



**CITY COUNCIL WORKSHOP
MEETING TO BE HELD REMOTELY**

July 26, 2021

4:30 PM

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403A, that authorizes cities and towns to conduct meetings online. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day. For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

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AGENDA ITEMS:

City Council Discussion: Shelter Referendum Question

EXECUTIVE SESSION:

The City Council will go into Executive Session pursuant to 1 M.R.S. section 405(6)(E) to consult with its attorney regarding the City's legal rights and duties concerning the small shelter referendum question.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
AN ALTERNATIVE TO THE CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 14
RE: EMERGENCY SHELTERS**

ORDERED, that an alternative to the amendment to the Portland City Code for
Emergency Shelters substantially in the form attached hereto shall be
submitted to the voters of the City on November 2, 2021; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place
the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as
summarized below?

Summary: see attached.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
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NICHOLAS M. MAVODONES, JR (A/L)

**ORDER SETTING ELECTION DATE ON
A CITIZEN INITIATIVE AMENDMENT
TO THE PORTLAND CITY CODE CHAPTER 14
RE: EMERGENCY SHELTERS FOR 50 OR FEWER ONLY**

ORDERED, that the amendment to the Portland City Code called Emergency Shelters for 50 or Fewer Only shall be submitted to the voters of the City on November 2, 2021; and

BE IT FURTHER ORDERED, that the Portland City Clerk shall be authorized to place the following on the ballot, as shown below:

Shall the municipality approve the Portland City Code amendment as summarized below?

Summary: This proposed amendment requires all new emergency shelters to be opened 24 hours per day and, except for family and domestic violence shelters, provide shelter to no more than 50 individuals at a time. It also removes several requirements that are not suitable across all types of shelters.

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER ADOPTING AMENDMENT TO PORTLAND CITY CODE CHAPTER 14
RE: EMERGENCY SHELTERS FOR 50 OR FEWER ONLY**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

*That Chapter 14, Section 6.5.6(B) is hereby amended to read
as follows, on the following pages:*

6 USE STANDARDS

...

6.5 CONDITIONAL USES

...

6.5.6 Supplemental use-specific conditional use standards

In addition to the general conditional use standards, the following standards shall apply to specific conditional uses:

...

B. Emergency shelters

1. The facility shall provide adequate space for ~~basic shelter operations~~conducting security searches and other assessments.
- ~~2. The facility shall be designed with a centralized shelter operations office on each level providing sight lines to sleeping areas.~~
- ~~3-2.~~ A management plan adequately outlining the following areas shall be provided: management responsibilities; process for resolving neighborhood concerns; staffing; access restrictions; ~~on-site surveillance;~~ safety measures; ~~controls for resident behavior and noise levels~~ Criminal Trespass Order policy and appeals process for residents; and monitoring reports.
- ~~4. Adequate access to and from METRO service shall be provided. The facility shall be within a ¼ mile of a METRO line, or shall be within ½ mile of a METRO line and provide adequate indoor space to permit all shelter guests day shelter, as well as implement strategies to help residents utilize transit.~~
- ~~5-3.~~ The facility shall be open 24 hours per day and provide on-site services, either in person or via real-time video platform, to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs.

~~6-4.~~ Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site.

~~5.~~ An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guests.

~~7-6.~~ Except for shelters solely serving families or domestic violence survivors, the facility shall provide shelter to no more than 50 individuals at a time.

CITY OF PORTLAND

MEMORANDUM

TO: Mayor Snyder and Members of the City Council
FROM: Danielle West, Corporation Counsel
SUBJECT: **Citizen Initiative Referendum Options**
DATE: July 8, 2021

As you know, the City Clerk has certified that the petitioners (regarding the small shelter zoning initiative) have gathered sufficient signatures as required by Chapter 9 of the Portland City Code. Consequently, the Council was required to set a date for a public hearing on the proposed ordinance language. In order to comply with this requirement the Council set July 19, 2021 as the public hearing date. Please note that staff recommends that after the scheduled public hearing the Council postpone action on the proposed ordinance until such time as the Planning Board has had an opportunity to review and make a recommendation and the Council has had the opportunity to hold a workshop (which has been scheduled for July 26, 2021).

After the Council has held the public hearing, the Code provides the Council with three (3) options as to how to proceed (*see* attached memo regarding more specifics on each option). The first option is that the Council can send the ordinance out to the voters for their review and approval by setting an election date. The election has to be held not less than ninety (90) calendar days after the Council meeting at which the election date is set.

Next, as an alternative to a setting an election date, the Code allows the Council to pass the proposed ordinance language as written in its entirety. This will put an end to all proceedings under the petition.

The final option available under the Code is for the Council to send both the citizen initiated ordinance and an alternative ordinance (created by the Council) to the voters for their review. The ballot would put forth both options and ask the voters which ordinance they favor.

If you have any questions regarding the proposed options, please do not hesitate to contact me directly or we can discuss them further at the upcoming workshop/executive session.

COPY

CITY OF PORTLAND, MAINE
M E M O R A N D U M

TO: Mayor Cheryl A. Leeman and Portland City Council
FROM: Gary C. Wood, Corporation Counsel
DATE: February 9, 2001
RE: **Process and Legal Options in Relation to** *GCW*
Citizen Initiative Referendum

The purpose of this memo is to lay out the process and legal options that you have in relation to the citizen initiative referendum. In putting this memo together I have talked with my legal colleagues on the Council and I shared the memo with Ron Ward, who is an attorney who works for a number of developers, and with Bob Hark, who helped the petitioners draft the proposed ordinance. I invited both of them to attend the work session in case any councilors have questions that you would like to ask them directly. I have attached the petitioned ordinance and the City's ordinance controlling citizen initiated ordinances. I have also attached a list of projects that are subject to the petitioned ordinance.

Process: Questions and Answers.

- (1) What is the next step the Council must take after the public hearing on the proposed ordinance is held at the Council meeting on February 21st?

Answer: Sec. 9-39 of the Citizen Initiative ordinance gives the Council two options in picking the Council meeting at which the Council will have to decide to either enact the proposed ordinance or schedule a special election. You can make that decision after the public hearing at the Council meeting on February 21st, or you can defer the decision to the March 5th Council meeting.

- (2) Can the Council enact an ordinance that does not include all of the provisions in the ordinance submitted by the Petitioners?

Answer: No. The Council must enact the ordinance presented by the Petitioners in its entirety. The specific language of Sec. 9-36 states that, "The passage by the city council of the desired ordinance shall put an end to all proceedings under the petition." This conclusion is further supported by the restrictions on amending a citizen initiative ordinance stated in Sec. 9-46 which states that an ordinance enacted by the people at an initiative or referendum "shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide." One of the specific purposes of a citizen initiative is to put a law in place that a particular council might not support. If a council

were free to pass its own version of that ordinance and thereby avoid an election, it would thwart this fundamental purpose.

- (3) Would the Council or the voters be enacting an illegal ordinance if the Council or the voters approved this ordinance?

Answer: The only certain answer to this question has to come from a court. I can give you an opinion. I cannot give you a decision. In my opinion, it is unlikely that the entire ordinance would be found illegal. Parts of it might, but the severability section (8) would be used by a court to eliminate just those parts.

One exception to the requirement that the Council submit a proposed ordinance to the voters would be if the proposed ordinance were so clearly illegal on its face that the council would be in a position of asking the electorate to endorse something that is illegal. Nothing in the proposed ordinance before you rises to the level of legal uncertainty that would justify taking that action in this case.

There is a legitimate question as to whether the composition and effect of the proposed ordinance is a moratorium that does not meet the requirements of state law, particularly in relation to the restrictions in paragraph (5). In 1989, the Maine Legislature passed what has been codified as 30-A M.R.S.A. §4356. That state law limits moratoria to 180 days. It permits one additional 180-day extension if certain criteria are met. It also requires that a moratorium, to be legally effective, must meet certain threshold statutory requirements, the most relevant of which is found in subparagraph (b), requiring a prior finding that a moratorium is necessary:

Because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws, if any, is inadequate to prevent serious public harm from residential, commercial or industrial development in the affected geographic area.

Whether this particular citizen initiative meets this requirement is not clear, but that lack of clarity is not sufficient in this case to justify a council decision to not proceed to an election.

- (4) What would be the legal effect if the Council enacted the ordinance rather than send it to an election?

- (a) Answer: The ordinance would become city law 30 days after the Council voted to enact it, unless seven members of the Council voted to enact it as an emergency. If the Council enacted the ordinance on February 21st, it would become law at 12:01 a.m. on March 24th. If the Council enacted the ordinance on March 5th, it would become law at 12:01 a.m. on April 5th. Under the terms of the ordinance itself, however, its legally effective date would then become October 16, 2000 because of the operation of the retroactivity date in section 6 of the proposed ordinance. Under paragraph

5 of the proposed ordinance, any building permits issued by the City after October 16th for projects within the "restrictions" categories (see 5(1)(a) and (b) would be void and the developments under construction would have to stop. Any state or federal pass-through loans or grants from the City for new residential housing made after October 16th would be invalid, unless the loans or grants were for one- to four-family units on individual lots or for rehabbing existing units. Any amendments to the City's Zoning Map or ordinance of property within 300 feet of any land zoned to permit residential uses passed after October 16th would revert to its zoning status on that date. We would also have to review projects that received permits before October 16th to determine if construction was substantially commenced before that date. If it were not, we would have to try to stop those projects as well. Until the housing component of the Comprehensive Plan is updated and approved the restrictions would remain in place.

Under the terms of the proposed ordinance, none of the above impacts would take place in Bayside, defined as the area bounded by Cumberland Avenue, Forest Avenue, Interstate 295 and the Franklin Arterial. That area is excepted from the impact of the restrictions by the proposed ordinance.

- (5) How long would the restrictions in the ordinance last if the Council enacted the ordinance or if the voters approved it?

Answer: There are several possible answers to this question. Once again certainty can only come from a court decision. Here are some of the possible legal outcomes and my assessment of their likelihood:

- (a) The restrictions expire on April 16th which is 180 days after October 16th through the operation of the state law cited earlier that limits moratoria to 180 days.

Assessment: Good possibility.

- (b) the restrictions are in the nature of a moratorium, but that the retroactive provision is not legally applicable so that the moratorium begins on the date that the Council enacted the ordinance or the voters approved it and extends from that date forward for 180 days;

Assessment: Fair possibility.

- (c) the court concludes that the restrictions are not, in fact, a moratorium and they therefore remain in effect until the housing component of the Local Growth Management Program and Comprehensive Plan has been completed and adopted by the City Council.

Assessment: Unlikely

(6) Can we get a court answer to these questions? How long would it take?

Answer: We will not be able to get a court answer to this question before you have to decide whether to enact the ordinance or send it out to the voters. It is also unlikely that the City would be given standing to get an answer from a court prior to the election. It is more likely that if the City went to court, a court would tell the City to come back after the election if the proposed ordinance had, in fact, passed. A private party that is currently under the pending restrictions in the ordinance would certainly have better standing at this point to get a court decision, but whether they could get a decision prior to the election date would depend upon when the election is held and whether they seek an injunction. Furthermore, the uncertainty created by the ordinance and the impact of its restrictions would not be resolved necessarily for all developers since courts fine-tune their decisions to the specific facts before them, which means that the decision handed down for one developer might not apply to another developer.

(7) What options would the City have regarding the restrictions if the ordinance is sent to an election and it passes?

This scenario presents several options:

- (b) The City enforces the ordinance. This would involve invalidating building permits and trying to stop any projects that had received those permits after October 16th and that were within the restricted categories, revoking any loans or grants that the City had made to projects falling within the restrictions, and returning our official Zoning Map to its status on October 16th. We would also have review projects that received permits before October 16th to determine if construction was substantially commenced before that date. If it were not, we would have to try to stop those projects as well. Until the housing component of the Comprehensive Plan is updated and approved the restrictions would remain in place.
- (c) The City files an action in court seeking a declaratory judgment asking the court to determine the time period during which the restrictions are legally in effect. In other words, we would ask the court whether the restrictions expire by operation of law on April 16th, whether they extend for 180 days from the election date or whether they extend to that point in time when the housing component of the Growth Management Plan is completed;
- (d) My office issues a formal legal opinion about the time period during which the restrictions are in effect and individuals who disagree with that opinion can challenge it in court.

GCW:dlc

o:\office\gary\citizen initiative referendum legal options council mmo

Amendments to the Portland City Code

Chapter 14, Land Use

RE: Growth Management Program and Comprehensive Plan

PREAMBLE: In order to preserve the integrity of its neighborhoods and protect the quality of life of its residents, the Portland City Code is hereby amended to add a new section entitled "Local Growth Management Program and Comprehensive Plan Required" to the Portland Zoning Ordinance, and to read as follows:

1. Purpose: In order to identify the tools and resources to effectively plan for and manage future development, while preserving the quality of life for the City's residents, and encouraging the widest possible involvement by its residents in all aspects of the planning and implementation process, the City of Portland is required to develop and adopt a local growth management program and maintain an updated comprehensive plan consistent with M.R.S.A. Title 30-A, Sections 4301-4327.

2. Housing Plan Established as a Priority: The City of Portland is hereby required to establish as a priority the updating and revision of the housing component of the local growth management program and comprehensive plan. The development of an updated housing plan shall commence upon adoption of this ordinance by the voters of Portland. Subsequent updating shall occur whenever the Planning Board shall determine that significant changes in data identified in section 3 or other conditions has or will render the current plan inadequate. The housing component may be completed separately from and prior to completion of other components of the local growth management program and comprehensive plan.

3. Components of Local Growth Management Program and Comprehensive Plan:

(1) The local growth management program shall include an inventory of economic and demographic data; housing data; natural and marine resources including open space, recreation facilities and scenic vistas; public access to the shoreline by land or by sea; transportation infrastructure; pedestrian safety; the development of retail or commercial and public services; and other considerations as may be required by state law or which may impact the quality of life for the City's residents.

(2) The local growth management program shall include implementation plans including timelines for the comprehensive plan.

(3) The local growth management program shall include establishment of a neighborhood review process through which each neighborhood shall participate collaboratively in the review of residential development.

4. Citizen Participation Required: In order to carry out the provisions of sections 1-3, The Mayor shall nominate and the City Council shall confirm a local planning committee to be known as the Citizens' Advisory Committee, whose members shall serve for three year terms. The Citizens' Advisory Committee shall include representatives of each of the City's residential neighborhoods, as determined by the City Council, as well as representatives of the city's non-residential neighborhoods. All meetings of the Citizens' Advisory Committee shall be open to and noticed to the public, and the committee shall hold public hearings to encourage citizen input, prior to adoption of the local growth management program and comprehensive plan by the City Council.

5. Restrictions on City activity pending completion of the updated housing component of the local growth management program and comprehensive plan: Pending completion and adoption by the City Council of the updated housing component of the local growth management program and comprehensive plan, the City of Portland shall not:

(1) Issue one or more building permits for the construction of Developments, defined as: (a) new residential construction of 20 or more dwelling units located upon a single lot of record as of the effective date of this ordinance, or upon contiguous lots of record as of the effective date of this ordinance; or (b) a commercial development encompassing more than 10,000 feet of leasable commercial space located within 300 feet of any land zoned to permit residential uses;

(2) Fund by loan or grant or act as agent for funding by means of state and federal funds for the development of new residential housing within the City, provided, nevertheless that this shall not prohibit the provision by the City of funding for one-to-four family units on individual lots, nor shall this prohibit the provision of funding for rehabilitation of existing units;

(3) Amend the city's zoning ordinance insofar as such changes alter the permitted uses in or within 300 feet of any land zoned to permit residential uses.

Exception: development within the Bayside neighborhood, defined as the area bounded by Cumberland Avenue, Forest Avenue, Interstate 295 and the Franklin Arterial, is exempted from the above restrictions and prohibitions on City activity pending completion of the updated housing component of the local growth management program and comprehensive plan.

6. Effective Date. This ordinance shall become effective retroactively as of the date of filing of the affidavit pursuant to § 9-36 of the Portland City Code, setting in motion the initiative process with regard to this ordinance.

7. Existing Permits And Approvals: Existing permits for Developments, as defined above in section 5(1) shall become null and void unless:

(1) the developer received all City permits and final approvals prior to the date of filing of the affidavit pursuant to § 9-36 of the Portland City Code, setting in motion the initiative process with regard to this ordinance; and

(2) construction of the development was substantially commenced prior to the effective date of this ordinance. Any permit or application fees paid to the City for such construction or approval shall be refunded upon the request of the Applicant.

8. Severability: Each provision of this ordinance, including without limitations its application to pending proceedings, its effect on existing permits and approvals, and its applications to proposed development or zoning changes pending the completion of the housing component of the local growth management plan and comprehensive plan shall be severable. The invalidity of any provision of this amendment shall not affect the validity or enforceability of any other provision.

9. Right of the City Council to amend this ordinance: Notwithstanding the limitations in the City's Initiative and Referendum Ordinance regarding initiated ordinances, the City Council is authorized to amend this ordinance at any time without the requirement of submission to the voters, once the City of Portland has adopted an updated housing plan for the City in a manner consistent with the provisions of M.R.S.A. Title 30-A, Sections 4301-4327."

SUMMARY

This ordinance requires the City to update and revise the housing component of its comprehensive land use plan, create the local growth management program required by state law, and appoint a Citizen's Advisory Committee to assist in that process. Pending completion of the updated housing component, the Ordinance prohibits (1) new residential construction of 20 or more units whether on a single lot or contiguous units; (2) commercial development of more than 10,000 square feet located within 300 feet of any land zoned to permit residential uses; (3) local, state or federal funding of any new residential housing except for 1-4 family units on single lot, or rehabilitation of existing units, and (4) changes in permitted uses on land zoned to permit residential uses or within 300 feet of any such land. The Ordinance is retroactively effective to October 16, 2000, and voids any permits issued after that date or any currently issued permits, unless the developer has received all final permits and approvals, and construction of the development has substantially begun. The ordinance exempts the Bayside area, defined as the area bounded by Cumberland Avenue, Forest Avenue, Interstate 295 and the Franklin Arterial, from its prohibitions.

AFFIDAVIT FILED PURSUANT TO § 9-36 OF PORTLAND CITY CODE SEEKING PETITIONS FOR INITIATION OF ORDINANCE

The undersigned hereby depose and say as follows:

1. The undersigned are registered voters of the City of Portland, whose respective addresses appear below next to their names;

2. The undersigned file this affidavit for the purpose of initiating an ordinance ('the Ordinance'), the text of which is annexed to this affidavit as Exhibit A;

3. The summary to accompany the proposed ordinance, as required by § 9 37(b) of the Portland City Code, is annexed to this Affidavit as Exhibit C;

4. The undersigned will constitute the petitioners' committee for the "Campaign for a Comprehensive Plan" with respect to the Ordinance;

5. All notices to the Committee are to be sent to the following address:

Campaign for a Comprehensive Plan
C/O Jim Estes
105 North St.
Portland, Maine 04101

6. The undersigned ten (10) registered voters will constitute the Petitioners Committee. Dated at Portland, this 16th day of October, 2000.

James C. Estes
(Print) Name

105 North St., Portland, Me 04101
Address

James C. Estes
Signature

Anne M. Rand
(Print) Name

61 Melbourn St. Portland 04101
Address

Anne M. Rand
Signature

Elizabeth K. Smith
(Print) Name

42 Walnut St. Portland
Address

Elizabeth K. Smith
Signature

MARC O'F DeSalle
(Print) Name

340 Eastern Promenade
Address

Marc O'F DeSalle
Signature

Deborah Cole
(Print) Name

71 Walnut St, Portland
Address

Deborah Cole
Signature

Jean Mc Manamy
(Print) Name

10 Willis St Portland
Address

Jean Mc Manamy
Signature

Joseph Piergrossi JR
(Print) Name

61 Montreal St, Portland
Address

Joseph Piergrossi JR
Signature

Janet S.E. Ham
(Print) Name

56 Lafayette St. Portland
Address

Janet S.E. Ham
Signature

William R. Gorham
(Print) Name

34 NORTH ST. PORTLAND
Address

William R. Gorham
Signature

CATHERINE Susan Link
(Print) Name

Cathy 44 WALNUT - PORTLAND
Address

Cathy Susan Link
Signature

OCT 16 12 49 PM '00
CITY CLERK
PORTLAND, MAINE

ARTICLE II. PRECINCTS*

Sec. 9-16. Generally.

The districts of the city established by section 9-1 of this Code pursuant to section 1 of article II of the charter are for voting purposes divided into the precincts shown on the map incorporated into said section 9-1 with voting places within or near each such precinct as hereinafter designated by order of the council.

(Ord. No. 375-84, § 2, 11-16-84)

Secs. 9-17-9-35. Reserved.

ARTICLE III. INITIATION AND REFERENDUM

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 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 submission of a proposed ordinance, or 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 passed by the city council but which 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.* 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.

Upon filing of such affidavit by ten (10) such voters, the city clerk 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

***Editor's note**—Ord. No. 375-84, §§ 2 and 3, adopted Nov. 16, 1984, amended § 9-16 in its entirety and repealed §§ 9-17-9-21, relative to election precincts. Formerly, §§ 9-16-9-21 derived from Code 1968, § 105.1 and Ord. No. 105-79, adopted Feb. 22, 1979.

wishes to circulate it. The petition may be circulated for signature by registered voters of the city for eighty (80) calendar days from the original date of issuance of the petition, which date shall be noted by the clerk on each blank 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 such 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.

(d) *Filing of petition.* The petition must be returned to the city clerk for filing by close of business within eighty (80) calendar days from the date of issuance thereof. If the eightieth day is a Saturday, Sunday or holiday, such 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.

(e) *Verification of petition.*

- (1) Within fifteen (15) calendar 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 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 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) 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.

(f) *Hearing.* At its first regular meeting after receipt of a report that a petition is sufficient and has 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. 508-81, §§ 1, 2, 2-2-81; 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 and summary 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 and summary.* At the time of submitting the proposed ordinance, the petitioners must submit a summary to accompany the proposed ordinance on the petition. The summary shall 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 included on the petition shall accompany the title and text of the ordinance on the ballot, except as otherwise provided in section 9-41(b) below.

(c) *Circulator verification.* Each petition form shall have printed on its back an affidavit, which shall be executed by the circulator stating:

- (1) That the circulator personally circulated the form;
- (2) The number of signatures on that petition form and that all the signatures were signed in the circulator's presence; and
- (3) That the circulator believes them to be genuine signatures of the persons whose names they purport to be.

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 petitioner 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 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, such 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, [or] 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 such ordinance goes into effect, such 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 public hearing, 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 such 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 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 (1) 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, a copy of the complete title, text and summary 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 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 and text of the proposed ordinance and the summary included on the petition, except as provided below.

(b) *Title and summary 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 he or she determines that it is not reasonably possible to reproduce the full text and summary of the proposed ordinance on the ballot. In such case, the summary provided with the petition 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 (1) 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, such effective date shall not be deemed to prohibit a retroactive effective date of an initiated ordinance, to the extent permitted by law, if such retroactive date is specifically provided for in the petition and/or the question approved by the voters. Any such date in the petition shall be included in the question on the ballot. Such retroactive date shall not be earlier than the date of filing of the affidavit originating the petition which 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 to accompany the full title and text. Such 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 of the proposition except as otherwise provided in section 9-41. The complete title, text and summary 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 five (5) years from the effective date of the ordinance,

except by a vote of the people, unless such ordinance shall otherwise expressly provide. 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 (1) 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)

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R/E
Chris Sartorius
Re Growth Manager

City of Portland, Maine
Memorandum

To: Joseph E. Gray, Jr., Acting City Manager

From: Sarah Hopkins, Development Review Services Manager

Date: December 29, 2000

Subject: Future/Pending Development

This morning, you requested a list of pending and potential future projects under, which may be subject to the comprehensive plan referendum.

- | 1. Projects Currently Under Review | within 300ft of res. uses* |
|---------------------------------------|----------------------------|
| 46 unit condominiums on Ocean Ave | yes |
| status: have not yet applied | |
| 19 unit Condos on Allen Ave | yes |
| status: currently under review by PB; | |
| reduced # of units per referendum | |
| True/Ocean Apts/Condos (75-100units?) | yes |
| Status: on hold pending referendum | |
| Blake Block | yes |
| North /Walnut apartments | yes |
| PRPIII Subdivision | yes |
| status: currently under review by PB; | |
| reduced # lots per referendum | |
-
- | 2. Future/Potential Projects/Vacant Land | within 300ft of res. uses* |
|--|----------------------------|
| Guilford Parcel | some |
| Thompson's Point | some |
| Jetport Commercial Development | some |
| Hutchins Drive Buildout | no |
| Outer Westbrook/Barris Land | yes |
| Keenan Auction Site | no |
| Union Water Power Site- Rand Road | yes |
| Union Water Power Site- Canco Road | yes |
| Morrill's Corner Industrial Land | yes |
| West Side of Presumpscot Street | yes |
| Lincoln Square | yes |
| Shipyards Brewery Site | yes |
| Hub Furniture | yes |
| Harvard/Yale vacant land | yes |

*note: 300 ft from zones in which residential uses are permitted