TITLE 21

CITIES

Chapter 221. Organization and Government of Cities
222. City Boundary Changes; Mergers and Consolidations
223. City Improvements and Works Generally
224. City Sewers and Sanitation
225. Municipal Utilities
226. City Parks, Memorials and Cemeteries
227. City Planning and Zoning

Chapter 221

1961 REPLACEMENT PART
(1963 reprint)

Organization and Government of Cities

INCORPORATION OF CITIES

221.010 Definitions for ORS 221.020 to 221.100
221.020 Authority to incorporate
221.030 Petition to incorporate
221.040 Hearing on petition to incorporate; order fixing date of election on approved petition
221.050 Notice of election given; returns canvassed and results proclaimed; situs of city
221.060 Election costs
221.070 Election of first city council; notice of election
221.080 Nominating petition; names placed on ballot; cost of election
221.090 Council candidates elected; terms of office; canvass of returns; proclamation
221.100 Validation of incorporation under prior laws

CITY GOVERNMENT; OFFICERS; NOMINATIONS AND ELECTIONS; CHARTER AMENDMENTS

221.110 City officers; eligibility
221.120 The city council; terms; vacancies; powers; meetings
221.130 The mayor; term; functions
221.140 Appointment of municipal judge and other city officers; removal; compensation
221.150 Drawing lots in tie elections
221.160 Special elections to fill council vacancies
221.170 City elections; separate ballots and boxes for city at general election; costs; procedure; charter controlling
221.180 Procedure for nomination of candidates for city offices in cities of 2,000 or more
221.190 Procedure for nominating candidates in cities not required to hold primary elections
221.200 Elections in cities of 2,000 or more; duties of city clerk, recorder or auditor
221.210 Charter amendments; special election

ORDINANCES; MUNICIPAL COURTS; APPEALS

221.310 Effective date of ordinances; emergency measures
221.320 Code of ordinances; publication; filing; as evidence
221.330 Publication or posting of ordinances; exceptions
221.340 Parking ordinance violation; mode of charging defendant; notice as complaint
221.345 Reports of Oregon City municipal judge
221.348 Disqualification of municipal judge for prejudice
221.349 Trial by jury in criminal cases
221.350 Appeals from conviction in municipal court
221.360 Appeal on issue of validity of charter or ordinance
221.370 Validity of charter or ordinance determined before merits
221.380 Appeal by city from invalidating order; release of defendant during appeal
221.390 Trial, procedure and sentence in circuit court on appeal from municipal court
221.400 Additional judges in cities over 200,000

AUTHORITY TO REGULATE LOCAL MATTER; LICENSING AND TAXATION

221.410 Power of city to control local affairs; limitation of floating indebtedness; cities affected
221.420 Definitions adopted; municipal regulation of public utilities
221.430 Authority of certain cities to license for revenue or impose sales taxes
221.440 Tax ordinance; moneys levied not within city tax limitations; licenses exempt from execution
221.450 Tax on public utilities operating without franchise; validation
221.460 Duration of franchises, privileges and permits
221.470 Removal of structures on expiration of grant or franchise
221.480 Appropriation of funds for city publicity
221.490 Tax for city publicity
221.500 Petition and special election on tax for publicity

DISINCORPORATION

221.610 Disincorporation of cities and municipal corporations; effective date
221.620 Petition for disincorporation; submission to vote
221.630 Notice of disincorporation election; ballots
221.640 Count and canvass of returns; number of electors determined
221.650 Property conveyed to county; cessation of corporate existence; records deposited
221.660 Application of general election laws

MISCELLANEOUS

221.710 Filing of city charter and amendments; effect; certified copies furnished
221.720 Situs of cities; jurisdiction of cities coextensive with boundaries
221.750 Right of cities to public areas not extinguished by adverse possession or statute of limitations

THE 1893 INCORPORATION ACT

221.901 Cities organized under 1893 Act; officers; "city" defined for ORS 221.901 to 221.929
221.902 City officers; elective; appointive; terms
221.903 Bond and oath of officers
221.904 Vacancies
221.905 Compensation of city officers
221.906 Election rules generally
221.907 Eligibility for office
221.908 Council meetings; notice; place of meetings
221.909 Council meetings; attendance; rules; records
221.910 Powers of council regarding qualification of members, elections, procedure for meetings
221.911 Rules on enactment of ordinances granting franchise or for payment of money
221.912 Formalities required to render ordinance effective
221.913 Claims against cities; how presented and paid
221.914 Prosecution for violation of ordinance; place of imprisonment; city liable for expenses
221.915 Nuisance defined
221.916 Powers of council generally
221.917 Functions and duties of mayor
221.918 Jurisdiction and duties of recorder; jury trial; witnesses; contempt powers; records
221.919 Powers and duties of marshal; removal from office
221.920 Duties of treasurer
221.921 Interest of officers in city contracts
221.922 Voting privilege subject to certain conditions
221.923 Working out fines for violation of ordinance
221.924 Authority to make public improvements; liability of city for injury from defects
221.925 Tax deeds; tax warrants
221.926 Authority to enact ordinances
221.927 Approval or veto of ordinances; proceedings after veto
221.928 Record of ordinances; compilation accepted as evidence
221.930 Validation of incorporations under 1893 Act

CROSS REFERENCES

Borrowing capacity of cities, determination, 287.010
Civil service for city employes and firemen, Ch. 242
Collective bargaining with employes, 243.710 to 243.760
Crime reporting for certain arrests, 181.510 to 181.540
Discrimination against Optometrists prohibited, 683.035
Educational services by contract with community college, 341.825
Enemy attack:
  Succession to office in event of, 236.440
  Temporary seat of government in event of, 236.450
Incorporated communities may regulate use of streets by animals, 483.045
Liability insurance for city officers, 243.110
Libraries, Ch. 357
Metropolitan study commission, 199.110 to 199.310
Moneys collected in traffic offense proceedings, disposition of, 484.250
Peace Corps volunteers, leave of absence for, 236.040
Pedestrian malls, 376.705 to 376.825
Police standards and training, state advisory board, 181.640
Public employes, provisions relating to, Ch. 236
School traffic patrols, 336.480
Uniform enforcement of regulations on use of vehicles on school grounds, 332.205
Work relief programs, 411.855 to 411.870

221.010

"City" includes village or town, 174.100

221.020

Formation of incorporated cities, Const. Art. XI, § 2
Incorporation by consolidation or merger, Ch. 222

221.110

Prohibition of religious test as qualification for office, Const. Art. I, § 4

221.120

Elections and appointments of city officials, Const. Art. VI, § 7
Filling of vacancies, Const. Art. VI, § 9

221.140

Creation of municipal courts, Const. Art. VII (0), § 1, Art. VII (A), § 1

221.170

Conduct of elections, generally, Ch. 250
Corrupt practices and election offenses, Ch. 260
Determination of population, 190.510 to 190.590
Election contests, 251.015 to 251.090
Recounts, 251.510 to 251.620
Time and place of city elections, Const. Art. II, § 14a, 250.230
Voting machines, 258.110, 258.770

221.190

Candidacy by declaration, 249.210
Election documents, time for receipt of, 246.021

221.200

Ballots, 250.080
Conduct of elections for city officers in cities over 2,000, 250.230

221.210

Contest of election, 251.015 to 251.090
Election documents, time for receipt of, 246.021
Initiative and referendum in cities, 254.130, 254.140, 254.150, 254.170
Initiative and referendum on special and local laws, Const. Art. IV, § 1a
Recounts, 251.510 to 251.620

ORDINANCES; MUNICIPAL COURTS; APPEALS

City ordinances and city court rules to conform to traffic court rules made by Supreme Court, 484.410
Traffic offense procedures, jurisdiction of city court, 484.030

221.320

Adoption and amendment of city charter under Home Rule, Const. Art. XI, § 2
Filing of city boundary change with Secretary of State, 222.150 to 222.170

221.340

Action by city to recover penalty, 30.310
Actions for fines, forfeitures and penalties, 30.410
Crime reporting for certain arrests, 181.510 to 181.540
Enforcement of ordinances and resolutions, 30.315
Juvenile court, transfer of certain proceedings involving children to, 419.478

221.350

Appeals in criminal actions, 157.010
Juvenile court, transfer of certain proceedings involving children to, 419.478
Probation and suspension of sentence by municipal courts, 137.510

221.360

Notice of appeal to plaintiff's attorney, 138.100

221.380

City not required to make appeal bond, 22.010

221.390

Probation and suspension of sentence on conviction for violation of ordinance, 137.510

