(5) Requiring the issuance of permits by an officer designated by the board of commissioners before burning trash or waste materials.

(6) Providing for the inspection of premises by officers designated by the board of commissioners, and requiring the removal of fire hazards found on premises at such inspections. [1953 c.206 §2]

264.346 Violation of code or failure to remove hazards prohibited. When a fire prevention code has been adopted as provided in ORS 264.342, no person shall violate the provisions of the code or fail to remove hazards found on inspection within the time set by the inspecting officer, after written notice to either the owner or occupant of such premises, or burn waste materials or trash in an unguarded manner without a permit, if a permit is required by the code. [1953 c.206 §3]

264.348 Copies of code to be filed with State Fire Marshal and posted at fire stations. Copies of the fire prevention code referred to in ORS 264.342 shall be filed with the State Fire Marshal's office and a copy shall be posted at each fire station within the corporation. [1953 c.206 §4]

264.350 Power to install and operate street lighting system; contracts for electricity; tax levy and service charges to maintain and purchase electric energy. (1) Any corporation created pursuant to ORS 264.110, when authorized by a majority of the votes cast by legal voters thereof at a special election called for that purpose, may install, maintain and operate a system, or systems, of street, road and highway lights. Such lights shall be maintained upon such streets, roads, intersections or other places as, in the judgment of the board of directors, will furnish the best lighting service to the residents within the boundaries of the corporation.

(2) The corporation through its board of directors may contract with any supplier of electricity, private or public, to furnish the electric energy for such systems.

(3) The corporation, when authorized by a majority of the votes cast by legal voters therein at a special election called for that purpose, may at any time thereafter levy a tax, not to exceed six mills in any one year for the installation of the system and any extension thereof, and not to exceed two mills in any one year for maintenance and purchase of electric energy. The levies provided for in this subsection shall be made equally upon all assessable property within the district, and shall be levied, assessed and collected in the same manner as other taxes upon real estate.

(4) If authorized by a majority of the votes cast by the voters at any special election called for that purpose, the cost of maintenance and purchase of energy may be charged to the water consumers on the basis of one share for each water connection, payable monthly with the bills for water charges. The corporation may, when authorized by a majority of the votes cast by legal voters therein at a special election called for that purpose, change from either system of collection to the other. The funds received from the respective levies and charges to water users shall be used only for the purposes collected and no other funds of the corporation shall be so used. [Amended by 1955 c.163 §2]

264.360 to 264.400 [Reserved for expansion]

BOARD OF COMMISSIONERS

264.410 Powers of corporation in commissioners; qualifications and terms of office; election of commissioners. (1) The power and authority given to corporations organized under this chapter except as therein otherwise provided is vested in and shall be exercised by a board of commissioners of the number named in the petition for incorporation, but not more than five, each of whom shall be a qualified voter and freeholder within the corporation.

(2) Within 10 days after issuance of the proclamation provided under ORS 264.154, the number of commissioners named in the petition for incorporation who received the highest vote at the election for incorporation shall meet and organize, first taking and subscribing an oath of office to the effect that they will support the Constitutions of the United States and of this state and the laws thereof, and will discharge faithfully the duties of commissioner to the best of their ability. They shall determine by lot the length of term each shall hold office, the shortest term being until January 1 following, and the longest term being for the number of years after said January 1 equal to the number of commissioners less one, and the terms shall be so arranged that the term of one member expires each year.

(3) A general election shall be held in the corporation on the first Monday of December of each year for the election of one commissioner to succeed the commissioner whose term expires the following January 1, and to elect commissioners to fill any vacancy which then may exist. At all elections the voters shall have the qualifications of elec-

tors of this state and shall have resided in the territory embraced in the corporation for at least 90 days preceding the election. At the regular meeting of the commissioners in November, or, if the regular meeting is less than 15 days before the election, at a special meeting of the commissioners in November, they shall select three judges of election, who shall be electors at the election and who shall constitute a board of election of the corporation. At that meeting, the commissioners shall select the polling place for the regular election in the corporation, and shall cause to be given notice of the place of holding the election and the names of the judges of election. The notices shall be posted in three public places in the corporation at least 10 days prior to the day of election, or published at least once a week for two successive weeks, prior to the day of election, in at least one newspaper published or generally circulated in the corporation. The first publication shall be at least 14 days and the last publication at least seven days prior to the day of election. The secretary of the commissioners shall prepare sample and official ballots upon which shall be printed the names of all persons nominated for commissioners whose petitions contain the names of not less than 25 electors in the corporation, or 10 percent of the electors in the corporation, whichever is less, and which petitions have been filed with the secretary not less than 10 days before the election. The election shall be conducted and the votes counted and canvassed by the commissioners and certificates of election issued the same as in general, state and county elections, except as otherwise provided in this chapter. [Amended by 1955 c.213 §3]

264.420 Calling of special elections. The commissioners at any regular meeting of the board of commissioners may call a special election of the electors of the district. The commissioners shall cause notice of the special election to be posted in three conspicuous places within the district for a period of not less than 10 days prior to the date of holding the special election, or published at least once a week for two successive weeks, prior to the day of election, in at least one newspaper published or generally circulated in the district. The first publication shall be at least 14 days and the last publication at least seven days prior to the day of election.

