

KATE SNYDER (MAYOR)
PIOUS ALI (A/L)
APRIL FOURNIER (A/L)
ROBERTO RODRÍGUEZ (A/L)



ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
REGINA L. PHILLIPS (3)
ANDREW ZARRO (4)
MARK N. DION (5)

CITY COUNCIL WORKSHOP

Chapter 9

May 22, 2023 at 5:00 PM in Council Chambers

REMOTE PARTICIPATION:

The City Council will conduct this meeting from Council Chambers, located on the second floor of City Hall. The public may attend the meeting in person, however space in Council Chambers is limited. The public is therefore strongly encouraged to participate remotely via Zoom pursuant to the Remote Meeting Policy adopted by the Portland City Council. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/89964326296?pwd=YlZnZkVUY2Yya1lHWDg0cEhyV2FGUT09>

Passcode: 045760

Or One tap mobile :

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Webinar ID: 899 6432 6296

Passcode: 045760

AGENDA ITEMS:

Presentation (Michael Goldman, Acting Corporation Counsel)

Public Comment

Public comment will be accepted in writing and in person. To submit public comment in writing, email publiccomment@portlandmaine.gov before Monday, May 22, 2023 at 10:00 AM.

Council Q&A

ADJOURNMENT:

Office of Corporation Counsel

Michael Goldman, *Acting Corporation Counsel*

Amy McNally, *Associate Corporation Counsel*

Nicole Albert, *Associate Corporation Counsel*

Rachel Millette, *Associate Corporation Counsel*



MEMORANDUM

To: Mayor Snyder and Members of the City Council

From: Michael Goldman, Acting Corporation Counsel

Date: May 19, 2023

Subject: Possible Changes to Initiation and Referendum provisions
in Chapter 9 of the Portland City Code

At a Workshop scheduled for May 22, 2023, the City Council plans to continue its consideration of potential changes to the Initiation and Referendum provisions in Chapter 9 of the Portland City Code. It is my understanding that over the past several years, members of the City Council and the public have expressed concerns about several aspects of Chapter 9, such as signature requirements, the five-year prohibition on amendments to initiatives approved by the voters, circulator requirements, and the fiscal impact of certain initiatives. For purposes of Monday's discussion, I have summarized below some potential changes to Chapter 9. For ease of reference, I have also attached a revised copy of Chapter 9, which shows potential revisions for your consideration. In addition to some minor, non-substantive edits, the revised draft includes the potential changes summarized below:

General

- Proposed changes to Section 9-36(a) include limiting the use of the citizen initiative and people's veto process to the regular election in November and to increase the petition signature requirement from 1,500 registered voters to 10% of the number of votes cast in the last gubernatorial election.

Application Procedure and Review Prior To Obtaining Signatures

- Proposed changes to petition procedure provisions in 9-36(c) and (d) clarify and update the process for submitting an application for an initiative or people's veto and provide for a review and revision process that is derived from title 21-A of the Maine Revised Statutes governing state ballot questions. Proposed changes would authorize the clerk, in consultation with corporation counsel, to review all initiatives to ensure the proposed ordinance, summary, and title comply with Chapter 9 before a petitioners' committee may circulate petitions for voters' signatures.

Circulation of Petitions

- Proposed changes to 9-36(e) and 9-37(d) clarify that circulators must be registered Maine voters; that applicants must provide circulators with copies of legal requirements for circulation; and that circulators must certify, among other things, that they provided every voter who signed the petition the opportunity to read the proposed initiative or people's veto, and the summary, title, and fiscal impact statement prior to that voter signing the petition.

Fiscal Impact Statement

- Chapter 9 currently does not require that a fiscal impact statement be prepared with respect to an ordinance proposed through the citizen initiative process. Proposed changes to 9-37(c) require that initiative petition forms and ballots include a fiscal impact statement. The changes also include a requirement that would delay until the next fiscal year an ordinance that has a fiscal impact of more than \$50,000.