221.410

Airports and landing fields, Ch. 492
Amusement rides, effect of city regulation upon state law, 460.380
Annexation of city to rural fire protection district, 478.614
Assessments for local city improvements, 223.387 to 223.399
Audits of public funds; financial records and accounts, Ch. 297
Boats and boating, 488.028, 488.600
Borrowing and bonds of cities, Ch. 287
Boxing and wrestling, Ch. 463
City boundary changes, Ch. 222
City control over milk standards, 621.291
City financial administration, Ch. 294
City improvements and works, Ch. 223
City libraries, 357.410
City parks, memorials and cemeteries, Ch. 226
City planning and zoning, Ch. 227
City sewers and sanitation, Ch. 224
City utilities, Ch. 225
Civil service for city employes and firemen, Ch. 242
Condemnation by cities, Ch. 223
Control of access to public highways, Ch. 374
Cooperation of governmental agencies, Ch. 190
Depositories of public funds and securities, Ch. 295
Donation by city of county courthouse site, 276.726
Education in homemaking and agriculture, providing funds for, 343.910
Electrical installations and products, effect of city regulation upon state law, 479.540, 479.820
Financing of public projects, Ch. 280
Fire protection, communications and street lighting, provisions concerning, 264.340, 476.030, 478.300, 478.305, 478.310
Housing, Ch. 456
Labor conciliation services for public employes, 662.435
Limitation on city taxing power, Const. Art. XI, § 11
Local budget law, 294.315 to 294.520
Merger of cities, Const. Art. XI, § 2a
Motor vehicle code applicable to cities, 483.036
Motor vehicle parking on state highways in cities, control of city over, 483.350
Plats and subdivisions, Ch. 92
Pollution of water and air, Ch. 449
Power to fix railroad speed limit in cities, 760.050
Powers of cities under Home Rule, Const. Art. XI, § 2
Prohibition against certain financial interests of cities, Const. Art. XI, § 9
Public contracts and purchasing, Ch. 279
Public employes, Chs. 236, 238, 242 and 243
Publication of reports of officers handling public funds, 294.205
Recreation facilities, cooperation with State Recreation Director in developing, 366.182
Rental, lease or purchase of real property for city, 271.390
Restrictions on powers of cities in acts of incorporation, Const. Art. XI, § 5
Rights of way for public uses, Ch. 772
Roads and highways through cities, Ch. 373
Sewage charge on water users, 224.510
State Speed Control Board, city representative as member, 483.108
Streets, one-way, authority of cities to designate, 483.043
Timber, sale by city, 526.805
Traffic control, cooperation with State Board of Higher Education, 352.360
Trailers, state regulations prescribing equipment supersedes city ordinances, 446.165
Truck routes, authority of cities to designate streets as, 483.542, 483.544
Unemployment insurance, 657.020, 657.065, 657.097, 657.505
Urban renewal and redevelopment of deteriorated and blighted areas (slum clearance), Ch. 457
Vacation, sale, lease or donation of public lands, Ch. 271
Workmen's compensation, 656.032, 656.034

221.420

Protection of city water supply, 449.305 to 449.340
Public ownership of municipal utilities, Ch. 225
State highways, municipal regulation of utilities using, 373.020
Utility regulation, Ch. 757

221.430

Additional license on business chance brokers, 696.640

Additional license on collection agency prohibited, 697.120
Additional license on debt consolidating agency prohibited, 697.665
Additional license on real estate brokers prohibited, 696.110
Amusement rides, license fees for, 460.380
Peddler's licensing statute not applicable to certain cities, 698.030
Retail license for sale of weapons, 166.430
Retail sale of liquor controlled by state, 471.210, 472.120

221.450
Utility not relieved of duty to repair streets, 373.020

221.460
Agreements in perpetuity with United States, 758.030

221.470
People's utility districts, works on city property, 261.305

221.490
Development of resources, state cooperation, 184.160, 184.180
Limitations on city taxing power, Const. Art. XI, § 11

221.710
Amending city charter by initiative and referendum, 254.150
Authority to amend city charters, Const. Art. XI, § 2
Filing of amendments concerning boundary changes, 222.150 to 222.170

221.750
Suits to determine adverse claim to realty, 105.605

221.902
Elections in cities, Const. Art. II, § 14, 14a
Elections in cities over 2,000, 250.230

221.903
Oath of office, Const. Art. XV, § 3

221.907
Prohibition against religious test as qualification for office, Const. Art. I, § 4

221.913
Restrictions on financial power of cities, Const. Art. XI, § 5

221.916
Milk control ordinances under milk marketing controls, 583.016

221.918
Disqualification for prejudice, 221.348
Imprisonment until fine is satisfied, 137.150
Justice's courts, Chs. 51, 52, 54, 156

221.919
Juvenile court, transfer of certain proceedings involving children to, 419.478

221.920
Reports of city financial officers, 294.205

221.922
Elections to be free, Const. Art. II, § 1

221.923
Imprisonment until fine is satisfied, 137.150

INCORPORATION OF CITIES

221.010 Definitions for ORS 221.020 to 221.100. As used in ORS 221.020 to 221.100, unless the context requires otherwise:

(1) "Voter" means a legal voter of the State of Oregon.

(2) "County court" means a county court or board of county commissioners.

(3) "City," except in the term "incorporated city" in ORS 221.020, means a city incorporated under ORS 221.020 to 221.100 or proposed to be incorporated.

221.020 Authority to incorporate. The people of an area, no part of which lies in an incorporated city and in which 150 persons reside, may incorporate a city by approving at an election called and held according to ORS 221.030 to 221.060 a proposition provided by those sections for incorporating the city.

221.030 Petition to incorporate. The manner of ordering an election on a proposition to incorporate a city shall be to present to the county court of the county in which the city lies or, should it lie in more than one county, to the county court of the county in which the largest part of its territory lies, a petition in substantially the following form signed by 20 percent of the voters of the area proposed to be incorporated:

WARNING

It is a felony for a person to sign an initiative petition with a name not his own, or knowingly to sign his name more than once to any such petition, or to sign any such petition when he is not a legal voter.

PETITION TO INCORPORATE THE CITY OF ————

We, legal voters residing within the following boundaries, demand that there be submitted to the legal voters residing within such boundaries the following proposition:

A city to be known as the city of———— shall be incorporated with boundaries as follows: (Describe here the exterior boundaries of the city.)

Each of us for himself says, I have personally signed this petition, I am a legal voter residing within the foregoing boundaries, and my address is written correctly after my name.

Name	Residence	Postoffice
1.		

(Provide here the number of lines needed for petitioners' names and addresses.)

221.040 Hearing on petition to incorporate; order fixing date of election on approved petition. (1) Upon the filing of the petition referred to in ORS 221.030, the county court shall fix the time and place for the hearing of such petition and shall give notice thereof by publication once each week for two successive weeks in a newspaper published in the county where the petition is filed and of general circulation within said boundaries, and by posting the same for said period of time in three public places in the area proposed to be incorporated. The notice shall state the time and place of the hearing, describe the boundaries set forth in the petition and state the purpose of the petition. If any portion of the proposed incorporation of a city lies within another county or counties, then the notice shall be published in a newspaper of general circulation in each of the counties and in the same time and manner.

(2) At the time and place fixed for the hearing, or at any time and place at which the hearing may be continued or postponed, any person interested may appear and present oral or written objections to the granting of the petition and the forming of the proposed incorporated city. The court may alter the boundaries as set forth in the petition to include all territory which may be benefited by being included within the boundaries of the proposed incorporated city, but shall not modify boundaries so as to exclude any land which would be benefited by the formation of the proposed city. No land shall be included in the proposed city which will not, in the judgment of the court, be benefited. If the court determines that any land has been improperly omitted from the proposed city and the owner has not appeared at the hearing, it shall continue the hearing and shall order notice given to the nonappearing owner requiring him to appear before it and show cause, if any he has, why his land should not be included in the proposed city. The notice shall be given by publication and posting in the same manner as the original notice for hearing and for the same period. For the purposes of this subsection, "owner" means the legal owner of record except that if there is a vendee under

a duly recorded contract, such vendee shall be deemed to be the owner.

(3) Upon the final hearing of the petition, the court, if it approves the petition as originally presented or in an altered form, shall make an order fixing a date for an election relating to the incorporation of the proposed city, which date shall not be earlier than 30 days nor later than 50 days after the order is entered; provided, that whenever an issue respecting the incorporation of a proposed area has been determined adversely by the voters thereof at two elections held within a one-year period, another election shall not be held until a period of one year has elapsed after the last election. The order shall contain:

(a) A description of the exterior boundaries of the proposed city as determined by the court;

(b) The date on which the election will be held in the proposed city;

(c) The polling place or places at which the election will be held; and

(d) The appointment of three judges and a clerk for each polling place, who shall be registered voters in the proposed area.
[Amended by 1953 c.593 §3]

221.050 Notice of election given; returns canvassed and results proclaimed; situs of city. (1) The court shall cause the proposition for incorporation determined as provided in ORS 221.040 to be submitted to the voters at an election to be held in said area at the date fixed pursuant to ORS 221.040 and shall give notice thereof by publication once each week for three successive weeks in a newspaper published in said county and of general circulation in said area, and by posting the same for like period of time in three public places within said area. No person other than a registered voter resident within the boundaries determined by the court shall vote at said election. The notice shall be given in substantially the following form:

NOTICE OF ELECTION

On ————, 19—, at ————, an election will be held from ——a.m. until ——p.m. for the purpose of submitting the proposition for incorporation to the registered voters residing within the boundaries described in the proposition: (Set forth here the proposition to be voted upon.)