264.430 Proceedings of board of commissioners; election of officers; employment of personnel; interest of officers in contracts prohibited. (1) The commissioners shall hold meetings at such time and place within the corporation as they may determine upon. They shall hold at least one regular meeting in each month on a day to be fixed by them, and may hold special meetings under such rules as they may make.

(2) The commissioners shall, at the time of their organization, choose from their number a chairman, a secretary and a treasurer, who shall hold their offices until the first regular meeting in January, or until their successors are elected and qualified. These officers shall have, respectively, the powers and shall perform the duties usual in such cases and shall be known as the president, secretary and treasurer of the corporation. A majority shall constitute a quorum to do business and, in the absence of the chairman, any other member may preside at any meeting. The treasurer as such shall give bonds to the corporation conditioned for the paying over by him of all moneys coming into his hands as such treasurer, the amount of which bonds shall be fixed by the commissioners, based upon the amount of money in the hands of the treasurer or likely to come into his hands as such. All expense incident to giving such bonds shall be paid by the corporation out of its general funds.

(3) The commissioners may employ such engineers, superintendents, mechanics, clerks or other persons as they may find requisite, necessary or convenient in carrying on any work of the corporation and at such rate of remuneration as they may deem just, and pay the expenses actually incurred by any one or more commissioners in the services of the corporation.

(4) No commissioner or other officer of the corporation shall be interested directly or indirectly in any contract with or on behalf of the corporation.

264.440 Increasing number of commissioners. (1) If the number of commissioners in a particular district is less than five, then, upon receipt of petitions containing the names of not less than 25 electors in the corporation and requesting that an election be held in the district on the proposition of increasing the number of commissioners to five and nominating a candidate or candidates for each additional position, each of

whom shall be a qualified voter and freeholder within the corporation, the commissioners may, at their discretion, call a special election of the electors of the district to vote on the proposition and on the candidates. The election shall be held in the same manner as the annual election of the district and with the same notice. If the proposition is approved by a majority of the electors voting at such election, the number of commissioners named in the petitions requesting the election, who received the highest vote at the election, shall take office as of the next regular meeting of commissioners following the election, after first taking and subscribing the oath of office.

(2) If only one additional commissioner is so elected he shall hold office for a term of one year longer than the longest remaining term of the then existing commissioners. If more than one additional commissioner is so elected, the newly elected commissioners shall at such meeting determine by lot the length of term each shall hold office, the shortest term being one year longer than the longest remaining term of the then existing commissioners and the longest term being for the number of years after the following January 1 equal to the number of commissioners less one, and the terms of all commissioners being so arranged that the term of one member expires each year.

264.450 Vacancies. A vacancy in the office of any commissioner for any cause, including removal from the corporation, shall be filled by the remaining commissioners until their first regular meeting in the January following, when that office shall be filled for the remaining part of the term of the commissioner who ceased to be such, by vote of the electors of the corporation at the regular election in December preceding.

264.460 Initiative and referendum. In the exercise of initiative and referendum powers reserved under the constitution of this state to the legal voters of every municipality and district as to all local, special and municipal legislation of every sort and character in and for their respective municipalities and districts, the general laws of the state as applied to cities and towns shall govern in these corporations, except that the measures referred by the commissioners shall be filed with the secretary not less than 30 days before the election at which they are to be voted upon. The chairman of the commissioners shall act as mayor and perform his duties, the secretary shall perform the duties of auditor or recorder, the attorney shall perform the duties of city attorney, and if there is no attorney, the secretary shall perform the duties required of the attorney.

264.470 Deposit and withdrawal of moneys; annual reports; records. (1) All moneys of the corporation shall be deposited in one or more banks, to be designated by the commissioners; and shall be withdrawn or paid out only when previously ordered by vote of the commissioners, and upon checks signed by the treasurer and countersigned by the chairman, or in his absence or inability to act, by the secretary. A receipt or voucher, showing clearly the nature and items covered by each check drawn, shall be kept on file.