Publication Costs

- Chapter 9 currently requires that the entire text of a citizens' initiative be published twice in the newspaper before being placed on the ballot--once before the public hearing and a second time before the election, which can be costly. Proposed changes to section 9-40 eliminate the need for a second publication, while retaining the requirement that full text be posted at the clerk's office and all polling places.

City Council's Ability to Amend an Ordinance Enacted Through the Initiative Process

- Section 9-46 prohibits the Council from amending an ordinance approved at an election through the initiative process for five years after the effective date of the ordinance. In order to allow the Council greater flexibility in its legislative role, the proposed changes in section 9-46 allow the Council to change an ordinance approved through the initiative process any time after 1 year after the effective date of the ordinance with the vote of 6 members of the Council.

Chapter 9 -ELECTIONS*

* * *

ARTICLE III. INITIATION AND REFERENDUM [AS APPROVED BY PORTLAND VOTERS ON MAY 7, 1991]

Sec. 9-36. How invoked.

(a) *In general.* The submission to the vote of the people of any proposed ordinance dealing with legislative matters on municipal affairs or of any such ordinance enacted by the city council and which has not yet gone into effect, may be accomplished during the city's regular municipal election in November of any given year by the presentation of a petition therefor to the city council in the manner hereinafter provided and signed by at least one thousand five hundred (1,500) voters the number of registered voters equal to at least 10% of the number of votes cast in the City of Portland at the last gubernatorial election. The submission of a proposed ordinance, or the amendment or repeal, in whole or in part, of an ordinance already in effect shall be hereinafter referred to as the direct initiation of legislation or "initiative." The submission of a petition to override any ordinance that has been passed by the city council but ~~which-that~~ has not yet gone into effect shall be hereinafter referred to as the "people's veto."

(b) *Applicability.* Neither this article, nor ordinances dealing with appropriations, tax levy, or with wages or hours of city employees shall be subject to the "initiative" and "people's veto" referendum provisions herein established.

(c) *Petition procedure.* To initiate proceedings for an "initiative" or "people's veto," a registered voter of the city shall submit a written application to the city clerk on a form provided by the city clerk. The application must contain the names, residence addresses, e-mail addresses, telephone numbers and signatures of the applicant and nine other registered voters of the city, who will constitute the petitioners' committee. The application must also contain, in electronic and printed formats, either (1) the full text of the "initiative" and a title and summary that explains the purpose and intent of the "initiative," or (2) the full text of the ordinance proposed to be overridden by

a "people's veto." The voter submitting the application (the "applicant") shall sign the application in the presence of the city clerk or a notary public. The clerk will send any notices required under this Article only by email to the e-mail addresses of the petitioners' committee included on the application.

~~Any ten (10) registered voters of the city may file with the city clerk an affidavit stating:~~

- ~~(1) That the ten (10) registered voters will constitute the petitioners' committee;~~
- ~~(2) The names and addresses of the ten (10) registered voters;~~
- ~~(3) The address to which all notices to the committee are to be sent; and~~
- ~~(4) That the ten (10) registered voters will circulate the petition and file it in proper form.~~

(d) Application Review. Upon receipt of said application, the City Clerk will review the application with the Corporation Counsel. Within fifteen (15) days after receipt of the filing of said application, affidavit by ten (10) such voters, the city clerk will notify the applicant that the clerk has either accepted or rejected the application. The city clerk may reject the application if, after review by the Corporation Counsel, the city clerk determines that the application:

- (1) Does not comply with the provisions of this ordinance;
- (2) Does not conform to the form prescribed by the city clerk;
- (3) Does not conform to the essential aspects of the drafting conventions for the Portland City Code, including but not limited to:
 - a. Correct integration with existing ordinances;
 - b. Ordinance titles and section headnotes that objectively reflect the content of the ordinance or sections to which they apply;
 - c. Conformity to the Portland City Code numbering system; and
 - d. Inclusion of a summary and title that clearly and objectively describe the content of the proposal

- and are written in words with common and everyday meaning; and
- e. Inclusion of a summary and title that do not contain language designed to promote or oppose the proposed initiative or people's veto.