County Court of ————County
By————

(2) Within 10 days after an election held pursuant to subsection (1) of this section on a proposition to incorporate an area as a city, the county court calling the election shall canvass the returns of the election and proclaim whether a majority of the votes cast on the proposition favors it. If it does, that area described in the notice of election is incorporated as a city from the date of the election.

(3) If the city lies in more than one county, the situs of the corporation shall be only the county of the court issuing the proclamation, except for the purposes of laws relating to reports of boundary changes and to the levy, assessment and collection of property taxes.
[Amended by 1953 c.593 §3]

221.060 Election costs. The cost of an election held pursuant to ORS 221.050 on a proposition to incorporate an area as a city shall be borne by the signers of the petition which calls for the election. No petition shall have effect until its signers have designated an agent to act for them and he has deposited with the court to which the petition is presented money in an amount sufficient in the opinion of the court to cover the cost of the election which the petition necessitates. So much of the money as is not required to defray the cost of the election shall be returned to the agent.

221.070 Election of first city council; notice of election. (1) A county court which proclaims the incorporation of an area as a city shall cause an election to be held in the city not earlier than 60 and not later than 80 days after the incorporation for the purpose of electing five councilmen for the city. No person other than a voter residing in the city shall vote at the election.

(2) Within 30 days after a city has been incorporated the county court proclaiming the incorporation shall post in three public places in the city or publish in two consecutive issues of a newspaper of general circulation in the city a notice in the following form:

NOTICE OF ELECTION

On————, 19—, at————, an election will be held from———a.m. until———p.m. for the purpose of electing five councilmen for the city of ————————.

County Court of———County
By ————————

221.080 Nominating petition; names placed on ballot; cost of election. (1) The county court which proclaims the incorporation of a city shall place on the ballot for electing the first councilmen of the city the name of every person nominated for the office of councilman of the city by a petition in the following form presented to the court within 40 days after the incorporation and signed by a number of voters of the city equal to five percent of the number of votes cast on the proposition for incorporating the city:

PETITION FOR NOMINATION

To the County Court of————County:

We, the legal voters of the city of———, order that the name of ———————— be included as a candidate for the office of councilman of the city on the ballot for electing the first councilmen of the city.

Name Address

1. ————————————

(2) The cost of electing the first councilmen of the city shall be borne by the city.

221.090 Council candidates elected; terms of office; canvass of returns; proclamation. (1) At an election for choosing the first councilmen of a city the candidates who receive the five highest number of votes shall be deemed elected. Of these five, those receiving the two highest number of votes shall hold office until the first council meeting of the year immediately following the second general election held after incorporation of the city, and those receiving the three next highest number of votes shall hold office until the first council meeting of the year immediately following the first general election held after the incorporation.

(2) Within 10 days after the first election of councilmen of a city the county court which proclaims the incorporation shall canvass the returns of the election and proclaim which candidates at the election have been elected.

221.100 Validation of incorporation under prior laws. Only those cities which, prior to March 28, 1941, commenced incorporation according to the procedure provided in sections 1 to 9, chapter 345, General Laws of Oregon 1913, and actually completed incorporation according to sections 1 to 7, chapter 453, Laws of Oregon 1941, are regarded as legally incorporated cities under and subject to the provisions of ORS 221.010 to 221.090, 221.110 to 221.150 and 221.410, provided a majority of those voting on the proposition to incorporate were in favor of incorporation.

CITY GOVERNMENT; OFFICERS; NOMINATIONS AND ELECTIONS; CHARTER AMENDMENTS

221.110 City officers; eligibility. The officers of a city created under ORS 221.010 to 221.100 shall be five councilmen, a municipal judge and such other officers as the council deems necessary. Any resident of a city shall be eligible to hold an office of the city.

221.120 The city council; terms; vacancies; powers; meetings. Concerning the council of a city created under ORS 221.010 to 221.100:

(1) Three councilmen shall be elected biennially.

(2) At an election for electing councilmen the candidates who receive the three highest numbers of votes shall be deemed elected, and of these three the ones receiving the two highest numbers of votes shall hold office for four years and the remaining one shall hold office for two years.

(3) A councilman's term of office shall begin at the first council meeting in the year immediately ensuing the year of his election.

(4) The council shall fill by appointment vacancies in its membership.

(5) The term of office of an appointee to an office of councilman shall be the remainder of the term of office of his immediate predecessor in the office.

(6) The powers of the city shall be vested in the council.

(7) A majority of the members of the council shall constitute a quorum for action by the council.

(8) No action by the council shall have legal effect unless concurred in by a majority of the council.

(9) The council shall meet publicly at least once each month.

221.130 The mayor; term; functions. Concerning the mayor of a city created under ORS 221.010 to 221.100:

(1) Only councilmen shall be eligible to serve as mayor.

(2) The council shall appoint a mayor at its first meeting of each odd-numbered year.

(3) The mayor's term of office shall be two years.

(4) He shall be presiding officer of the council and shall authenticate with his signature all ordinances which the council passes.

221.140 Appointment of municipal judge and other city officers; removal; compensation. The council of a city created under ORS 221.010 to 221.100 shall appoint a municipal judge and such other officers as it deems necessary for the proper government of the city, who shall be removable at the discretion of the council, receive such compensation as the council approves, and have such powers and duties as the council prescribes.

221.150 Drawing lots in tie elections. Where, at an election for choosing councilmen for a city created under ORS 221.010 to 221.100, it is impossible to determine from the vote which of two or more candidates has been elected or what are the respective terms of office of two or more candidates elected at the election, the determination shall be made by lots drawn by the candidates whom the question involves.

221.160 Special elections to fill council vacancies. Whenever because of death, resignation or other cause the number of the members of the governing body of any city is insufficient to constitute a quorum for the transaction of the business thereof, and the charter of such city does not otherwise provide, the mayor, or if there is no mayor, a majority of the remaining members of the governing body, may call a special election for the purpose of electing a sufficient number of persons to fill all the vacancies then existing in the governing body. For the purposes of such election the mayor, or if there is no mayor, a majority of the remaining members of the governing body, may appoint persons to act for all offices necessary to the holding of such election where such offices may be vacant. The appointments shall continue until a successor is selected as provided for by the charter or law governing such city.

221.170 City elections; separate ballots and boxes for city at general election; costs; procedure; charter controlling. (1) Every city may provide by its charter for nominating and electing candidates for its municipal offices on a ballot separate and distinct from the state and county ballot at the biennial primary and general elections and require that such city ballots shall be received by the election board clerks and deposited in a separate ballot box to be marked "city ballots." The separate ballot boxes shall be provided by the county clerk and delivered and returned to the county clerk as other election supplies are delivered and returned. In every case the city providing for separate city ballot and ballot boxes shall reimburse the county for the cost and expense thereof.

(2) Any city requiring separate city ballots and ballot boxes may provide for the nomination and election of its municipal officers by proportional representation. In such case the city ballot boxes and the ballots shall be returned to the county clerk who shall count and canvass the votes in accordance with the method provided by the city charter. All election officers shall be governed by the provisions of the charter as to city elections. The county clerk shall issue certificates of election to the candidates receiving the required proportion of votes.

(3) If any city charter provides for the filling of a vacancy that may occur in a municipal office by a recount of the ballots cast at the election at which such office was filled, the county clerk shall conduct the count in the manner prescribed therefor by the charter. In all other respects the city elections and nominations shall be governed by the general election laws in so far as they are not in conflict with this section.

[Amended by 1957 c.608 §225]

221.180 Procedure for nomination of candidates for city offices in cities of 2,000 or more. (1) The nominating of candidates for municipal offices in all cities with a population of 2,000 or more, according to the last official federal or state census, shall be governed by the provisions of this section, the primary election law, as defined in ORS 249.011, and all other statutes applicable to such primary election law.

(2) All petitions for nomination and declarations of candidacy under the primary election law shall be filed with the city clerk, recorder or auditor. Candidates for nomination for offices of any such city shall qualify and file for nomination in such manner as the city charter or ordinances provide; and if no such provision exists, then as the laws of this state may provide. Such nomi-

nations shall be certified by the officers of such cities to the county clerk of the county wherein the city is situated, in the manner provided by law.
[Amended by 1957 c.608 §226]

221.190 Procedure for nominating candidates in cities not required to hold primary elections. (1) The local voters of each city may make nominations for all municipal elective offices to be filled. In a city not required by law to hold a primary election for municipal offices, all nominations for elective offices within the city may be made in any of the following ways:

(a) By any regularly called convention of delegates representing the several wards of the city.

(b) By any convention of voters met for such purpose in any ward of the city making ward nominations.

(c) By any convention of voters met in city convention and representing the several wards in the city.

(d) By certificates of nomination signed by at least 25 voters in each ward in case of ward nominations or by at least 25 voters of the city in case of nominations at large.

(2) In any event, a certificate of nomination shall be made out and signed by at least 25 voters of the city and filed with the appropriate city officer on or before the tenth day preceding the day of any regular election, to entitle the names of candidates nominated to be placed upon the ballot.
[Amended by 1957 c.608 §227]

221.200 Elections in cities of 2,000 or more; duties of city clerk, recorder or auditor. All laws regulating and governing general elections, proceedings and matters incidental thereto, shall apply to and govern elections in all cities with a population of 2,000 or more, according to the last official federal or state census. All certificates of nomination of candidates for city officers to be filled by the electors at an election in any such city, and all acceptances and withdrawals shall be filed with the city clerk, recorder or auditor, as the case may be, who shall keep a register of nominations for city officers in the manner required by general laws to be kept by the county clerk.
[Amended by 1957 c.608 §228]

221.210 Charter amendments; special election. (1) Amendments to the charter of a city may be proposed and submitted to the people by the city council, with or without an initiative petition, but the same shall be filed with the city clerk for submission not less than 60 days before the election at which they are to be voted upon. No amendment of a city charter so made shall be effective until it is approved by a majority of the votes cast thereon by the people of the city to which it applies.

(2) The city council may by ordinance or resolution order special elections to vote on municipal measures.

(3) This section shall apply in every city in all matters, concerning the operation of the initiative and referendum in its municipal legislation, on which the city has not made or does not make conflicting provisions.
[Amended by 1955 c.18 §1]

221.220 to 221.300 [Reserved for expansion]

ORDINANCES; MUNICIPAL COURTS; APPEALS

221.310 Effective date of ordinances; emergency measures. (1) In cities having a population of 2,000 or more no ordinance, resolution or franchise shall take effect until 30 days after its passage by the council and approval by the mayor, unless it is passed over his veto. In that event, it shall not take effect until 30 days after final passage over the mayor's veto. However, measures necessary for the immediate preservation of the peace, health and safety of the city are excepted. These emergency measures shall become immediately effective if they state in a separate section the reasons why it is necessary that they should become immediately effective and if they are approved by the affirmative vote of three-fourths of all the members elected to the city council, taken by ayes and noes, and also by the mayor. This subsection shall apply in every city in all matters concerning the operation of the initiative and referendum in its municipal legislation on which the city has not made or does not make conflicting provisions.

(2) Except for ordinances necessary for the immediate health, peace or safety, an ordinance enacted by the council of a city created under ORS 221.010 to 221.100 shall take effect 30 days after its enactment.

221.320 Code of ordinances; publication; filing; as evidence. Each incorporated city may codify and publish its municipal ordinances in the form of a municipal code, which code may, at the election of such in-

corporated city, have incorporated therein the charter of the city. When the charter or ordinances, or both, of any incorporated city are codified and published in the form of a municipal code, two copies of the municipal code shall be filed with the Librarian of the Supreme Court Library, Salem, Oregon, and thereafter the same shall be received in all courts of this state as an authorized compilation of the municipal ordinances or charter of the city.

221.330 Publication or posting of ordinances; exceptions. Ordinances passed by cities must be posted or published in a newspaper if required by their respective charters; provided, that ordinances establishing rules and regulations for the construction of buildings, the installation of plumbing, electric wiring or other similar work, where such rules and regulations have been printed as a code in book form, may adopt such code or portions thereof by reference thereto without further publication or posting thereof. Not less than three copies of such code shall be filed, for use and examination by the public, in the office of the city recorder of the city, prior to the adoption thereof. Cities may adopt as ordinances any statute of the State of Oregon, the subject matter of which is within the scope of the charter authority by reference to the chapter or section, without further publication or posting thereof.

221.340 Parking ordinance violation; mode of charging defendant; notice as complaint. (1) In all prosecutions for violation of motor vehicle parking ordinances in cities, it shall be sufficient to charge the defendant by an unsworn written notice if the same clearly states:

(a) The date, place and nature of the charge.

(b) The time and place for defendant's appearance in court.

(c) The name of the arresting officer.

(d) The license number of the vehicle.

(2) The notice provided for in subsection (1) of this section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. The notice shall serve as the complaint in the case. In all other respects the procedure now provided by law in such cases shall be followed.

221.345 Reports of Oregon City municipal judge. The judge of the municipal court of Oregon City, in Clackamas County, at the close of business of each month, shall make a certified report to the county auditor of all fines and forfeited bails in state cases collected by him, and all commitments to the county jail during the month, showing the names of all persons committed and the date and term of sentence.

221.348 Disqualification of municipal judge for prejudice. No judge of a municipal or city recorder's court having two or more judges shall hear or try any action, matter or proceeding if a party thereto or an attorney appearing therein moves the court for a change of judge on grounds of prejudice. The motion shall be supported by an affidavit stating that the judge before whom the action, matter or proceeding is pending is prejudiced against the party or attorney, and that the affiant or his client cannot or believes that he or his client cannot have a fair and impartial trial or hearing before the judge, and that such motion is not filed for the purpose of delay. The motion shall be filed before the action, matter or proceeding is to be tried or heard. No party or attorney shall make more than one application in any action, matter or proceeding.
[1957 c.378 §1]

221.349 Trial by jury in criminal cases. (1) In all prosecutions for any crime or offense defined and made punishable by any city charter or ordinance the defendant shall have the right of trial by jury, of six in number; and juries shall be selected from the latest tax roll and registration books used at the last city election in the same manner in which juries are selected for circuit courts.

(2) Where provision is made for the payment of jury fees by the defendant as a deposit to insure a jury trial, and where the defendant is found not guilty, the deposit shall be returned to him.

(3) The deposit required by the municipal, city or recorder's court to insure the right of trial by jury, under the charter of the city, shall not be greater than that provided by ORS 10.060 in relation to justice courts for payment for each juror sworn multiplied by the number of jurors constituting a jury under the terms of the charter.
[1959 c.502 §§1, 2, 3]

221.350 Appeals from conviction in municipal court. Whenever any person is convicted in the municipal court of any city of any offense defined and made punishable by any city charter or ordinance, unless the

charter of the city prohibits appeals from such court, such person shall have the same right of appeal to the circuit court within whose jurisdiction the city has its legal situs and maintains its seat of city government as now obtains from a conviction from courts of justice of the peace. The appeal shall be taken and perfected in the manner provided by law for taking appeals from justice courts.

221.360 Appeal on issue of validity of charter or ordinance. In all cases involving the constitutionality of the charter provision or ordinance under which the conviction was obtained as indicated in ORS 221.350, such person shall have the right of appeal to the circuit court in the manner provided in ORS 221.350, regardless of any charter provision or ordinance prohibiting appeals from the municipal court because of the amount of the penalty or otherwise. An appeal may likewise be taken in such cases from the judgment or final order of the circuit court to the Supreme Court in the same manner as other appeals are taken from the circuit court to the Supreme Court in other criminal cases. Where the right of appeal in such cases depends upon there being involved an issue as to the constitutionality of the charter provision or ordinance, the decision of the appellate court shall be upon such constitutional issue only.

221.370 Validity of charter or ordinance determined before merits. Whenever the validity of a charter or ordinance provision of any city comes in issue in a trial for violation of charter or ordinance provision, the trial judge shall determine such issue of validity and make a decision and order thereon before making any decision as to the facts in the particular case.

221.380 Appeal by city from invalidating order; release of defendant during appeal. From an order declaring a charter or ordinance provision invalid, the city may appeal from the municipal or recorder's court to the circuit court of the county in which the city has its legal situs and maintains its seat of city government; and, from such order by a circuit court, may appeal to the Supreme Court, in the same manner as appeals are taken in criminal cases to such courts. Upon the order of the appellate court upon such issue the case shall be remanded with direction. If a city so appeals, pending the appellate decision thereon, the defendant shall be released, with or without bond, for reappearance at the discretion of the trial court, until such time as the case is remanded.

221.390 Trial, procedure and sentence in circuit court on appeal from municipal court. (1) When any person convicted in a municipal court appeals to the circuit court as provided in ORS 221.350 and 221.360, such person shall be tried in the circuit court pursuant to the statutes which prescribe the procedure for trial of violations of the criminal statutes of the state, except that the prosecution shall be handled by an attorney provided by the city from the municipal court from which the appeal was taken.

(2) Within 10 days following the return of the verdict in the circuit court, the county clerk shall notify the recorder or corresponding officer of the city, in writing, of the outcome of the trial, and shall give like notice of any sentence imposed.

(3) Upon a verdict of guilty the circuit judge may impose any sentence within the limits prescribed by the charter or ordinance for violation of which the conviction was had, and if a fine is imposed, it shall be paid to the county clerk and by him remitted, on or before the tenth day of the following month, to the proper city officer.

(4) This section does not apply where the appeal involves only an issue of constitutionality of the charter or ordinance.

221.400 Additional judges in cities over 200,000. In all incorporated cities whose population exceeds 200,000 and which have a recorder's or municipal court created by law or by the charter of such city, the common council may provide, by election or appointment, as the charter may prescribe, for an additional judge and for dividing the work of such court. Such additional judge shall have the qualifications and powers and shall perform the duties prescribed by law and the charter of such city.

AUTHORITY TO REGULATE LOCAL MATTERS; LICENSING AND TAXATION

221.410 Power of city to control local affairs; limitation of floating indebtedness; cities affected. (1) Except as limited by express provision or necessary implication of general law, a city may take all action necessary or convenient for the government of its local affairs.

(2) No city, unless authorized to do so by its voters, shall contract a voluntary floating indebtedness in excess of the sum of $5,000 for general city purposes. A city official or employe who creates or officially approves such an indebtedness in excess of the limitation shall be liable for the amount of the excess.

(3) Cities affected by subsections (1) and (2) of this section are those defined in ORS 221.010.

221.420 Definitions adopted; municipal regulation of public utilities. (1) The definitions contained in ORS 757.005 and 757.010 apply to this section.

(2) Every city may:

(a) Determine by contract or prescribe by ordinance or otherwise, the quality and character of each kind of product or service to be furnished or rendered by any public utility, furnishing any product or service within such city, and all other terms and conditions upon which any public utility may be permitted to occupy the streets, highways or other public property within such city and exclude or eject any public utility therefrom.

(b) Require any public utility, by ordinance or otherwise, to make such modifications, additions and extensions to its physical equipment, facilities or plant or service within such city as shall be reasonable or necessary in the interest of the public, and designate the location and nature of all additions and extensions, the time within which they must be completed, and all conditions under which they must be constructed.

(c) Fix by contract, prescribe by ordinance, or in any other lawful manner, the rates, charges or tolls to be paid to, or that may be collected by any public utility, furnishing any product or service within such city. No schedule of rates, charges or tolls, fixed in the manner provided in this paragraph, shall be so fixed for a longer period than five years. Whenever it is proposed by any city to enter into any contract, or to enact any ordinance, or other municipal law or regulation concerning the matters specified in this paragraph, a copy of such proposed contract, ordinance or other municipal law or resolution shall be filed with the Public Utility Commissioner of Oregon before the same may be lawfully signed or enacted, as the case may be, and the commissioner shall thereafter have 90 days within which to examine into the terms thereof. If the commissioner is of the opinion that in any respect the provisions of the proposed contract, ordinance or other municipal law or resolution are not in the public interest, he shall file, in writing, with the clerk or other officer who has the custody of the files and records of the city, his reasons therefor. If the objections are filed within said period of 90 days, no proposed contract, ordinance or other municipal law or regulation shall be valid or go into effect until it has been submitted to or ratified by the vote of the qualified electors of the city. Unless and until a city exercises its powers as provided in this paragraph, the commissioner is vested with all powers with respect to the matters specified in this paragraph. If the schedule of rates, charges and tolls is fixed by contract, ordinance or other municipal law or regulation and in the manner provided in this paragraph, the commissioner has no power or jurisdiction to interfere with, modify or change it during the period fixed thereby. Upon the expiration of said period such powers shall again be vested in the commissioner, to be exercised by him unless and until a new schedule of rates for such service or product is fixed or prescribed by contract, ordinance or other municipal law or regulation in the manner provided in this paragraph.

(d) Provide for a penalty for noncompliance with the provisions of any charter provision, ordinance or resolution adopted by the city in furtherance of the powers specified in subsection (2) of this section.

221.430 Authority of certain cities to license for revenue or impose sales taxes. Any city having a population of 9,000 and less than 10,500 may raise revenue for operation of the city by licensing and taxing any business, occupation, profession or calling carried on or practiced in the city. It may also levy and collect a sales tax on all or any of the goods and merchandise sold therein, and on professional services rendered in the city. It may also provide that a license or tax be imposed for the use of any of the streets or highways of the city, except that no license or tax shall be levied or imposed under the provisions of ORS 221.430 and 221.440 upon any motor vehicle now or hereafter licensed under the laws of this or any other state. Nothing in this section shall empower a city to require licenses of, or impose taxes or fees on companies that are licensed by the state under ORS 736.085 or 736.205 to transact business defined in ORS 736.055

or to require licenses of, or impose taxes or fees on the representatives of such companies who are not residents of such city.

221.440 Tax ordinance; moneys levied not within city tax limitations; licenses exempt from execution. The city governing body may provide by ordinance for the levy and collection of the licenses and taxes authorized in ORS 221.430. Licenses or taxes so levied or collected shall not be considered or taken as within the tax limitations of the city. All licenses and taxes provided for in ORS 221.430 shall be exempt from judgment execution and they shall be expended only for the costs of operating the city.

221.450 Tax on public utilities operating without franchise; validation. The city council or other governing body of every incorporated city may levy and collect from every privately owned public utility operating for a period of 30 days within the city without a franchise from the city and actually using the streets, alleys or highways, or all of them, in such city for other than travel on such streets or highways, a privilege tax for the use of those public streets, alleys or highways, or all of them, in such city in an amount not exceeding five percent of the gross revenues of the utility concurrently earned within the boundary of the city. However, the gross revenues earned in interstate commerce or on the business of the United States Government shall be exempt from the provisions of this section. The privilege tax authorized in this section shall be for each year, or part of each year, such utility operates without a franchise. Nothing contained in this section invalidates or renders ineffective any privilege tax levied prior to March 10, 1934, by any incorporated city under the authority of chapter 234, Oregon Laws 1931, or chapter 466, Oregon Laws 1933. All such taxes levied prior to March 10, 1934, under authority existing at the time of the levy, are hereby ratified.

221.460 Duration of franchises, privileges and permits. All franchises, privileges or permits for the use of the public highways, streets or alleys granted after June 5, 1931, by any municipal corporation shall not be granted for a longer term than 20 years, and shall be subject to the provision of ORS 221.470.

221.470 Removal of structures on expiration of grant or franchise. (1) All property and materials (including poles, posts, towers, wires, conduits, mains, pipes, rails, tracks, ties, railways, pole lines, telegraph, telephone or electric transmission lines, or structures or equipment of any kind) placed in, on, upon, over, under or beneath any public highway, street or alley of this state or municipal corporation, under or by virtue of any grant, privilege or franchise, shall be removed by the owners or owner of the same within one year after the expiration of the grant, privilege or franchise, which permitted the erection or installation of the same, unless further time is granted by the municipal corporation having authority so to do.

(2) Except as otherwise provided in subsection (3) of this section, if all the property and materials referred to in subsection (1) of this section are not removed within one year after the termination or expiration of the grant, privilege or franchise or such further time as may be granted by the state or municipal corporation, all and every part thereof shall be forfeited and escheated to the state or municipal corporation wherein situated.

(3) The state or municipal corporation may notify the owner of the property and materials referred to in subsection (2) of this section that it waives forfeiture and escheat under subsection (2) of this section and may thereafter compel removal of such property and materials from the public highways, streets and alleys and restoration of the public highways, streets and alleys and may maintain court suit to require such removal and restoration by the owner or the payment of the cost thereof by the owner. [Amended by 1957 c.136 §1]

221.480 Appropriation of funds for city publicity. The city council, city commission or other legislative body of any city may appropriate out of the general fund of the city a reasonable sum of money, not exceeding $10,000 annually, as to such legislative body may seem necessary and expedient for the printing and distribution of pamphlets, circulars and literature, or other manner of publicity, as such legislative body may determine, for the purpose of advertising and publicity for such city.

221.490 Tax for city publicity. Any city may levy a special tax for the purpose of raising not in excess of $10,000 for advertising and publicity for such city.

221.500 Petition and special election on tax for publicity. (1) Before any special tax may be levied or appropriation made as provided in ORS 221.480 and 221.490, there shall be filed with the city clerk or other like officer of the municipality a petition favoring the appropriation and special tax and containing the signatures of legal voters of the city equal to 20 percent of the number of legal voters at the last municipal election in the city.

(2) The petition shall be filed not later than 15 days prior to the election at which the proposition of levying such a tax is to be voted upon. The petition shall be submitted by the legislative body of the municipality at a regular election, if one is to be held within 60 days from the date when the petition is filed. If no regular election is to be held within the 60 days, then in the discretion of the legislative body the proposition shall be submitted at a special election to be called for that purpose.

(3) At the election, the clerk shall cause the proposition to be printed on the bill, for the election; it shall thereby be submitted to the voters of the city and shall have "yes" or "no" thereon. If it receives a majority of all votes cast for or against the proposition at the election, it shall be considered carried and the city legislative body shall levy the tax accordingly and appropriate a sum for those purposes. If it fails to receive such majority, it shall be considered defeated.

221.510 to 221.600 [Reserved for expansion]

DISINCORPORATION

221.610 Disincorporation of cities and municipal corporations; effective date. (1) Any incorporated city or municipal corporation not liable for any debt or other obligation, may surrender its charter, disincorporate and cease to exist, provided a majority of the electors thereof authorize the surrender and disincorporation thereof as provided in ORS 221.620 to 221.660. The surrender and disincorporation shall become effective 60 days after the city or municipal corporation has authorized surrender and disincorporation.

(2) ORS 221.610 to 221.660 shall not apply to municipal irrigation districts.

221.620 Petition for disincorporation; submission to vote. (1) The question of disincorporation shall be submitted to the electors of the city or municipal corporation desiring to surrender its charter and disincorporate, as provided in ORS 221.620 to 221.640. The common council or other legislative or governing body of the corporation shall, upon receiving a petition therefor, signed by not less than five percent of the electors of the corporation, as shown by the number of votes cast at the last general election in the corporation, submit to the electors of the corporation the question of whether or not the corporation shall be disincorporated. Whenever it is desired to submit the question to the electors of any municipal corporation which does not have provision for holding of elections therein, as such corporation, the petition for disincorporation and surrender of charter shall be signed by not less than five percent of the electors of the corporation. The question whether the petition is signed by the necessary percentage of such electors shall be determined by the common council, or other legislative or governing body of the municipal corporation, which determination shall be set forth by such body in its records wherein shall be entered the order for the holding of an election as provided in this section. This determination shall be final and conclusive.

(2) In such cases the legislative or other governing body of the municipal corporation may call and provide for an election for the purpose of submitting the question to the electors of the corporation when petitioned for as provided by this section. The legislative or other governing body may in such event appoint judges and clerks for holding such election and make all necessary provision therefor. The question may be submitted at any special or regular city or municipal or general state election, provided the petition therefor is filed not more than 90 days nor less than 15 days before the date on which the election is held. The council or other legislative or governing body may, unless some special or regular election is to be held within the period of time provided for, call a special election to be held in the city or municipal corporation, to be held not later than 90 days nor less than 15 days from the date of the filing of the petition, for the purpose of submitting the question. After one such special election is held, another shall not be called until a period of one year has elapsed.

221.630 Notice of disincorporation election; ballots. The council or other legislative body shall give notice of the question to be voted on by publication in a newspaper of general circulation in the corporation at least 10 days prior to the election, and in addition by posting such notices in three public places in the city or municipal corporation. The notice shall distinctly state the question to be submitted and the electors shall be invited thereby to vote "yes" or "no" upon the question. The question shall be submitted upon a separate ballot to be called "Charter Surrender and Disincorporation Ballot" and to be substantially in the following form:

Charter Surrender and Disincorporation Ballot

Shall the city (or municipal corporation) surrender its charter and be disincorporated? (The elector desiring to vote affirmatively on the above question shall place an "X" mark, in the space before the word "yes." If he desires to vote negatively, he shall place an "X" mark in the place before the word "no.")

_____Yes.

_____No.

The city or municipal corporation shall provide a sufficient number of ballots to be used at the election.

221.640 Count and canvass of returns; number of electors determined. (1) The votes cast shall be counted and returned in the same manner as other votes cast at the election, except that the returns shall be made to the officer having charge and custody of the records of the incorporated city or municipal corporation. As soon as the returns from all precincts or voting places are in, the officer shall call to his assistance the county clerk of the county in which the city or municipal corporation is located and a justice of the peace resident in the county, and the three shall then canvass the returns.

(2) A written statement of the canvass shall be made and signed by the canvassers, or a majority of them, and filed with the officer having charge and custody of the records of the city or municipal corporation. The writing shall contain a statement of the whole number of votes cast on the question, the number of affirmative and negative votes cast on the question, and also a statement of the total number of electors in the city or municipal corporation, the number to be determined as provided in subsection (3) of this section. As soon as the writing is completed, said officer shall file a certified copy thereof with the county clerk in his office.

(3) The number of electors in the city or municipal corporation shall be determined by the total number of votes cast at the election in the city or municipal corporation. If a majority of that number of electors votes affirmatively on the question it shall be deemed carried and the surrender and disorganization authorized.

221.650 Property conveyed to county; cessation of corporate existence; records deposited. Within 30 days after the authorization of the surrender of the charter and disorganization, the city or municipal corporation shall convey, grant, assign and deliver all its property real and personal, and property rights, by proper conveyance, to the county in which the city or municipal corporation is located for the benefit and use of the county. The city or municipal corporation at the end of 60 days from the date of the election authorizing the surrender shall cease to exist in its corporate capacity without any further or other formal action, and all its property rights and interests shall vest in the county, and the records of the city or other municipal corporation shall be deposited in the office of the county clerk by the auditor, clerk or other keeper of records in the city or municipal corporation.

221.660 Application of general election laws. All laws of this state relating to the ballot, to the manner of voting and to the duties of election officers so far as applicable in ORS 221.610 to 221.660 and not in conflict with the provisions of those sections hereby are included and made a part of those sections.

221.670 to 221.700 [Reserved for expansion]

MISCELLANEOUS

221.710 Filing of city charter and amendments; effect; certified copies furnished. (1) All incorporated cities shall file with the Librarian of the Supreme Court Library a duly certified copy of the charter and all amendments thereto of the city. All

charters and amendments thereto adopted through initiative process by the legal voters of any such city and which may be superseded by other charters or amendments thereto may by such authority be also filed in the same manner. When so filed all courts of the state shall take judicial notice thereof and the same may be referred to and pleaded as a public statute of the state. Future amendments shall be filed in like manner and with like effect.

(2) The Librarian of the Supreme Court Library shall furnish, over his signature, a certified copy of any document required by subsection (1) of this section to be filed with him. He shall collect at the rate of 25 cents per folio of 100 words therefor. All fees so collected shall be remitted by said librarian to the State Treasurer at the end of every calendar month, who shall deposit the same in the General Fund.

221.720 Situs of cities; jurisdiction of cities coextensive with boundaries. (1) For the purpose of the administration of all laws relating to incorporated cities, other than ORS 221.070 to 221.090, every city shall be deemed to have its legal situs in the county in which the seat of the city government is situated.

(2) Notwithstanding any other provision of law the jurisdiction and application of government of cities shall be coextensive with the exterior boundaries of such cities, regardless of county lines.

221.730 [Repealed by 1955 c.33 §1]

221.740 [Repealed by 1955 c.33 §1]

221.750 Right of cities to public areas not extinguished by adverse possession or statute of limitations. The right of cities and towns, whether incorporated or not, to land dedicated to or otherwise acquired for the public use for streets, highways, parks or public places, shall not be extinguished by any adverse possession, however long continued. No title to such lands as against any such city or town shall be hereafter acquired in this state through operation of the statute of limitations.

221.760 to 221.840 [Reserved for expansion]

221.845 [1955 c.475 §1; renumbered 190.510]

221.850 [1955 c.475 §5; 1957 c.252 §1; renumbered 190.520]

221.855 [1955 c.475 §6; 1957 c.252 §2; renumbered 190.530]

221.860 [1955 c.475 §9; 1957 c.252 §3; renumbered 190.540]

221.865 [1955 c.475 §2; renumbered 190.550]

221.870 [1955 c.475 §3; renumbered 190.560]

221.875 [1955 c.475 §4; renumbered 190.570]

221.880 [1955 c.475 §7; renumbered 190.580]

221.885 [1955 c.475 §8; renumbered 190.590]

221.890 [1955 c.475 §10; renumbered 190.600]

221.894 [1955 c.561 §1; repealed by 1957 c.241 §1]

221.896 [1955 c.561 §2; repealed by 1957 c.241 §1]

221.898 [1955 c.561 §3; repealed by 1957 c.241 §1]

221.900 [1955 c.561 §4; repealed by 1957 c.241 §1]

THE 1893 INCORPORATION ACT

221.901 Cities organized under 1893 Act; officers; "city" defined for ORS 221.901 to 221.929. (1) The officers of every municipal corporation organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893, shall be a mayor, six aldermen, a recorder, who shall be ex officio clerk of the common council, a marshal, a treasurer and such subordinate officers as are provided in ORS 221.902.

(2) Unless the context indicates otherwise, "city" as used in ORS 221.901 to 221.929 includes any area or territory incorporated under sections 1 to 6, pages 119 to 123, Oregon Laws 1893.

221.902 City officers; elective; appointive; terms. The mayor, aldermen, recorder, treasurer, and marshal of a municipal corporation organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893, shall be elected by the qualified electors of the city at general municipal elections to be held therein as prescribed by law. The mayor, aldermen, recorder, treasurer, and marshal shall hold office for a period of two years from and after the second Tuesday in January next succeeding the day of such election, and until their successors are elected and qualified, unless sooner removed for cause. Aldermen shall be so elected that three shall go out of office at the expiration of each year. The council in its discretion may appoint an attorney, a superintendent of streets, a civil engineer, and such police and other subordinate officers as in its judgment may be deemed necessary, and fix their compensation. These officers shall hold office during the pleasure of the council.

221.903 Bond and oath of officers. The recorder, treasurer and marshal mentioned in ORS 221.902 shall, before entering upon the duties of their respective offices, each execute a bond to the city in such penal sum as the council by ordinance may determine upon, conditioned for the faithful performance of his duties, including in the same bond the duties of all offices of which he is ex officio incumbent under ORS 221.901 to 221.928. The bond shall be approved by the council before the officer enters upon the discharge of his duties. The bonds when approved shall be filed with the recorder, except the bond of the recorder, which shall be filed with the mayor. All the provisions of any law of this state relating to official bonds of officers shall apply to such bonds, except as otherwise provided in ORS 221.901 to 221.928. Every officer of the city, before entering upon the duties of his office, shall take and file with the recorder an oath to honestly and faithfully discharge the duties of his office, and that he will support the laws and constitution of this state and of the United States to the best of his ability.

221.904 Vacancies. Any vacancy occurring in any of the offices provided for in ORS 221.902 shall be filled by appointment by the council. If such office is elective, the appointee shall hold office only until the next regular election, at which time a person shall be elected to serve for the remainder of the unexpired term. In case a council member is absent from the city for three consecutive meetings without permission of the council, his office shall by the council be declared vacant, and then filled as in the case of other vacancies.

221.905 Compensation of city officers. The mayor and aldermen mentioned in ORS 221.902 shall receive no compensation whatever for their services as such officers. The recorder, treasurer, marshal, police and other subordinate officers shall severally receive at stated times compensation to be fixed by ordinance by the council, which compensation shall not be increased nor diminished after their election, or during their several terms of office. Nothing contained in this section shall be construed to prevent the council from fixing several amounts of compensation, in the first instance, during the term of office of any such officer after his election. The compensation of all other officers shall be fixed from time to time by ordinance, duly passed by the council.

221.906 Election rules generally. All elections in a city organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893, shall be held in accordance with the general election laws of this state, so far as the same may be applicable. No person shall be entitled to vote at such election unless he is a qualified elector of the county, and has resided in the city for at least 30 days next preceding such election. The council shall give such notice of each election as may be prescribed by ordinance, shall appoint judges and clerks of election and fix their compensation, and establish election wards and polling places, and may change the same.

221.907 Eligibility for office. No person shall be eligible to or hold any elective or appointive office in a city referred to in ORS 221.906 unless he is a resident and elector therein.

221.908 Council meetings; notice; place of meetings. The council shall meet the second Tuesday in January succeeding each general municipal election and take the oath of office. It shall hold regular meetings at least once in each month at such times as they shall fix by ordinance. Special meetings may be called at any time by the mayor or by three councilmen, by written notice delivered to each member then present within the city at least three hours before the time specified for the proposed meeting, which notice shall specify the object and purpose of such special meeting. No other business shall be transacted at any special meeting than that named in said notice and appurtenant thereto. All meetings of the council shall be public and held within the corporate limits of the city at such place as may be designated by ordinance.

221.909 Council meetings; attendance; rules; records. At any meeting of the council a majority of the councilmen shall constitute a quorum for the transaction of business. A less number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The mayor shall preside at all meetings of the council when present, and in case of his absence the council may appoint a mayor pro tempore. In case of the absence of the recorder, the

mayor or presiding officer pro tempore shall appoint one of the members of the council recorder pro tempore. The person appointed to act as presiding officer during the absence of the mayor shall not be required to take the oath of office, but the records of the council shall show who is appointed to serve pro tempore at any meeting.

221.910 Powers of council regarding qualification of members, elections, procedure for meetings. The council shall judge of the qualifications of its members and all election returns and determine contested elections of all city officers. It may establish rules for the conduct of their proceedings and punish any member or other person for disorderly behavior at any meeting. It shall cause the recorder to keep a correct record of all their proceedings, and at the desire of any member shall cause the ayes and noes to be taken on any question and entered on such record.

221.911 Rules on enactment of ordinances granting franchise or for payment of money. No ordinance or resolution granting any franchise for any purpose shall be passed by the council on the day of its introduction nor within five days thereafter, nor at any other than a regular meeting. No resolution or order for the payment of money shall be passed at any other time than at a regular meeting. No such ordinance, resolution or order shall have any validity, unless passed by the votes of at least three councilmen. In case all the councilmen are present and equally divided upon any question, the mayor shall have the deciding vote.

221.912 Formalities required to render ordinance effective. The enacting clause of all ordinances shall be as follows: "Be it ordained by the common council of the city or town [as the case may be] of———." Every ordinance shall be signed by the mayor, or passed over his veto, and attested by the recorder. A copy of the ordinance shall be published at least once in a newspaper published in such city; or, in lieu of such publication, three copies thereof shall be posted in at least three public places therein before it becomes a law.

221.913 Claims against cities; how presented and paid. (1) All claims and demands against any city referred to in ORS 221.906 shall be presented to and audited by the council in accordance with such regulations as it may by ordinance prescribe. Upon the allowance of any such claim or demand, the recorder shall draw a warrant upon the treasurer for the sum, which warrant shall be countersigned by the mayor, and shall specify for what purpose the same is drawn.

(2) No claim against the city shall be paid until it is audited and allowed by the council and then only by a warrant drawn upon the treasurer by the recorder, countersigned by the mayor.

221.914 Prosecution for violation of ordinance; place of imprisonment; city liable for expenses. (1) The violation of any ordinance of a city referred to in ORS 221.906 shall be deemed a misdemeanor and may be prosecuted by the authorities of such city in the name of the people of such city, or may be redressed by civil action, suit or proceeding, at the option of said authorities.

(2) Any person sentenced to imprisonment for the violation of an ordinance may be imprisoned in the jail of such city; or, if the council by ordinance so prescribes, in the county jail of the county in which such city is situated, in which case the expense of imprisonment shall be a charge in favor of such county and against such city. Before any such person can be imprisoned in the county jail, the consent of the county court shall be first obtained.

221.915 Nuisance defined. Every act or thing done, or anything existing within the limits of any city referred to in ORS 221.906, which is or may be declared by any law of this state or by any ordinance of such city to be a nuisance, hereby is declared to be a nuisance, and shall be considered and treated as such in all actions, suits and proceedings whatsoever, unless such law or ordinance is declared void by a court of competent jurisdiction.

221.916 Powers of council generally. The mayor and aldermen shall compose the common council of any city organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893. At any regular council meeting, it may:

(1) Provide for lighting the streets and furnishing such city and its inhabitants with gas or other lights, and with pure and wholesome water. For such purpose it may construct such water, gas or other

works, within or without the city limits, as may be necessary or convenient therefor. It may allow the use of the city streets and alleys to any person, company or corporation who may desire to establish works for supplying the city and inhabitants thereof with such water or lights upon such reasonable terms and conditions as the council may prescribe.

(2) Permit, allow and regulate the laying down of tracks for streetcars and other railroads upon such streets as the council may designate, and upon such terms and conditions as the council may prescribe; and allow and regulate the erection and maintenance of poles, or poles and wires, for telegraph, telephone, electric light or other purposes, upon or through the streets, alleys or public grounds of such city; permit and regulate the use of alleys, streets and public grounds of the city for the laying down or repairing gas and water mains, for building and repairing sewers, and the erection of gas or other lights.

(3) Preserve the streets, lights, side and crosswalks, bridges, and public grounds from injury, prevent the unlawful use of the same, and regulate their use.

(4) Fix the maximum rate of wharfage, rates for gas or other lights, for carrying passengers on street railways, and water rates. No city shall ever deprive itself of the right through its common council of regulating and adjusting any such rates, so that the same shall be reasonable for the service rendered, at least once in any period of two years.

(5) License, tax, regulate, restrain and prohibit barrooms and tippling houses, and all places where spirituous, vinous or malt liquors are sold, or in any manner disposed of contrary to law. No license shall be issued for a less sum than that provided by law.

(6) Prevent and suppress gaming and gambling houses, and all games of chance, including lotteries and poolselling; prevent and suppress bawdyhouses, and lewd, lascivious cohabitation, opium-smoking houses, and places occupied or kept therefor. Nothing contained in ORS 221.901 to 221.930 shall be so construed as to oust the state courts of jurisdiction to indict or punish persons for offenses against any law of the state committed within the limits of any such city.

(7) License, regulate and control any lawful business, trade, occupation, profession or calling, carried on or conducted within the corporate limits of any such city.

(8) Suppress and prohibit anything which is injurious to the public morals, public safety or the public health of the inhabitants of any such city, including the power to define, suppress and prohibit nuisances of every kind, including those arising out of the receipt, sale or disposal of intoxicating liquor in violation of law.

(9) Regulate, suppress and prohibit the running at large within the corporate limits of any and all domestic animals, including fowls, and provide for the impoundment and sale, after notice, of such animals.

(10) Exercise any and all police regulations concerning the public morals, public safety, public health and public convenience of the inhabitants of any such city.

(11) Provide for the surveying of blocks and streets of the city and for marking the boundary lines of such blocks and streets, and the establishing of grades of the streets, sidewalks and crosswalks.

(12) Prevent and punish trespass on real and personal property within the corporate limits of such city.

(13) Make bylaws and ordinances not inconsistent with the laws of the United States or of this state to carry into effect the provisions of ORS 221.901 to 221.930.

(14) Provide, in addition to such action as may be appropriate to carry into full effect the object to be achieved, for the punishment of persons violating any bylaws or ordinances by fine or imprisonment, or both, and the working of such persons on the city streets or at any other work. No fine shall exceed the sum of $50, nor shall any imprisonment exceed 20 days.

221.917 Functions and duties of mayor. The mayor is the executive officer of any city referred to in ORS 221.902 and must exercise a careful supervision over its general affairs and subordinate officers. He shall at least once each year state to the council by message the condition, financial and otherwise, of the city, and recommend such measures for the peace, health, improvement and prosperity of the city as he may deem expedient. He shall perform such other duties as may be required of him by ORS 221.901 to 221.929 or by city ordinances.

221.918 Jurisdiction and duties of recorder; jury trial; witnesses; contempt powers; records. The recorder referred to in ORS

221.901 shall have jurisdiction over violations of city ordinances, and may hold to bail, fine, or commit persons found guilty thereof, and within the city shall have jurisdiction and powers like a justice of the peace. The law governing justices of the peace shall apply as far as applicable to all his proceedings. He shall try, without a jury, all persons accused of violating the ordinances; unless the defendant on demanding a jury deposits in the court a sum sufficient to pay the per diem of such jury for one day. Witnesses in his court in such trials shall be entitled to no compensation for their attendance unless the council by ordinance otherwise provides. As recorder, he may punish witnesses and others for contempt, by a fine not to exceed $10, or in default of payment of such fine by imprisonment in the city jail one day for every $2 of such fine. He shall keep a journal of the proceedings of the council, and be ex officio assessor, and perform such other duties as required by ORS 221.901 to 221.929 or city ordinances.

221.919 Powers and duties of marshal; removal from office. The marshal shall be chief of police and shall have control over all policemen when on duty. He shall be a conservator of the peace, and shall arrest all persons guilty of a breach thereof, or of violations of the city ordinances, and take them before the recorder for trial. He shall make and enforce the collection of all delinquent city taxes, as the collection of delinquent county taxes is enforced, and shall perform such other duties as may be required of him by the common council. He may suspend any policeman for negligence or violation of duty until the case may be examined and determined by the council. On complaint being made, charging him with malfeasance or nonfeasance in office, the aldermen, by a unanimous vote without the concurrence of the mayor, or by a majority vote with the concurrence of the mayor, may remove the marshal from office at any regular meeting, after giving him an opportunity to be heard in his defense, provided they find the charge is true.

221.920 Duties of treasurer. The treasurer, as tax collector, shall collect and receipt for all taxes levied by the council and not returned as delinquent, and shall receive and faithfully keep the funds and moneys of any city referred to in ORS 221.906 and pay out the same as directed by ORS 221.901 to 221.929, or by city ordinances. When required by ordinance, he shall make and submit to the council a statement of the financial affairs of the city.

221.921 Interest of officers in city contracts. No mayor, council member or any other officer of any city referred to in ORS 221.906, during the period for which he is elected, shall be interested in any contract the expenses of which are to be paid out of the city treasury.

221.922 Voting privilege subject to certain conditions. No person shall be allowed to vote at any municipal election who has not resided therein for 30 days next preceding the election, or who has refused, or neglected after proper demand, to pay any city fine, or tax legally imposed or assessed against him. The council may prescribe such oath as it may deem proper to ascertain such fact.

221.923 Working out fines for violation of ordinance. When any person is convicted of an offense under any of the ordinances of any city referred to in ORS 221.906 and fails to pay an adjudged fine and costs, he may be sentenced to labor one day for every $5 on such fine upon the streets or other public works of the city under such officer as the common council may prescribe.
[Amended by 1961 c.290 §1]

221.924 Authority to make public improvements; liability of city for injury from defects. (1) The council may, whenever it deems it expedient, improve the public grounds within any city referred to in ORS 221.906, and establish and open additional streets and alleys therein. The power and authority to improve streets includes the power and authority to construct, improve, pave, repair, and keep in repair, sidewalks and pavements, and to determine and provide everything convenient and necessary concerning such improvements and repairs.

(2) Any such city shall not in any event be liable for any damages to any person for injury caused by any defect, or dangerous place, at or in any sidewalk, crosswalk, street, alley, bridge, public ground, public building, or ditch, unless such city has had actual notice of such defect or dangerous place, and a reasonable time thereafter in which to repair or remove such defect or dangerous place before the happening of such accident or injury. In no case shall more than $100 be recovered as damages

from any such city for such accident or injury.

221.925 Tax deeds; tax warrants. In making a deed for any real property sold for delinquent taxes, it is not necessary to recite or set forth the proceedings prior to the sale, but it is sufficient, if it substantially appears from such deed that the property was sold by virtue of a warrant from any city referred to in ORS 221.906, and the date thereof for delinquent taxes, and the amount thereof, together with the date of the sale and the amount paid thereat by the purchaser. The style of the warrant for the collection of delinquent taxes shall be: "In the name of the city (or town) of ————." The warrant must require the marshal to forthwith levy upon sufficient property of the person or persons owing such taxes and sell the same in the manner provided by law, and return the proceeds of such sale to the city treasurer and the warrant to the recorder, with his doings indorsed thereon, together with the receipts of the city treasurer for the proceeds of such sale as paid to him. The warrant shall have the force and effect of an execution against real and personal property, and shall be executed in a like manner, except as otherwise provided by law or this section. Real property when sold for delinquent taxes may be redeemed in like manner as real property is redeemed after sale thereof for county or state taxes, and not otherwise. The deed of the purchaser must express the true consideration thereof, which is the amount paid by the purchaser, and the return of the marshal executing the warrant must specify the amount for which each lot or part thereof is sold, and the name of the purchaser.

221.926 Authority to enact ordinances. Every city organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893, may pass any and all necessary ordinances for the purpose of carrying into force and effect any provisions of ORS 221.901 to 221.929 or of any other laws concerning city government.

221.927 Approval or veto of ordinances; proceedings after veto. Upon the passage of any ordinance, the enrolled copy thereof, attested by the recorder, shall be submitted to the mayor by the recorder, and if the mayor approves the same he shall write upon it "Approved," with the date thereof and sign it with his name of office. Thereupon, unless otherwise provided, such ordinance shall become a law and be of force and effect. If the mayor does not approve of the ordinance so submitted, he must, within 10 days from the receipt thereof, return the same to the recorder with his reasons for not approving it, and if he does not so return it, such ordinance shall become a law as if he had approved it. Upon the first meeting of the council after the return of an ordinance from the mayor not approved, the recorder shall deliver it to the council, with the message of the mayor, which must be read. The ordinance shall then be put upon its passage again, and if two-thirds of all the members constituting the council, as then provided by law, vote in the affirmative, it shall become a law without the approval of the mayor, and not otherwise.

221.928 Record of ordinances; compilation accepted as evidence. The ordinances passed by any common council or any municipal corporation within this state, organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893, shall be recorded in a book to be kept for that purpose by the recorder of any such city. When so recorded, the record so made shall be received in any court of this state as prima facie evidence of the due passage of such ordinance as recorded. When the ordinances of any such city are printed by authority of such municipal corporation, the printed copies thereof shall be received as prima facie evidence that such ordinances as printed and published were duly passed.

221.929 [Repealed by 1953 c.57 §2]

221.930 Validation of incorporations under 1893 Act. All cities which attempted to incorporate under Oregon Laws 1893, pages 119 to 123, prior to June 3, 1913, and which are now exercising the functions of incorporated cities, hereby are legalized and declared to be incorporated in fact, with all the powers and authorities given to them by law.

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 December 1, 1961.

Sam R. Haley
Legislative Counsel