(2) Annual reports shall be made and filed by the chairman, secretary and treasurer, and at least once in each year a full and complete itemized statement of receipts and expenditures shall be published in a newspaper of general circulation, published in the county in which the corporation is situate.

(3) All the proceedings of the commissioners shall be entered at large in a record book. All books, maps, plans, documents, correspondence, vouchers, reports and other papers and records pertaining to the business of the corporation shall be carefully preserved and shall be open to inspection as public records.

264.480 to 264.500 [Reserved for expansion]

ANNEXATION OF TERRITORY

264.505 Annexation of contiguous territory not within another corporation or a city. (1) Any territory contiguous to an existing domestic water supply corporation created pursuant to ORS 264.110, and not within the boundaries of such a corporation or of cities, may be included in and incorporated with such corporation by petition of 15 percent of the legal voters in the contiguous territory filed with the county clerk of the county in which the contiguous territory or the greater part thereof is located and by subsequent proceedings in the county court of the county in which the petition was filed. The proceedings and the rights and powers and duties of petitioners and objectors shall be the same as in an original

proceeding to incorporate the territory as a domestic water supply corporation.

(2) The petition shall be approved by the board of commissioners of the corporation by indorsement thereon before it is filed with the county clerk. Before such approval is given, the board of commissioners shall secure from their independent water supply source an agreement to supply such additional water as may be needed, but if the board is securing water from its own corporation plant such consent is not necessary.

(3) If the petition is signed and acknowledged by the owners of all lands to be included, specifically describing such lands, an election in the territory and a hearing on the petition shall be dispensed with and the county court shall enter its order incorporating the territory within the existing corporation. Otherwise, no order shall be entered incorporating additional territory as a part of an existing domestic water supply corporation until and unless the board of commissioners of the corporation certifies to the county court that an election has been held in the corporation on the question and that a majority of the votes cast favored inclusion of the contiguous territory.

(4) If the petition is signed and acknowledged by the owners of only a part of the lands to be included, the order of the county court shall not be entered until the board of commissioners of the corporation and the county clerk with whom the petition was filed shall each verify to the county court that an election has been held in the corporation and in the contiguous territory, on the question, and that a majority of the votes cast in the corporation and a majority of the votes cast in the contiguous territory, severally, favored inclusion of the contiguous territory.

(5) Upon entry of the order of the county court incorporating the contiguous territory with the existing corporation the territory shall become subject to the indebtedness, bonded or otherwise, of the corporation in like manner as the territory within the corporation. [1953 c.682 §§2,3,4,5,6]

264.510 [Repealed by 1953 c.682 §7]

264.520 Annexation of city to water district; when permitted; approval by city. Whenever any city has been incorporated and the territory included within the city, or the major portion thereof, was formerly within the boundaries of and a part of a corporation organized under this chapter, and where the source of water supply for the city lies within that portion of the water district outside the city boundaries, or is owned and controlled by the district, such city upon the approval of the majority of the votes cast by its legal voters at an election called for the purpose, may elect to be annexed to and become a part of the corporation for the purpose of supplying water to the city's inhabitants. The election shall be called and held in the manner provided by the city charter. If the city has no charter provisions governing elections, such election may be called and conducted in accordance with an ordinance of the city specifying procedure in accordance with section 1a, Article IV, Oregon Constitution. [Amended by 1955 c.163 §3]

264.530 Approval of annexation of city by corporation; annexation order by county court; when withdrawal of city prohibited. (1) Upon canvassing the vote on the question of annexing city territory to the water supply corporation, the city, through its appropriate officers, shall certify to the county court of the county in which the city lies, the fact of the approval by the legal voters of the proposition to include the territory of the city or town in the corporation and shall present such certificate to the board of commissioners of the corporation, who, if they approve the same, shall indorse on the certification the fact that the annexation of such territory is approved by the board of commissioners and shall call a special election in the corporation at which election the question of the annexation of the territory of the city to the corporation for water supply purposes shall be submitted to the legal voters of the corporation for their approval or rejection. Such election shall be held within 50 days of the receipt by the board of commissioners of the corporation of the certificate of the results of the election in the city.

(2) If the voters of the corporation approve the annexation, the board of commissioners shall attach to the certificate of the city their own certificate setting forth the results of the election and shall transmit both certificates to the county court. The county court shall thereupon at its next meeting make and enter an order to the effect that the territory included in such city is annexed to the corporation. Thereafter the city territory, together with any territory thereafter annexed to the city, shall be included in the boundaries of such

corporation and shall be subject to all liabilities of the corporation in the same manner and to the same extent as other territory included therein for the purpose of supplying water to the inhabitants.