If the city clerk determines that an application should be rejected, the city clerk's rejection notice will explain the basis for the rejection, which may include, without limitation, a proposed revised draft of the title, summary, or text of a proposed ordinance. Upon receipt of the rejection notice, the applicant may either withdraw the application or submit a subsequent draft of the application to the city clerk for review following the application process set forth in section 9-36(d). The city clerk shall review such subsequent draft from the applicant in accordance with the application review process set forth in this section 9-36(d). The applicant must give written consent to the final language of the title, summary, and full text of any initiative or people's veto to the city clerk before the petition form is prepared by the city clerk in accordance with section 9-37.

~~shall have seven (7) calendar days to prepare the proper petition forms pursuant to section 9-37 below with a copy of the submitted ordinance either printed on the petition or attached thereto and shall provide such petition to members of the petitioners' committee and to any other registered city voter who wishes to circulate it.~~

(e) Circulation.

(1) Within 7 days after the later of either the date that the city clerk approves an application or the date that an applicant provides written consent to the final language of an initiative or people's veto as described in subsection (d), the city clerk shall prepare the petition forms in accordance with section 9-37 and make them available at the clerk's office to the applicant and members of the petitioners' committee.

(2) The applicant for an initiative or a people's veto shall provide to each person who will be circulating petitions a summary of the provisions of this ordinance and applicable laws that govern the circulation of petitions. The city clerk shall provide the applicant such summary when an approved petition form is provided to the applicant.

(3) The petition may be circulated for signature by registered voters of the ~~city~~ state of Maine for eighty (80)

calendar days from the original date of clerk's issuance of the petition, which date shall be noted by the clerk on each blank petition form; provided, however, that any petition for the "people's veto" of an ordinance not in effect must be filed with the city clerk prior to the effective date of said ordinance or within thirty (30) calendar days after passage by the city council, whichever is less. Any "people's veto" petition not so filed is void. All provisions as to the filing and the form of petitions in this article, other than the aforementioned time frame, shall apply to both initiative and "people's veto" petitions.

(4) A person circulating a petition must provide any voter signing a petition the opportunity to read the approved proposed initiative or people's veto, and the summary, title, and fiscal impact statement prior to that voter signing the petition. The summary presented to the voter must be the final summary drafted by the city clerk that appears on the petition form.

~~(f)~~ *Filing of petition.* The petition forms must be returned to the city clerk for filing ~~by no later than the~~ close of business ~~within on the day that is~~ eighty (80) calendar days ~~after from~~ the date of issuance thereof. If the eightieth day is a Saturday, Sunday or holiday, said petition shall be filed by the close of business of the next immediate business day. All petition forms not so submitted are void. The petition forms shall be assembled as one (1) instrument, with each page numbered, attached to a written statement from the petitioners' committee stating the number of petition forms being filed. The clerk shall certify the date of filing and the number of forms returned.

~~(g)~~ *Verification of petition.*

(1) Within fifteen (15) ~~calendar~~ business days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by ~~e-mail certified mail, return receipt requested, or by hand-delivery,~~ and shall file a copy with the city council.

(2) A petition certified insufficient may be amended once, if the petitioners' committee files a written notice of intention to amend it with the clerk within eight (8)

calendar days after ~~the date of the Clerk's email mailing by certified mail, return receipt requested, or hand-delivery of the copy of the clerk's certificate.~~ Within ten (10) calendar days after this notice of intention is filed, the petitioners' committee may file a supplementary petition to correct technical deficiencies in the original which shall, in form and content, comply with the requirements for an original petition but which shall not contain additional signatures of voters.

- (3) Within five (5) ~~business~~calendar days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.
- (4) Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots.
- (5) The clerk's decision as to the sufficiency of the petitions shall be a final determination, reviewable as provided by law.

(~~h~~f) *Hearing.* At its first regular meeting after receipt of a report that a petition is sufficient and has ~~the valid signatures of registered voters equal to at least 10% of the number of votes cast in the City of Portland at the last gubernatorial election at least one thousand five hundred (1,500) valid signatures of the registered voters of the city,~~ the city council shall set a date for public hearing, which hearing shall be held within thirty (30) calendar days thereafter. Notice of the hearing shall be published in a newspaper having general circulation in the city at least ten (10) calendar days prior to the hearing and shall contain the text of the petition. As provided by section 9-39, the city council shall take the necessary steps to submit to the voters of the city the ordinance proposed in the petition; provided that, in the case of the "people's veto" referendum, the entire repeal by the city council of the ordinance sought to be referred and, in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under the petition. (Code 1968, § 102.1; Ord. No. 349-75, 6-16-75; Ord. No. 262-91, 3-4-91)

Sec. 9-37. Form of petition.

(a) *Form.* The petition used to originate the initiative or the "people's veto" referendum shall be substantially in the following form on paper of uniform size with as many individual

sheets as reasonably necessary:

PETITION TO THE CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy of which is printed hereon or attached hereto, be adopted/repealed? (as applicable)

We, the undersigned, under oath, depose and say: That we are duly qualified voters of the City of Portland residing respectively at the addresses placed opposite our names, and we hereby petition the city council to submit the foregoing question to the voters of the City of Portland.

Signature	Printed Name	Residence (Street Address)	Date

City Clerk

Date of Issuance of Petition

(To be filled in by city clerk as original date of issuance of petition for signatures.)

Each signature must be in ink or other indelible instrument and must be followed by the printed name and the residence of the voter with street and number and the date of signing.

(b) Ordinance, title, and summary. The city clerk shall include on the petition forms the ordinance, title, and summary of the initiative or people's veto approved in accordance with section 9-36(d).~~At the time of submitting the proposed ordinance, the~~

~~petitioners must submit a summary to accompany the proposed ordinance on the petition. Said summary shall be clearly and objectively describe the content of the proposal and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposal.~~ In the event sufficient signatures are obtained to submit the ordinance to the voters, the summary and title included on the petition shall accompany the ~~the title and~~ text of the ordinance on the ballot, except as otherwise provided in section 9-41(b) below.

(c) Fiscal impact statement. The city clerk shall request from the city finance director a fiscal impact statement describing the fiscal impact of the proposed ordinance on the city budget. Said fiscal impact statement shall be printed on the petition form and the ballot. If the finance director determines that an initiative will result in a fiscal impact of more than fifty thousand dollars (\$50,000.00), the ordinance, if approved by the voters, will not become effective until the later of the first July 1 after the election or the effective date, if any, stated in the proposed ordinance.

(ed) Circulator verification. Each petition form shall have printed on its back an affidavit, which shall be executed by the circulator and verified by oath or affirmation before a notary public or other person authorized by law to administer oaths or affirmations, stating:

- (1) that the circulator is a registered Maine voter and personally circulated the form;
- (2) the number of signatures on that petition form and that the circulator personally witnessed all of the signatures to the petition~~all the signatures were signed in the circulator's presence~~; and
- (4) (3)—that the circulator believes each signature~~them~~ to be genuine signatures of the persons whose names they purport to be or that the signature of a voter who is unable to sign was made by an authorized signer in accordance with 21 MRS § 153-A.
- (5) that the circulator provided every voter who signed the petition the opportunity to read the proposed initiative or people's veto, and the summary, title, and fiscal impact statement prior to that voter signing the petition.

Signatures on the petition shall be verified pursuant to the same standards applicable to state initiative and "people's veto" referendum petitions pursuant to 21-A M.R.S.A. §§901 et seq., except that each person who signs a petition~~er~~ must be a registered voter of the city at the time of signing the petition.
(Code 1968, § 102.2; Ord. No. 262-91, 3-4-91)

Sec. 9-38. Effect of petition.

Whenever there has been filed with the clerk a petition, which is facially valid with valid signatures of registered voters equal to at least 10% of the number of votes cast in the City of Portland at the last gubernatorial election~~at least one thousand five hundred (1,500) signatures~~, for the reference to the people of any ordinance passed by the city council, which ordinance has not yet gone into effect, i.e. the "people's veto" petition, said ordinance shall be suspended from going into operation until it has either been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on the question or the petition, after opportunity for amendment and inspection, has been found to be insufficient; whichever occurs first. In the event the required number of signatures are not obtained prior to the date when said ordinance goes into effect, said petition shall be null and void. ~~Once an enacted ordinance has gone into effect, it shall be amended or repealed only through the initiative process.~~

(Code 1968, § 102.3; Ord. No. 262-91, 3-4-91)

Sec. 9-39. Time of election.

At the first regular council meeting held after the said public hearing described in section 9-36(h), the city council shall set a time for the holding of a special election at which the ordinance shall be submitted to the voters of the city, which special election shall be held not less than sixty (60) nor more than one hundred fifty (150) calendar days after such council meeting; provided that, if the next regularly scheduled election falls within no less than sixty (60) and no more than one hundred eighty (180) calendar days of said council meeting, no special election shall be called, but the question shall be submitted at the regular election.

(Code 1968, § 102.4; Ord. No. 262-91, 3-4-91)

Sec. 9-40. Publication-Posting of ordinance.

~~(a) *Publication.* Whenever any ordinance is required by the provisions of this article to be submitted to the voters of the city at any election, the city council must order one (1) publication of the complete title, text and summary thereof to be made in one or more newspapers of the city, such publication to be made not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the election.~~

~~— (b) *Posting.* In addition to the foregoing, the city clerk to post a copy of the complete title, text, ~~and summary, and fiscal impact statement~~ of the ordinance to be submitted ~~shall be posted~~ in the city clerk's office at least fourteen (14) calendar days prior to the date of the election. In addition to the foregoing, a copy of the complete title, text, ~~and summary, and fiscal impact statement~~ of the ordinance submitted to the voters shall be posted at each polling place on election day.~~

(Code 1968, § 102.5; Ord. No. 262-91, 3-4-91)

Sec. 9-41. Form of ballot.

(a) *In general.* The ballot shall contain the full title, ~~text, summary and text, and fiscal impact statement~~ of the proposed ordinance ~~and the summary~~ included on the petition, except as provided below.

(b) *Title, ~~and summary, and fiscal impact statement~~ only.* At any point in the process after a petition has been certified as sufficient but no less than sixty (60) calendar days prior to the election, the city clerk shall report to the city council if the city clerk ~~he or she~~ determines that it is not reasonably possible to reproduce the full text ~~and summary~~ of the proposed ordinance on the ballot. ~~The city council shall vote on whether to follow the city clerk's recommendation to exclude the full text from the ballot. In such case, If the city council determines that it is not reasonably possible to reproduce the full text on the ballot, the ballot shall contain the title, summary, and fiscal impact statement provided with the petition forms. shall accompany the title on the ballot in place of the full text.~~

(c) *Wording of questions.* Ballots for a vote on an initiative or "people's veto" referendum question shall set out the question to be voted upon in the following form:

- (1) With respect to an initiative question, the question shall be presented to the voters substantially as follows:

"Do you favor the change in the city ordinance(s)

proposed by citizen petition as provided below?"

- (2) With respect to a "people's veto" question, the question shall be presented to the voters substantially as follows:
"Do you favor repealing the city ordinance(s) enacted by the city council on (insert date)?"
- (3) In the event that the city council adopts a competing measure to an initiated ordinance, the questions shall be presented to the voters substantially as follows: "Do you favor one of the two (2) city ordinances set forth below: 'A' as proposed by citizen petition; 'B' as enacted by the city council; or should both be rejected as provided in 'C'?"

(Code 1968, § 102.6; Ord. No. 262-91, 3-4-91)

Sec. 9-42. Result of election

If a majority of the qualified voters voting on a proposed initiative ordinance or a referred ordinance shall vote in favor thereof, such ordinance shall take effect thirty (30) calendar days after the declaration of the official canvass of the return of such election. Notwithstanding the foregoing, said effective date shall not be deemed to prohibit a retroactive or prospective application effective date of an initiated ordinance, to the extent permitted by law, if a said retroactive or prospective application date is specifically provided for in the petition and ~~for~~ the question approved by the voters. Any such date in the petition shall be included in the question on the ballot. ~~Such~~ Any retroactive date shall not be earlier than the date of filing of the application affidavit originating the petition ~~which that~~ is finally submitted to the voters, if any.

(Code 1968, § 102.7; Ord. No. 262-91, 3-4-91)

Sec. 9-43. Conflicting ordinances.

Any number of proposed or referred ordinances may be voted upon at the same election. If two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall be paramount, and all questions of construction shall be determined accordingly.

(Code 1968, § 102.8; Ord. No. 262-91, 3-4-91)

Sec. 9-44. Order upon ballot.

If two (2) or more ordinances are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the city council on its own initiative.

(Code 1968, § 102.9; Ord. No. 262-91, 3-4-91)

Sec. 9-45. City council may initiate ordinance.

The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in section 9-36(b) above) to be voted upon at any regular or special municipal election, and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed or amended accordingly.

In the event the council submits a proposition to the voters hereunder, it shall provide a summary and fiscal impact statement to accompany the full title and text. Said summary shall clearly and objectively describe the content of the proposition and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposition. The ballot shall contain the full title, text and summary, and fiscal impact statement of the proposition except as otherwise provided in section 9-41. The complete title, text, and summary, and fiscal impact statement of the proposition shall be published and posted prior to the election as provided in section 9-40.

(Code 1968, § 102.10; Ord. No. 262-91, 3-4-91)

Sec. 9-46. Repeal or amendment of ordinance.

An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of onefive (51) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide. After one (1) year from the effective date of the ordinance, the city council, after public hearing, may repeal or amend such ordinance by vote of six (6) of its members. After five (5) years from the effective date of the ordinance, the city council, after public hearing, may repeal or amend such ordinance by vote of five (5) of its members.

(Code 1968, § 102.11; Ord. No. 262-91, 3-4-91)

Sec. 9-47. Public hearing.

Whenever a public hearing is required to be held in accordance with the provisions of this article, notice of the time, place and purpose of the hearing shall be published in one of the newspapers of the city, such publication to be not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the date of the hearing.

(Code 1968, § 102.12; Ord. No. 262-91, 3-4-91)

Sec. 9-48. Reserved.

Sec. 9-49. Reserved.

Sec. 9-50. Reserved.



Dena Libner <dlibner@portlandmaine.gov>

Support Reforms to Chapter 9 as Proposed

1 message

Mike Carey <mikebcarey@gmail.com>
To: publiccomment@portlandmaine.gov

Mon, May 22, 2023 at 8:55 AM

Good Morning,

I strongly support the proposed changes to Chapter 9. I believe in the democratic process and in the referendum process. And I request the City Council strongly consider the proposed amendments to Chapter 9.

Thank you,
-Mike Carey
[10 Oakdale Street](#)
[Portland, ME 04103](#)
207-776-1936



Dena Libner <dlibner@portlandmaine.gov>

Chapter 9 Proposed Amendments

1 message

'Payne, Tony M' via Public Comment <publiccomment@portlandmaine.gov>

Mon, May 22, 2023 at 10:17 AM

Reply-To: "Payne, Tony M" <TPayne@memic.com>

To: "publiccomment@portlandmaine.gov" <publiccomment@portlandmaine.gov>

Good morning. As Chair of the Portland Regional Chamber's Advocacy Committee, **I am writing in support of the proposed amendments** to Chapter 9 of the city charter that pertain to the referendum process.

I was born and grew up in Portland and also built a business here so I have a particular personal interest in how public policy is crafted. While I support the ability to employ a referendum, **the current version does not serve the city nor our council form of government.** As elected councilors, you should be enabled to do the work of vetting, debating and refining public policy.

As written, the amendments **restore to the council's ability** to sensibly implement successful referenda and mirror the procedures of the State of Maine. It allows a council to revisit a referendum with a super majority. In addition, **the fiscal note provides far greater transparency** for those asked to sign a referendum petition – because referenda have consequences.

I hope you will adopt the proposed amendments and give Portland residents and businesses the satisfaction that public policy and government as working in their interest. Thank you for your consideration and good luck with your deliberations. - Tony Payne

Tony Payne

Senior Vice President / External Affairs

The MEMIC Group

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Dena Libner <dlibner@portlandmaine.gov>

Comments in SUPPORT of Reforming Portland's Referendum Process

1 message

'James Cohen' via Public Comment <publiccomment@portlandmaine.gov>

Mon, May 22, 2023 at 10:54 AM

Reply-To: James Cohen <jcohen@verrill-law.com>

To: "publiccomment@portlandmaine.gov" <publiccomment@portlandmaine.gov>

Mayor Snyder and Members of the City Council, I write to express my strong support for the Council sending out a ballot measure to the voters of Portland this fall aimed at reforming our current citizen initiative process.

As we have seen increasingly in recent years, the current process is deeply flawed and in need of reform. My neighbors very much understand and believe this. Moreover, the only way the process can be reformed is through a referendum initiated by the Council. Hence, the Council ultimately bears direct responsibility for allowing the voters of Portland to weigh in on a process that better meets the needs of the public.

I have been engaged in public policy in Portland and on the State level for many decades, both as an elected official in Portland, a neighborhood association president, a member of the local chamber, and my work for local government agencies around the State. Based on my experience, I believe a strength of our local system of government is its representative nature. Every year, Portland voters elect representatives to our City Council who spend hours each week studying, learning, and ultimately deciding on a wide range of issues that impact the lives of everyone who lives and works in Portland. The work of excellent City staff supports these important efforts. The system is not perfect, but it has served us well.

At the same, the City nearly 50 years ago adopted a local citizen initiative process that has been used periodically over the years. Over that time, many local residents and elected officials have recognized some key flaws of the process, notably the inability of our elected city representatives, for a five year period, to modify an initiative that passes at the ballot box. Others have noted that the threshold to get a question on the ballot is low, and yet others have noted that process essentially allows the proponents of a ballot measure to define their own question, whether or not it is misleading.

In recent years, the flaws of our current process have gotten even clearer. Increasingly, very small groups of citizens are resorting to the ballot box rather than going through our comprehensive city council process, and that has led to policy proposals that are not publicly vetted, drafted without public input, and may contain contradictory and/or harmful policies that, if passed, our elected officials cannot change for half a decade. This type of government by referendum forces Portland citizens to become de-facto elected officials charged with carefully studying and learning about each issue on a ballot, and sometimes having to wade through inconsistent or misleading titles that frustrate their ability to understand what they are voting on. This is not fair to voters and leads to poor public policy.

Fortunately, this process can be fixed. At the State level, the process for getting an initiative on the State ballot has a number of processes in place that better protect the voters, including:

- The ability of the Legislature's Revisors Office to advice on the accuracy of the language in an initiative before it goes out to voters for signature;
- The ability of the Secretary of State to draft a ballot question that is neutral, understandable, and not misleading.
- A 10% threshold of voters to get a measure on the ballot.
- The ability of the Maine Legislature to modify an adopted initiative like any other piece of legislation, without any form of stayout. This has allowed the Legislature to modify complicate cannabis measures, local tax measures, gambling measures, and the like where changes are needed ensure legal consistency and to protect the public.

In my view, any proposal to reform our ballot question process in Portland should draw from these elements.

My understanding is that a draft of a reform measure is currently being considered by the Council, which includes most of these elements. However, it is not clear from the draft measure that the proposal includes giving the City Clerk the ability to draft a neutral, understandable, and not misleading question. For this reason, I would strongly encourage the Council to include such a measure in any package that goes out to voters.

Above all, I would strongly encourage the Council to take action. This past fall, voters were at a breaking point with frustration over our ballot process, and my neighbors have made clear, over and over, that they are looking for reform.

This current effort is a moment in time that we cannot ignore. I therefore ask the Council to act and let Portland voters have a say in the citizen initiative process that greatly impacts all of our lives.

I appreciate the opportunity to comment, and would be happy to discuss at a later date if helpful.

Best,

Jim

James I. Cohen

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Portland

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