X..010 Purpose.

The Independent Utility Commission is hereby established to promote the accountability, sustainability, efficiency, effectiveness and affordability of the City's water and sewer utilities. The Commission shall seek to ensure that utility budgets are adopted, utility rates are set, and utility resources are expended for utility services consistent with sound utility practice.

X.020 Powers and Responsibilities and Oversight of Utility Expenditures

The Commission shall:

- 1. Monitor and review City water and sewer utility finances, budgets, expenditures, and operations and make recommendations to the Council regarding such matters.
- 2. Review and conduct public hearings on annual budgets and rates, requested or proposed to the Commission by City utility bureaus.
- 3. Propose to the City Council annual budgets and rates and charges for utility services. The Commission's proposals shall be presented by the Auditor to the Council as the proposed budgets and rates for the City water and sewer utilities.
- 4. Review and make recommendations to the City Council regarding requests for supplemental budgets, increases in rates or charges, the introduction of new rates, and requests to sell bonds or incur other financial obligations relating to utility services.
- 5. Review utility expenditures to ensure that utility resources are expended for purposes consistent with sound utility practice and authorized or required by Charter, Code, ordinance, regulation, permit, Council-adopted plan or other legal obligation of the utility.
- 6. Submit an annual report to Council of its activities, including findings and recommendations regarding the utility financing, management and performance.
- 7. Monitor and review utility expenditures as necessary and appropriate to determine if they reflect the principles established in this Title.
- a. Remedy for Financial Transactions before the Fact. If the Commission determines that a proposed expenditure, transfer or use of utility resources not specifically authorized by the budget does not conform to those principles, it may recommend to the utility and the Council that the expenditure, transfer or use not be made.
- b. Remedy for Financial Transactions after the Fact. If the Commission determines that an expenditure, transfer or use of utility resources not specifically authorized by the budget did not conform to those principles, the Commission may recommend to the utility and to the Council corrective remedial action. The Commission may direct that for one year after discovery of such expenditure, transfer or use of resources, the utility submit to the Commission for prior approval any proposed expenditure, transfer or use of resources of a value or type set by the Commission, except for expenditures specifically authorized by the adopted budget.

X.030 **Decision-Making**

- 1. Members of the Commission shall act impartially.
- 2. The Commission shall make decisions based on the following principles of utility financing and ratemaking:
 - i. Budgets should be sufficient to conduct all necessary and appropriate operations consistent with sound utility practices, including but not limited to operations adequate to ensure compliance with legal and regulatory requirements, including bond covenants, contracts, operational permits, and other requirements of federal and state law, City Charter, City Code and general ordinance.
 - ii. Utility rates should be fair and equitable, set to generate sufficient revenue to fund proposed budgets, and calculated using generally-accepted rate-making practices.
 - iii. Utility budgets and financial plans should promote efficiency and effectiveness, advance long-term City sustainability and watershed management goals, and be the product of an asset-management approach to utility operations, maintenance and investments.
 - iv. Utility expenditures should be limited to utility services, programs, operations, maintenance and capital improvements consistent with sound utility practices and compliance with the legal and regulatory requirements of the utilities.
 - v. Utility budgets and rates should, as legally permissible and fiscally advisable, provide reductions or discounts for low income residential ratepayers.
 - vi. Utility budgets and rates are prepared, reviewed, heard and adopted in a timely manner to ensure the uninterrupted delivery of utility services from one fiscal year to the next.

X.040 Rates, Budgets and Recommendations

The Commission's rates, budget and recommendations shall be presented to the City Council by the Auditor. The rates and budgets of the Commission shall be the adopted rates and budgets, unless Council by a vote of at least three members rejects or amends those budgets and rates. Council shall vote on whether to accept, reject or amend the recommendations. Nothing contained in this Title alters the legal obligation of the Council to adopt the City's budget or to set rates and charges for City utility services.

X.050 Membership.

- 1. The Commission shall have five members recommended by the Auditor for appointment by the Council.
- 2. In the event the Council fails to appoint a person nominated, the Auditor shall initiate the process again within 30 days after the Council action.
- 3. At least three Commission members shall possess professional training and expertise in the fields of municipal finance and accounting, utility finance and ratemaking, utility economics, debt management, performance and financial auditing, or other financial management discipline.
- 4. Three of the members shall serve an initial term of two years; two of the members shall serve an initial term of three years. Thereafter, each Commission member shall serve a three year term. Commission members may be reappointed for up to two additional three year terms.
- 5. Each member of the Commission shall be a resident of the City at the time of appointment.
- 6. Members may not be current employees of the City of Portland.
- 7. Members shall serve without compensation.
- 8. The Auditor may remove a member for cause.
- 9. Members shall elect a Chairperson on an annual basis. The Chairperson shall preside at Commission meetings and hearings.

X.060 Meetings, Organization and Operations

- 1. The Commission shall conduct public meetings at times to be set by the Commission.
- 2. At least three members of the Commission must be present in order to constitute a quorum, and to take an affirmative action.
- 3. The Commission may establish committees, adopt procedures and by-laws and organize its work as it deems appropriate.
- 4. The Commission shall coordinate its utility budgeting and ratemaking procedures and schedules with procedures and schedules established by the Chief Administrative Officer of the City.
- 5. The City shall appropriate to the Auditor sufficient resources for the work of the Commission, including resources for utility and financial expertise, support services, and associated overhead and indirect costs of the Auditor's office. The total annual budget for the work of the Commission shall not exceed 1/10 of 1% of total budget expenditures of the utility operating funds in the same fiscal year.

- 6. The Commission and associated staff shall be organizationally located within the Auditor's Office to help ensure independence and objectivity in their work. The Auditor shall be responsible for conveying the work of the Commission to City Council as provided in this ordinance. However, neither the location of the Commission nor the conveyance of work products shall be construed as endorsement by the Auditor of the Commission's recommendations.
- 7. The direct and indirect expenditures of the Commission shall be paid by the City water and sewer utility bureaus, in shares based on the total budget expenditures of the associated utility operating funds. The financial transactions shall be achieved by annual interagency agreements between the Auditor and the City water and sewer utility bureaus.
- 8. The Auditor shall manage and account for the expenditures associated with the Commission, manage dedicated professional staff, and procure and manage associated professional services provided to the Commission.
- 9. The Commission shall have access to all utility records and employees and shall receive full cooperation from utility staff in the conduct of its responsibilities.
- 10. The Portland Utility Review Board, which is created under 3.123.010, shall advise the Commission in addition to advising the City Council.
- 11. Within three years from the date that initial Commission members are appointed, the Auditor, in consultation with Council and the Commission, shall issue a report on the structure and effectiveness of the Commission. Recommendations made in the report will inform future decisions regarding the Commission.