(3) No other function of the city shall be deemed in any way limited or abated by the annexation.

(4) If after inclusion of such territory in the corporation it issues general obligation or revenue bonds of the corporation for improving its water supply or distribution system, the city or the inhabitants thereof may not, while any such bonds are outstanding and unpaid, withdraw said territory from the corporation.

264.540 Fire hydrants in city annexed to corporation; reversion of water system in city to corporation. (1) If a city has been annexed to a water supply corporation under ORS 264.520 and 264.530, the city may designate the location and type of fire hydrants to be installed within the territory of the city. The board of commissioners of the corporation shall establish the rates for the use of water therefrom as provided in ORS 264.330. The city and the corporation may by contract determine the entire matter of installation of hydrants and use of water therefrom and payment therefor.

(2) The ownership of the water supply system within the city boundaries shall revert to and be vested in the water supply corporation.

264.550 Contracts between corporation and city annexed to corporation. If a city has been annexed to a water supply corporation under ORS 264.520 and 264.530, the city and the water supply corporation may:

(1) Enter into contracts and agreements to do any act or thing which either could have done if the annexation had not occurred.

(2) Contract and agree for the collection by the water supply corporation of any water user tax or charge imposed by the city upon water users within the territory of the city, and the water supply corporation thereupon may provide for such collection according to its rules and regulations for the collection of amounts due the water supply corporation by water users, including but not limited to shutting off the water supply for nonpayment. [1955 c.692 §1]

264.560 to 264.600 [Reserved for expansion]

DISSOLUTION

264.610 Determination to dissolve corporation; findings of fact; dissolution plan. (1) Whenever the board of commissioners of any community incorporated pursuant to ORS 264.110 has determined that it is to the best interest of its inhabitants that the incorporated community be dissolved and liquidated, the board of commissioners shall make findings of fact as to the following:

(a) The amount of each outstanding bond, coupon and other indebtedness, together with a general description thereof and the holders and owners thereof, so far as known.

(b) The estimated cost of dissolution.

(c) The assets of the corporation, including domestic or municipal water works or systems and property, corporeal and incorporeal, incident thereto, including reservoirs, pumps, mains, stations, water, water rights, riparian rights and all appurtenances, equipment and appliances for the treatment, storage and distribution of a domestic or municipal water supply.

(d) A detailed statement of all lands acquired by the corporation for delinquent taxes or delinquent assessments and the amount of the taxes and assessments on each parcel of land sold.

(e) All taxes or assessments unpaid and the amount upon each lot or tract of land and all other assets of the incorporated community.

(2) The board of commissioners shall propose a plan of dissolution and liquidation which may include provision for transfer and conveyance of all assets of the incorporated community to any irrigation district which will assume all its outstanding indebtedness and undertake to continue to furnish water to the inhabitants of the incorporated community for domestic and municipal uses.

(3) The findings of fact and proposed plan of dissolution and liquidation shall be filed in the office of the county clerk of the county in which the major portion of the incorporated community is situated.

264.620 Special election to approve dissolution. (1) Whenever the board of commissioners has complied with the provisions of ORS 264.610, it shall thereupon order a special election to be conducted as provided

in this section, at which shall be submitted to the electors of the incorporated community the question of whether or not the incorporated community shall be dissolved, its indebtedness liquidated, and its assets distributed in accordance with the plan proposed.

(2) No such election shall be ordered until the assent of all known holders of valid indebtedness against the district is obtained or provision is made in the plan for payment of the non-assenting holders.

(3) Notice of such election must be given by posting notices in three public places in each election precinct in the incorporated community at least 15 days prior to the election and also by publication of the notice in some newspaper published in the county where the office of the board of commissioners is required to be kept once a week for three successive weeks before the election. The notices must specify the time of holding the election, the fact that it is proposed to dissolve the incorporated community and a brief summary of the plan proposed for liquidating its indebtedness and disposing of its assets.

(4) The election shall be held and the result thereof determined and declared in all respects as nearly as practicable in conformity with the provisions governing election of officers in the incorporated community.

(5) At the election the ballot shall contain the words "Dissolution — Yes" or "Dissolution — No" or words equivalent thereto.

264.630 Declaration of dissolution; disposition of property and obligations of corporation by commissioners as trustees; transfer of assets to irrigation districts; statement of dissolution filed. (1) The board of commissioners shall name a day for canvassing the vote and if it appears that a majority or more of the votes cast are "Dissolution—Yes," the board shall declare the incorporated community to be disorganized and dissolved.

(2) The board of commissioners shall thereupon constitute a board of trustees who shall dispose of the property of the corporation and pay its debts and obligations or procure releases thereof.

(3) In case any irrigation district assumes all debts and obligations of the incorporated community and undertakes to continue to furnish water for domestic and municipal uses to its inhabitants pursuant to the plan of dissolution and liquidation and the consent of all the known holders of valid indebtedness against the district has been obtained, or provision has been made in the plan for payment of the non-assenting holders, the board of trustees may convey to the irrigation district all assets of the incorporated community as described in ORS 264.610 after paying and discharging the debts and obligations to, or procuring releases from, the non-assenting holders.

(4) Upon completing liquidation of the incorporated community, the board of trustees shall execute, under oath, a signed statement that the corporation has been dissolved and its affairs liquidated, which statement shall be filed in the office of the county clerk of the county in which the major portion of the dissolved incorporated community was situated.

264.640 to 264.700 [Reserved for expansion]

WITHDRAWAL OF TERRITORY

264.710 Definition of "county court." As used in ORS 264.710 to 264.750, "county courts" includes board of county commissioners. [1953 c.683 §1]

264.715 Petition for withdrawal. The real property owners resident within a domestic water supply corporation created pursuant to ORS 264.110, may at any time after two years from the date of formation petition the county court of the county wherein the corporation was incorporated for the withdrawal of a designated and described contiguous area lying along the boundary of and included in the corporation. [1953 c.683 §2]

264.720 Deposit to cover publication and election expenses; notice of filing petition; copies of petition. At the time of filing the petition, the petitioners shall deposit with the county clerk a sum of money sufficient to defray all costs of publication and of holding an election in the domestic water supply corporation remaining should the designated area be withdrawn and shall cause notice of the petition filing to be given in writing to the secretary of the board of commissioners of the domestic water supply corporation. The petitioners shall furnish the secretary with a copy of the petition as filed within five days after it is filed. [1953 c.683 §3]

264.725 Fixing a time and place for hearing the petition; notice of hearing. (1) If it appears to the satisfaction of the county court that the petition has been signed by 10 percent or 100, whichever is less, of the real property owners resident within the domestic water supply corporation, it shall fix a time and place for hearing of the petition. The time of hearing shall not be less than 31 nor more than 50 days from the date of receipt of the petition.

(2) At least 10 days prior to the hearing the county court shall publish notice of the hearing by two insertions in a newspaper of general circulation in the corporation. [1953 c.683 §§4,5]

264.730 Order of withdrawal if no remonstrance made or filed at hearing. If at the time and place set for hearing the petition no written or oral objection or remonstrance is made or filed, the county court shall enter an order withdrawing the designated and described contiguous area from the domestic water supply corporation. [1953 c.683 §6]

264.735 Order for election if remonstrance made or filed. If at the time and place of the hearing any remonstrance is filed or objections made orally or in writing to the withdrawal of the area from the corporation, the county court shall call an election in the domestic water supply corporation upon the question of the withdrawal of the area. [1953 c.683 §7]

264.740 Election procedure; ballot. The election shall be held in the same manner and under the same conditions and restrictions as provided by law for an annual election of a domestic water supply corporation, except the ballots for the withdrawal election shall state in substance the following proposition:

"Shall that portion of (insert name of domestic water supply corporation) comprising the following area, to wit: (insert description of premises to be withdrawn) be withdrawn from said corporation?"

"Yes"

"No"

[1953 c.683 §8]

264.745 Election results; order of withdrawal. If at the election the majority of legal votes cast favor withdrawal of the area, the county court shall enter an order upon its records withdrawing the area from the corporation. If at the election the majority of votes cast are against withdrawal, the county court shall cause the results of the election to be entered upon its records. [1953 c.683 §9]

264.750 Liability of withdrawn territory for debts of corporation. The designated and described contiguous area withdrawn shall, from the date of entry of the withdrawal order, be free from assessments and taxes levied by the domestic water supply corporation, except that the withdrawn area shall be so taxed for its proportionate share of any bonded or other indebtedness existing at the time of the order. The proportionate share shall be based on the assessed valuation of all the property contained in the entire domestic water supply corporation immediately prior to the withdrawal as such valuation is shown on the books of the county asssessor as of the time of the tax levy. [1953 c.683 §10]

264.760 to 264.980 [Reserved for expansion]

PENALTIES

264.990 Penalties. Violation of any provision of ORS 264.346 is punishable, upon conviction, by a fine of not less than $10 nor more than $100 for each such offense. Each day's refusal to remove fire hazards after notice by the inspecting officer to the owner or occupant of the premises whereon such hazard exists shall constitute a separate offense. [1953 c.206 §5]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel