



City of Portland Remote Charter Commission Meeting

August 11, 2021 at 6:00 PM

1. Call the Meeting to Order
 - a. Due to the existence of an "emergency or urgent issue" the Charter Commission will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403-B and the Charter Commission Remote Participation Policy.

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/81207968783?pwd=Qkd1Y3g2U25EUE9lbEZPNUVINHAzZz09>

Passcode: 171327

Or One tap mobile :

US: +13126266799,,81207968783#,,, *171327# or

+16465588656,,81207968783#,,, *171327#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

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Webinar ID: 812 0796 8783

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2. Approval of the prior meeting minutes
 - a. Approval of the draft Charter Commission Minutes for July 15, 2021 and July 28, 2021.
3. Community Agreements
 - a. Draft Community Agreement
4. Officer Roles
 - a. Suggest Draft edits for Officer Roles
5. Charter Reform Issues and Process
 - a. Commissioners will discuss the charter reforms they will consider and the process they will use to consider them. This will include discussion of establishing committees for specific reforms, the constitution of those committees, and the sequence in which commissioners discuss charter reforms.
6. Charter Commission Budget
7. Communication Policy

- a. Reference materials for discussion: <https://portlandmaine.gov/2665/Charter-Commission-2020-2022>, <https://www.portlandmaine.gov/129/Agendas-Minutes>,
- 8. Goal Setting
- 9. Conflicts of Interests
 - a. A. Sample of Conflicts of Interest Disclosure form.
 - B. Sample of Conflicts of Interest Code of Ethics
- 10. Other Business
- 11. Adjourn



City of Portland Charter Commissioners Meeting

via Zoom
Wednesday, July 15, 2021
6:00 PM

1. Call the Meeting to Order

a. Zoom Meeting Instructions – Please click the link below to join the webinar:

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<https://us02web.zoom.us/j/87221359342?pwd=MUVOdXJ3SVNMUFFQUXFOOUxDbm5tQT09>

Passcode: 506766

Or One tap mobile :

US: +19292056099,,87221359342#,,, *506766# or

+13017158592,,87221359342#,,, *506766#

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Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or
+1 253 215

8782 or +1 346 248 7799

Webinar ID: 872 2135 9342

Passcode: 506766

International numbers available: <https://us02web.zoom.us/j/87221359342?pwd=MUVOdXJ3SVNMUFFQUXFOOUxDbm5tQT09>

Commission Chair, Michael Kebede, called the meeting to order at 6:09 PM. All Commissioners were present.

2. Approval of the prior Meeting Minutes

a. June 28, 2021 Minutes

Commissioner Barowitz mentioned that the minutes included a misspelling of Commissioner Chann's last name.

Motion was made by Commissioner Eglinton to approve the June 28, 2001 Minutes with the correct spelling of Commissioner Chann's last name, and was seconded by Commissioner Washburn. Passage 12-0.

3. Discussion about Rules of Procedure

a. Draft Rules of Procedure

Motion was made by Commissioner O'Brien and seconded by Commissioner Eglinton to approve the Rules of Procedure.

Motion was made by Commissioner Chann and seconded by Commissioner Stewart-Bouley to amend Rule 6.F of the Rules of Procedure to read “Speakers should abide by the Commission’s Ground Rules *and Community Agreements...*” (emphasis added). Passage of the amendment 12-0.

Motion was made by Commissioner Eglinton and seconded by Commissioner Washburn to amend Rule 6.F. of the Rules of Procedure to delete “without personal any attacks or loud and disrespectful behavior.” Motion was made by Commissioner Barowitz to amend Commissioner Eglinton’s amendment to change the title of Rule 6 to read “Conduct at Public Meetings and Hearings.” Passage of Commissioner Barowitz’s amendment 12-0. Passage of amended Commissioner Eglinton’s amendment 12-0.

Motion was made by Commissioner Chann and seconded by Commissioner Houston to amend Rule 1 of the Rules of Procedure to add sentence at the end to read “The Commission should also abide by the Ground Rules and Community Agreement adopted by the Commission.” Passage of the amendment 12-0.

Motion was made by Commissioner Barowitz and seconded by Commissioner Washburn to amend Rule 6 of the Rules of Procedure to add subsection J to read “Members of the Commission shall act in good faith during all proceedings.” Passage of the amendment 8-4 (Buxton, Chann, Sheikh-Yousef, Washburn) [Note: During the meeting, the initial roll call vote was not tracked and Commission Chair Kebede asked that those opposed to the motion raise their hands. At that time, only Commissioners Buxton, Sheikh-Yousef, and Washburn raised their hands. Passage of the amendment 9-3.]

Passage of the main motion to approve the Rules of Procedure, as amended, 11-1 (Chann).

4. Discussion about Community Agreements

Commissioners Chann and Buxton provided a brief overview of the draft Community Agreements they prepared. They welcomed input, and acknowledged the document was not ready for a vote. Commission Chair Kebede asked for unanimous consent to remove the item from the agenda and no one objected.

5. Discussion about Initial Commission Support Needs

Commission Chair Kebede and Commissioner Eglinton provided background on the agenda item, which was intended to cover a discussion of initial support needs such as a notetaker and legal support, and the associated budget requirements. After discussion among the Commissioners, Chair Kebede summarized the next steps:

- Commissioners Kebede, Waxman, Washburn, Barowitz, and Lizanecz will seek a meeting with City Manager Jennings to clarify the Commission’s ability to spend funds allocated to the Corporation Counsel’s office to support the Commission. The group will wait until they receive a response from the City’s Finance Director.
- Pending a review of the available budget, the Commissioners will discuss legal support needs, implications, and next steps.

6. Set Date/Time for Next Meeting and Topics for that Agenda

Commissioner O'Brien proposed that the Commission meet every second and fourth Wednesdays of the month, and the Commissioners adopted the proposal by unanimous consent.

The location of meetings and any remote access will depend on the outcome of the Commission's consideration of a remote participation policy. Attorney Katsiaficas provided an overview of the State law that governs public meetings and said he would provide draft language for a remote participation policy that aligns with the Portland City Council. Commissioner Kebede said he would add an item on a remote participation policy to the agenda on July 28, 2021, which is otherwise designated for a public hearing, so that the public can weigh in before meetings start in August.

Commissioner Waxman asked that the Commission aim to keep meetings to two hours in length. Commissioner Waxman also suggested setting a six-month calendar. Commissioner Chann recommended adding an agenda item regarding hiring trainers and facilitators to support the Commission's work.

7. Charter Communications

Commissioner Buxton summarized the need for a way to communicate with the public, providing uniform messaging across multiple channels, and suggested the formation of a Communications Committee.

Motion was made by Commissioner Washburn and seconded by Commissioner Sheikh-Yousef to create a Communications Committee composed of Commissioners Buxton, Chann, and Washburn. Attorney Katsiaficas reminded the Commission that a committee would be subject to the Maine Freedom of Access Act, including noticing and recording (minutes) requirements. Due to limited time for deliberation, Commissioners Washburn and Sheikh-Yousef withdrew the item from consideration.

Commissioner Washburn offered to prepare a press release to help get the word out about the public hearing on July 28, 2021.

8. Other Business

None.

9. Adjournment

Motion was made by Commissioner Eglinton and seconded by Commissioner O'Brien to adjourn. Passage 12-0 at 9:20 PM.



City of Portland Charter Commissioners Meeting and Public Hearing

via Zoom
Wednesday, July 28, 2021
6:00 PM

1. Call the Meeting to Order

a. Zoom Meeting Instructions – Please click the link below to join the webinar:

<https://zoom.us/j/94589066464?pwd=QUROWVF6a3FCaXJYZnBueEJlaml3dz09>

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US: +16465588656,,94589066464#,,, *856904# or

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+1 253

215 8782 or +1 346 248 7799

Webinar ID: 945 8906 6464

Passcode: 856904

International numbers available: <https://zoom.us/u/aus0RuJ77>

Commission Chair Michael Kebede called the meeting to order at 6:00 PM. All Commissioners were present. Attorney Brandon Mazer also attended, temporarily serving Attorney Jim Katsiaficas's role.

b. Public Comment Guidelines

Commission Chair Kebede provided an overview of the meeting and guidelines for public comment.

2. Remote Participation Policy and Public Hearing on the Policy

a. Remote Participation Policy Document

Motion made by Commissioner Eglinton and seconded by Commissioner Chann to approve the Remote Participation Policy.

Attorney Mazer provided the legislative context for the policy and the requirements that would apply if Commission meetings were to include remote participation. Commissioners asked questions and discussed the value of meeting remotely and allowing remote participation by Commissioners and the public when the Commission is also meeting in person. Public comment was taken for this item. Passage 12-0.

3. Introduction to Public Hearing

Commission Chair Kebede reiterated the logistics and guidelines for public comment.

4. Public Hearing

Approximately 37 individuals provided oral comments at the meeting. Topics included:

- Recommended research into prior Commissions and city models in Maine and in other parts of the country
- Rank choice voting process for when there are multiple at-large seats
- Governance and administration of the city (including roles and accountability of the mayor, city manager, and council; budget process; police oversight; City Council structure; oversight of labor issues; accountability of non-elected city staff as well as elected officials; and other topics)
- Public financing of local elections
- Recommendations about how the Commission should do its work and involve the public
- City collaboration with and oversight of Portland Public Schools

5. Adjournment

Motion was made by Commissioner Barowitz and seconded by Commissioner Sheikh-Yousef to adjourn. Passage 12-0 at 9:12 PM.

DRAFT 2

Portland Charter Commission 2021 Community Agreements

Purpose: Through these Community Agreements, members of the Portland Charter Commission will collaborate and build mutual trust, open communication, and equitable practices for our work and public proceedings. This agreement, while not a binding legal document, helps hold each of us accountable for ensuring a fair, inclusive, and democratic process. While not exhaustive, the contents of this agreement are aspirational in nature and may require improvements and updates throughout the Review Process.

Draft Agreements:

1. **All Are Welcome.** The Commission will work to ensure, to the extent practicable, that public meetings and proceedings are accessible to all Portland residents and stakeholders, regardless of race, ethnicity, national origin, religion, socio-economic status, gender, sexual orientation, or physical or mental ability.
 - a. We will strive to host hybrid remote and in-person meetings when available and safe.
 - b. We will strive to meet Portland residents where they are (neighborhood schools, churches, synagogues, etc.) and provide creative and accessible ways for residents to join us in the conversation.
 - i. For example: Prioritizing wheelchair accessibility when picking meeting spaces, designating gender-neutral bathrooms, utilizing digital to engage broad audiences platforms.
 - c. We will strive to partner with communities and organizations led by people of color to conduct outreach and make meetings welcoming and accessible to Black, Brown, and Indigenous residents.
 - d. We will provide meeting minutes, agendas, and other Commission Communications in [plain language](#).
 - i. *(And provide translation if feasible?)*
 - ii. *Should we make meeting minutes as easily accessible/available as possible? Shared GDrive? Linktr.ee or cardd.co site? (City website is somewhat difficult to navigate!)*
 - e. We will display or otherwise make available community agreements and other rules/procedures that will help commissioners or the public best engage at meetings.
 - f. *Additional measures to increase accessibility?*

Commented [1]: This first bullet point it where I think we still need some creative minds on how best to achieve this.

2. **We respect people's identities and call people what they want to be called.**

This includes:

- a. **Names.** We pronounce each other's names correctly.
- b. **Pronouns.** Members of the Commission and city officials and staff participating in the Review Process will use and display pronouns and make reasonable efforts to address each person, including the public, using their pronouns.
- c. **Honorifics.** The Commission will decide as a group how we wish to address each other, whether using first names, last, titles or otherwise, and agree on how we hope staff and members of the public shall address each other. We will strive to address each other uniformly and with respect throughout the process.

3. **Expertise takes various forms.** Throughout this process we will be seeking input from experts of all kinds. As such, we acknowledge:

- a. **Thorough and broad research.** We will strive to cast a wide net in our research and seek input from diverse sources.
- b. **Lived and personal experiences matter.** Just as we will value the expertise of researchers, academics, professional staff, and lawyers, we will value people's lived experience as important data in our decision making process.
- c. **Everyone is an expert in their own experiences.**
- d. **Everyone should understand what's going on.** Asking for help or for clarification does not make anyone less qualified, capable, or able to contribute to this process.

4. The Commission will work to foster a space for empathy and learning by encouraging humanizing dialogue.

a. **Intent vs. Impact.**

- i. We strive to participate in the Review Process with the intention of making positive change in our community.
- ii. We understand that we may all bring different visions for that change to the table.
- iii. We acknowledge that while folks may operate with good intentions, we understand that words and actions may have a different impact and be felt, heard, or understood differently.
 - 1. We will own when our actions or words cause conflict or harm, regardless of intent.

b. As best we can, we will try to **challenge ideas, not people.**

- i. Example: "Commissioner XYZ, I have some questions about the idea you brought up about putting ice cream stands on every corner downtown. I believe this is not enough ice cream stands. Can you explain your thinking on this?" As opposed to, "Commissioner XYZ I believe you are delusional in thinking one ice cream stand per street corner is possibly enough ice cream for our city."
- c. We acknowledge that disagreement and discourse are necessary tools in this process, and conflict is inevitable. We will strive to work through conflict, not avoid it.

d. **We will strive to resolve and work through conflict.** Here are a few tools that may assist in this process.

- i. Oops, ouch, explain.
- ii. “Can you explain what you mean by that?”
- iii. *Other conflict resolution practices?*

5. **We Listen to All Voices, especially those that are quiet or often go unheard.**

- a. **Speaking Time.** The Commission will work to ensure that each person has an opportunity to speak and be heard, this includes both commissioners and the public.
 - i. We strive to be deep and brief.
 - ii. A useful device for speakers: Ask yourself, “WAIT. Why Am I Talking? or Why Aren’t I Talking?”
- b. We pay attention to silences and seek out perspectives from voices not in the room.
- c. We both honor individuals and know there is strength in the collective, therefore we will collaborate and co-facilitate with other commissioners on research, initiatives, and projects whenever possible.

6. **Use of Plain Language.** The Commission will work to minimize or explain jargon and acronyms and allow opportunities for clarification.

7. **Additional Meeting Norms.**

- a. Start on time.
- b. Out of respect for people’s families, health, and personal lives: We strive to end on time, and commit to checking in *prior* to meeting going over-time about extensions.
- c. *Anything else to add?*

Lingering questions:

- What are we missing?
- How do these agreements complement our rules of procedure/consensus building process/voting method?
- How do we ensure these agreements are functional and not just symbolic?
- How do we use or ‘enforce’ these agreements without policing each other's behavior?

RESOURCES & REFERENCES:

Feel free to add your own!

[National Equity Project: Developing Community Agreements](#)

[UMaine Cooperative Extension: Working Agreements](#)

[Seeds for Change: Group Agreement Short Guide](#)

[AORTA Anti-Oppressive Meeting Guide](#)

[Educators for Consent Culture Community Agreements](#)

[Conflict is Not Abuse by Sarah Schulman](#)

[Stanford's Lighting the Way Project](#)

[ROOTS Community Agreements](#)

*“When we are in the realm of Conflict, we can move from the Abuse-based construction of perpetrator and victim to the more accurate recognition of the parties as the conflicted, each with legitimate concerns and legitimate rights that must be considered in order to produce just resolution.” – Sarah Schulman, **Conflict is Not Abuse: Overstating Harm, Community Responsibility, and the Duty of Repair***

Officers and Their Duties

Chairman

Work with commissioners to identify topics for the agenda

Conduct general correspondence and serve as commission spokesperson (unless otherwise designated)

Serve as primary point of contact with the City Clerk

At meetings:

Call meeting to order on time if quorum is present

~~To a~~ Announce business for the meeting

Recognize members who wish to speak

~~To s~~ State and put to vote questions properly before the assembly

Announce result of votes

Enforce the rules and maintain decorum and protect the assembly from dilatory or frivolous motions

Decide all questions of order, subject to appeal

~~Authenticate by his/her signature proceedings and acts~~

Adjourn the meeting

Authenticate by his/her signature proceedings and acts

Vice Chairman

Fulfills the duties of the Chairman in his/her absence

Secretary

Review draft records of proceedings (minutes) prepared by a notetaker prior to commission approval~~Keeps the record of all proceedings—usually called the minutes~~

Keeps all records of proceedings (minutes) and committee reports on file

Keeps membership roll (unless a staff member does this)

Makes minutes and records available to members on request (if unable to obtain through the City's website)

Maintains record book of by-laws, standing rules and minutes and have at every meeting

Sends out notice of meetings to members

Conducts general correspondence, as needed

Prepares agenda for meetings based on topics determined by the Chairman

Calls the meeting to order if the Chairman and Vice Chairman are absent and holds election for Chairman Pro Tem

PART I CHARTER*

***Editor's note**--Historical references are cited in parentheses at the end of each section. Such references cite only the various amendments adopted by referenda conducted pursuant to home rule powers granted by P.L. 1970, c. 563 (30 M.R.S.A. § 1911 et seq.). Prior to 1970 and home rule the charter and its various amendments were enacted by the Maine Legislature and such are not cited in said parentheses. A history of the charter and amendments is attached as Appendix A.

State law reference(s)--Home rule, 30 M.R.S.A. § 2101 et seq.

Preamble

- Art. I. Grant of Powers to the City, §§ 1, 2**
- Art. II. City Council; Mayor, Ranked Choice Voting §§ 1--11**
- Art. III. Board of Public Education, §§ 1--6**
- Art. IV. Elections, §§ 1--11**
- Art. V. Recall, §§ 1--7**
- Art. VI. Administrative Officers, §§ 1--8**
- Art. VII. Business and Financial Provisions, §§ 1--16**
- Art. VIII. Miscellaneous Provisions, §§ 1--5**

PREAMBLE

We, the People of Portland, Maine, establish this Charter to secure the benefits of local governance and to provide for the general health, safety and welfare of our community. In so doing, we build a government that meets the needs of the people it serves and whose character it reflects. Our government shall further cooperation, encourage leadership, solicit our input and support the active participation of our residents in their governance. Our government shall be effective and accountable and shall promote equal rights and representative democracy.

Our government shall provide public education that enables all residents to acquire the knowledge and skills necessary to participate fully in Portland's civic, intellectual, cultural and economic life, in order to enrich and strengthen our community and our common future.
(Referendum 11/2/10)

ARTICLE I. GRANT OF POWERS TO THE CITY

Section 1. Corporate existence retained.

The inhabitants of the City of Portland shall continue to be a body politic and corporate by the name of the City of Portland, and shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon such city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations, and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof as such by-laws, regulations, or ordinances shall provide. Such penalties shall not limit nor diminish in any way the city's authority to seek and obtain higher or different penalties provided by state or other law. (Referenda 12/4/72; 11/2/10)

Section 2. Powers and duties.

The administration of all the fiscal, prudential, and municipal affairs of the City of Portland, with the government thereof, except the general management, care, conduct, and control of the schools of such city which shall be vested in a board of public education as hereinafter provided (also referred to herein as the "school board"), and also except as otherwise provided by this charter, shall be and are vested in one body of nine members, which shall constitute and be called the city council, all of whom shall be inhabitants of the city, and shall be sworn in the manner hereinafter prescribed.

The members of the city council shall be and constitute the municipal officers of the City of Portland for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state.

All other powers now or hereafter vested in the inhabitants of such city, and all powers granted by this charter, except as herein otherwise provided, shall be vested in the city council. (Referendum 11/2/10)

ARTICLE II. CITY COUNCIL

Section 1. City to be divided into election districts.

For the purpose of all elections the city, including its islands, shall be divided into five (5) districts to establish compact and contiguous districts of approximately equal population.

The city council for voting purposes may by ordinance divide the election districts into voting districts. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/2/11)

Section 2. Composition, election, tenure of office.

The city council shall be composed of nine (9) members, including the mayor who shall be one of the nine (9) members of the city council, and shall hold office for a term of three (3) years and until their successors are elected and qualified, except as provided below for the term of mayor and for one at large seat in the election of 2013 only. Four (4) members, including the mayor, shall be elected at large from and by the registered voters of the entire city, and one (1) shall be elected from each of the five (5) districts heretofore provided for, from and by the registered voters of each district. References in this charter to the city council, councilors, council, its members or membership, shall be deemed to include the mayor, unless otherwise specifically provided.

For the municipal election in November of 2013, one of the two at large seats up for election shall have a one-time four year term ending in 2017. Thereafter, the council term shall return to be three (3) years for this seat. The city clerk shall designate which seat shall be for the four (4) year term prior to the availability of nomination papers for the 2013 election, and nomination papers shall be separately issued for each of the two at large seats. Each at large candidate may take out and file nomination papers for only one of the at large seats. The municipal ballot will list the 4-year and 3-year council seats as separate questions.

All candidates must be residents of the city for a period of at least three (3) months prior to the date on or before which nomination papers are to be filed. The candidate from each of the five (5) districts must be a resident of such district

for a period of at least three (3) months prior to the date on or before which the nomination papers are to be filed.

Beginning with the regular municipal election in November, 2011, the at large position then up for election shall be designated as the mayor's position and shall continue as the mayor's position thereafter. The position of mayor only shall be elected by majority vote as provided in section 3 of this article. The candidate(s) for mayor shall be nominated in the same manner as other at large members of the council. The term of mayor shall be four (4) years, with a maximum limit of two (2) consecutive terms. The election and position of mayor shall be a non-partisan, full-time position. (Referenda 12/1/75; 6/13/78; 11/4/86; 11/3/87; 11/2/10; 11/6/12)

Section 3. Ranked choice voting; instant runoff tabulation.

For the positions of mayor, city councilor, and school board member, the city clerk shall implement a ranked choice voting protocol according to these guidelines:

- (a) The ballot shall give voters the option of ranking candidates in order of choice.
- (b) If a candidate receives a majority, i.e. at least one more than fifty percent (50%) of the first choice votes cast, that candidate is elected.
- (c) If no candidate receives a majority of first choice votes, an instant runoff re-tabulation shall be promptly conducted by the city clerk and completed within five (5) business days of the election. The instant runoff re-tabulation shall be conducted in successive rounds, with the majority determined for each successive round by the number of votes cast in that round. The candidate with the fewest votes after each successive round in which no candidate receives a majority of the votes cast in that round shall be eliminated, and the votes in the successive rounds shall be re-tabulated among the remaining candidates until one candidate receives a majority of the votes cast in that round. In each successive round, each voter's ballot shall count as a single vote for whichever candidate the voter has ranked highest who has not been eliminated in a prior round, if any.

- (d) After the first round, a majority is determined as at least one (1) more than fifty percent (50%) of the votes cast for a remaining candidate in a particular round.
- (e) The city clerk may adopt additional regulations consistent with this subsection to implement these provisions. The ballot shall contain instructions on how to vote for each office.

(Referenda 11/2/2010; 3/3/2020)

Section 4. Compensation of councilors and mayor.

Except as otherwise provided in the paragraph below for the mayor's compensation, the city council shall by order establish the amount each member shall be entitled to receive as compensation for all services rendered, and specify when any compensation shall be payable, but no such order increasing their compensation, including that of the mayor, shall take effect during the then current municipal year, and no such payment of compensation shall be made in advance.

Prior to the date nomination papers are available for the first mayoral election, the city council shall set the mayor's compensation and shall re-set it prior to the date nomination papers are available for each mayoral election thereafter. During the mayor's term, the city council may adjust the mayor's compensation. At minimum, the mayor shall be paid compensation consisting of a salary which is no less than one and one-half (1.5) times the median household income for Portland as most recently published by the U.S. Census Bureau, American Community Survey, or successor index thereto, at the time such compensation is set or adjusted, plus customary city benefits.

No member shall hold any office or employment the compensation of which is payable by the city or school department during the term for which he or she was elected.
(Referenda 12/1/75; 6/13/78; 11/4/86; 11/3/87; 11/2/10)

Section 5. Mayor's powers and duties.

The mayor shall be the official head of the city, responsible for providing leadership, and shall have the following powers and duties:

- (a) To articulate the city's vision and goals and build coalitions to further such vision and goals. The mayor shall give an annual state of the city address during a special meeting of the city council called for that purpose;
- (b) To convene and lead an annual workshop session of the city council to discuss and identify the city's goals and priorities in order to provide guidance for the city manager and to inform the public. The city manager shall attend this workshop session, and a summary of the session shall be made available to the public;
- (c) To represent the city with other municipalities, levels of government, community and neighborhood groups, and the business community;
- (d) To preside as chair of the city council, and vote upon all matters in the same manner as other members of the city council, except as provided in article VII, section 8. The mayor shall direct the city manager in the preparation of council meeting agendas;
- (e) To facilitate the implementation of city policies through the office of the city manager;
- (f) To consult with and provide guidance to the city manager in the preparation of all city budgets and to provide comments on such budgets at the time they are presented by the city manager to the city council for approval;
- (g) To consult with and provide guidance to the city manager in the preparation of the annual capital improvement program plan described in article VI, section 5, paragraph (i), and to provide comments on such program plan at the time it is presented by the city manager to the city council;
- (h) To facilitate among the city manager, city council, board of public education and the public to secure passage by the city council of the annual city and school budgets;

- (i) To exercise veto power over the annual city appropriation as provided in article VII, section 8;
- (j) To establish performance guidelines in conjunction with the other members of the city council for regular evaluations, no less than annually, by the city council of the performance of the city manager, corporation counsel and city clerk, such evaluations to be based upon those guidelines. Such performance guidelines shall have measurable goals and objectives, taking into consideration, as applicable, the achievement of city policies and priorities;
- (k) To chair any subcommittee with at least two (2) other city councilors to recommend the appointment or removal of the city manager, corporation counsel or the city clerk, but the full city council shall have the final decision in regard to such appointment or removal by a vote of at least five (5) members of the council; and
- (l) To appoint the members and chairs of the city council committees and various ad hoc committees and communicate such appointments to the city council, which may override such appointments by a vote of at least six (6) council members.

Notwithstanding the foregoing, the city manager shall be in charge of the day to day operations of the city and administration of the city budgets approved by the council.
(Referendum 11/2/10)

Section 6. Absence or disability of mayor; acting mayor.

In the temporary absence or disability of the mayor, the mayor may select an acting mayor from among the other council members and such person shall perform the duties of the mayor during such temporary absence or disability for a maximum of sixty consecutive (60) days or return of the mayor, whichever comes first. If through physical or mental incapacity the mayor is unable to select an acting mayor, or if the mayor's absence or disability exceeds sixty (60) consecutive days, the council shall select an acting mayor from among its membership until such time as the mayor is able to resume his or her duties or a vacancy is declared pursuant to section 7 below and a new mayor elected. (Referendum 6/13/78; 11/7/00; 11/2/10)

Section 7. Vacancies.

A vacancy in the membership of the city council shall occur upon the happening of the following: (1) the death of a member; (2) the effective date of the resignation of a member; (3) the removal of a member from the district from which he or she was elected; (4) the removal of a member from the city; (5) the conviction of a member of a felony while in office; or 6) the recall of a member pursuant to the provisions of article V. The council shall declare a vacancy in its membership to exist upon the failure of a member to attend any six (6) consecutive regular meetings of the city council, or at least sixty (60) percent of the regular meetings of the city council held in any one calendar year unless such member shall be excused (by vote of at least four (4) other members) for health reasons or other good cause.

The council shall declare a vacancy in its membership to exist upon the qualification of any member for any city or school department office, or the acceptance of any employment with the city or school department, the compensation for which is payable by the city or school department.

A member may in writing addressed to the council resign his or her office effective at a future date specified in such written resignation. Once submitted to the council, such resignation may not be withdrawn, and such member's office shall become vacant on such specified future date.

If a vacancy in the membership of the city council occurs or is declared prior to the next regular municipal election, the vacancy shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

Section 8. Meetings of the council.

The city council shall meet at the usual place for holding meetings on the first Monday in December following the regular municipal election, or as soon thereafter as possible, and at such meeting the mayor and councilors-elect shall be sworn to

the faithful discharge of their duties by a justice of the peace, or by the city clerk. The city council shall at such meeting establish by resolution or rule a regular place and time for holding its meetings, and shall meet regularly at least twice each month. (Referenda 6/13/78; 11/4/86; 11/7/00; 11/2/10)

Section 9. Special meetings.

Special meetings may be called by the mayor, and in case of his or her absence, disability, or refusal, may be called by five (5) or more members of the city council. At least twenty-four (24) hours notice of the time and place of holding such special meeting shall be given to all members of the city council. (Referendum 11/2/10)

Section 10. Quorum.

Five (5) members of the city council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken. (Referendum 11/2/10)

Section 11. Procedure.

The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public in accordance with state law. The city council shall act only by ordinance, order, or resolve. All ordinances, orders, and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. An appropriation order or resolve shall be confined to the subject of appropriations only.

No ordinance and no appropriation order or resolve shall be passed until it has been read on two separate days, except when the requirement of a second reading on a separate day has been dispensed with by the vote of at least seven (7) members of the city council. The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance, order, and

resolve shall require on final passage the affirmative vote of at least five (5) members of the city council. No ordinance shall take effect until thirty (30) days after its passage and no order or resolve shall take effect until ten (10) days after its passage, except as herein otherwise provided for emergency ordinances, orders and resolves.

The city council may, by vote of at least seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders, or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the city council shall be conclusive. (Referendum 11/2/10)

ARTICLE III. BOARD OF PUBLIC EDUCATION

Section 1. Composition, election, tenure of office, compensation.

The board of public education shall be composed of nine (9) members who shall hold office, except as hereinafter provided, for a term of three (3) years and until their successors are elected and qualified. Four (4) shall be elected at large from and by the registered voters of the entire city, and one (1) shall be elected from each of the five (5) districts heretofore provided for in section 1 of article II, from and by the registered voters of each such district.

All candidates must be residents of the city for a period of at least three (3) months prior to the date on or before which nomination papers are to be filed. The candidate from each of the five (5) districts must be a resident of such district for a period of at least three (3) months prior to the date on or before which the nomination papers are to be filed.

The city council shall by order establish the amount each member of the school board shall be entitled to receive as compensation for all services rendered, which compensation shall be the same as that received by members of the city council, other than the mayor. The city council shall provide additional compensation to the chair of the school board appropriate to reflect his or her additional responsibilities as chair. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/3/87; 11/2/10)

Section 2. Chair.

On the first Monday in December following the regular municipal election, or as soon thereafter as possible, the board of public education shall elect one of its members as chair for the ensuing year and until a successor is elected and qualified, and may fill for the unexpired term any vacancy as chair that may occur.

At a date and time to be mutually agreed upon by the chair of the school board and the mayor, the chair shall deliver an annual address on the "state of the public education system in Portland" to the city council and the public. (Referenda 11/2/76; 6/13/78; 11/7/00; 11/2/10)

Section 3. Organization.

The school board shall meet for organization on the first Monday in December following the regular municipal election, or as soon thereafter as possible. The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk, and a record made thereof. The members shall at such meeting, or as soon thereafter as possible, establish a regular place and time for holding meetings and shall meet regularly at such place and time. Five (5) members of the school board shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken. (Referenda 6/13/78; 11/7/00; 11/2/10)

Section 4. Powers and duties.

The board of public education shall have all the powers, and perform all the duties in regard to the care and management, including sound fiscal management, conduct, and control of the public schools of the city, which are now conferred and imposed upon school committees and school boards by the laws of this state, except as otherwise provided in this charter. (Referendum 11/2/10)

Section 5. School budget.

Not later than three and one-half (3.5) months before the end of the fiscal year, the superintendent shall submit to the school board budget estimates of the various sums required for the support of public schools for the ensuing fiscal year and shall thereafter provide the school board with such information relating to such estimates as the school board shall require.

During the thirty (30) days following submission of the superintendent's proposed budget to the school board, the school board and the city council, or their designated subcommittees, shall meet jointly at least twice to review the proposed school budget, focusing on its underlying assumptions and supporting data and the ability of the city to raise the necessary funds for the support of such proposed budget. The superintendent and the city manager shall provide information regarding such proposed budget as reasonably requested by the school board and the city council, or their designated subcommittees.

The budget submitted by the superintendent to be reviewed jointly by the school board and the city council shall provide a complete financial plan of all school funds and activities for the ensuing fiscal year. In organizing the school budget for joint review, the superintendent shall utilize the most feasible combination of expenditure classification by fund, organization, unit, program, purpose or activity, and object. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. The total of proposed expenditures shall not exceed the total of proposed income.

Not later than the last Monday in April of each fiscal year, the school board shall submit to the city council a budget of the various sums required for the support of the public schools for the ensuing fiscal year in the format provided above, and shall thereafter provide the city council with such information relating to such budget as the city council shall require.

A budget hearing on such budget estimates shall be held prior to final action by the city council. The city council in its appropriation resolve for the ensuing year shall, in addition to amounts appropriated for other general city

purposes, appropriate one gross amount for the support of the public schools, which amount shall not be less than the sum required to be appropriated for such purposes by the general laws of the state. Such gross amount shall not be less than the sum requested by the school board except by a vote of at least six (6) members of the city council. Such appropriation shall be expended under the direction and control of the school board but no such appropriation shall be exceeded except by consent of the city council. (Referendum 6/13/78; 11/2/10)

Section 6. Vacancies.

A vacancy in the membership of the board of public education shall occur upon the happening of the following: (1) the death of a member; (2) the effective date of the resignation of a member; (3) the removal of a member from the district from which he or she was elected; (4) the removal of a member from the city; (5) the conviction of a member of a felony while in office; or (6) the recall of a member pursuant to the provision of Article V. The school board shall declare a vacancy in its membership to exist upon the failure of a member to attend any six (6) consecutive regular meetings of the school board or at least sixty (60) percent of the regular meetings of the school board held in any one calendar year unless such member shall be excused (by a vote of at least four (4) of the members) for health reasons or other good cause. A member may in writing addressed to the school board resign his or her office effective at a future date specified in the written resignation. Once submitted to the school board, such resignation may not be withdrawn and such member's office shall become vacant on the specified future date.

If a vacancy in the membership of the school board occurs or is declared prior to the next regular municipal election, the vacancy shall be filled at a special election to take place on the same date as the next scheduled municipal or state election which is no less than 127 days after the date the vacancy occurs or is declared, unless the council, by a vote of at least six (6) of its members, calls a special election on an earlier date and shortens the time for obtaining and filing nomination petitions established in article IV, section 6. Such election shall be called and held and nominations made as in other elections. (Referenda 11/2/76; 11/4/86; 11/2/99; 11/2/10)

ARTICLE IV. ELECTIONS

Section 1. Continuity in office.

In the event redistricting of the city shall cause a then council member or school board member to reside in a district other than that from which such person was elected, the office of such member shall not thereby be considered vacated but such member shall continue in office until a successor is duly elected and qualified. Each district councilor and district school board member in office on the effective date of any such redistricting shall be deemed to represent the newly constituted district of the same numerical designation as that formerly represented and shall continue to serve in that capacity until expiration of his or her term. (Referenda 6/13/78; 11/4/86; 11/2/10)

Section 2. Regular municipal election.

On the first Tuesday after the first Monday in November of each year, the regular municipal election shall be held and the registered voters of the city or district, as the case may be, shall ballot for such councilors and for such members of the school board as may be necessary to fill the offices of those whose terms would then normally expire and fill any existing vacancy in an unexpired term of office. (Referenda 12/1/75; 11/2/76; 6/13/78; 11/4/86; 11/7/00; 11/6/01; 11/2/10)

Section 3. Wardens and ward clerks.

The wardens and ward clerks shall be nominated by the city clerk and appointed by order of the city council. They shall be and remain residents of the city and all other qualifications for appointment shall be as provided in Title 21-A of the Maine Revised Statutes. They shall hold their office for one year from the date of appointment, unless a shorter term is specified by the order of appointment, and until others have been chosen and qualified in their stead. The warden and the ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the state to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of such ward. (Referenda 11/2/76; 6/13/78; 11/4/86, 11/4/08; 11/2/10)

Section 4. Nominations.

The nominations of all candidates for elective offices provided for by this charter shall be by petition. The petition of a candidate for an at large council seat or at large school board seat shall be signed by not less than three hundred (300) nor more than five hundred (500) registered voters of the city. The petition of a candidate for a district council seat or a candidate for a district school board seat shall be signed by not less than seventy-five (75) nor more than one hundred fifty (150) registered voters of the respective district. Voters may sign petitions for more than one (1) candidate for each office to be filled at the election. (Referenda 12/1/75; 11/2/76; 11/4/86; 11/4/08; 11/2/10)

Section 5. Form of nomination petition.

The signatures to nomination petitions need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers of each petition, and that each signature appended thereto was made in his or her presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

To the city clerk of the City of Portland

We, the undersigned voters of the City of Portland, hereby nominate, _____ whose residence is _____ for the office of _____ to be voted for at the election to be held in the City of Portland on the _____ day of _____, _____, and we individually certify that we are qualified to vote for a candidate for the above office.

Name _____ Street and Number _____, being duly sworn, deposes and says, that he (she) is the circulator of the foregoing nomination petition containing _____ signatures, and that the signatures appended thereto were made in his or her presence and are the signatures of the persons whose names they purport to be.

(Signed) _____.

Subscribed and sworn to before me this _____ day of _____,
_____.

Attorney, State of Maine Bar #_____
Notary Public

If this petition is deemed insufficient by the city clerk, he or she shall forthwith notify by mail _____ at _____.
(Referendum 11/2/10)

Section 6. Filing of nomination petitions, and acceptance of nomination.

The city clerk shall make nomination petitions available to the candidates one hundred and twenty-seven (127) days prior to the election. The nomination petitions for any one (1) candidate must be assembled and united into one (1) petition and filed with the city clerk during normal business hours not earlier than eighty-five (85) nor later than seventy-one (71) days before the date of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing at the time of filing of such nomination petitions his or her consent accepting nomination, agreeing not to withdraw and, if elected, to qualify. Such nomination petitions and consent, once filed may not be withdrawn. Any challenge to a nomination petition must be submitted to the city clerk in writing, setting forth the specific reasons for the objection, no later than five (5) days, excluding Saturdays, Sundays, and legal holidays, from its date of filing, or it is barred. No person shall take out nomination papers for more than one position at the same election, nor be nominated, nor shall any person consent to being nominated, at the same election for any other elective office provided for by this charter, and no person shall simultaneously hold more than one (1) elective office provided for by this charter. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/6/01; 11/4/08; 11/2/10)

Section 7. Form of ballot.

All official ballots for use in all municipal elections shall be prepared by the city clerk and furnished by the city, consistent with the voting machines used and the form of any state ballot(s), and the use of ranked choice voting. Ballots for use in elections under this charter shall contain the names of the various candidates, with their residence, and the office

for which they are candidates, and instructions on how to mark the ballot. The candidates for each office shall be grouped under the title of each office, plainly and distinctly marked. There shall be as many blank spaces under the name of each office as there are vacancies to be filled. The procedure for counting write-in votes shall be governed by Title 21-A, Maine Revised Statutes, unless inconsistent with article II, section 3, in which case the charter provisions shall govern. Notwithstanding the foregoing, in the event of an emergency such as the illness, death or disqualification of a nominee for municipal office prior to the general election, the time frame for accepting a declared write-in candidate may be shortened by the city clerk. Such ballots may also contain such measures as may be submitted to the voters of the city by the legislature or by the city council and shall be without party mark or designation.

In preparing all ballots for election under this charter, the city clerk shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames. (Referenda 11/2/2010; 3/3/2020)

Section 8. Specimen ballots.

The city clerk shall cause specimen or sample ballots to be prepared and to be posted in public places in each ward and voting precinct and advertised in the newspapers not later than ten (10) days prior to the municipal election. Such specimen ballots shall be printed on colored paper and marked "Specimen Ballot," and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the legislature or by the city council. Such specimen ballots shall also be without party mark or designation. (Referendum 11/6/01; 11/2/10)

Section 9. Count of ballots.

Upon closing of the polls, ballots shall be counted in accordance with Title 21-A, Maine Revised Statutes, unless inconsistent with article II, section 3, in which case the charter provisions shall govern, and the results thereof delivered to the city clerk by the wardens. (Referendum 11/2/10)

Section 10. Canvass of returns.

The city clerk shall examine the records of the several voting places and within forty-eight (48) hours after such election shall determine and declare the successful candidates as follows: The person or persons, not exceeding the number to be voted for at any one time for any office, having the majority of votes cast at such election, shall be determined and declared to be elected. If no candidate for mayor, city council, or school board has a majority of the votes cast as provided in article II, section 3, the city clerk shall conduct an instant runoff tabulation as provided in such section until the candidate with the majority of votes cast is determined. The city clerk shall provide written notice of the election results to all candidates. (Referenda 11/6/01; 11/2/10; 3/3/2020)

Section 11. State election laws applicable.

The laws of the state in Title 21-A of the Revised Statutes relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as provided below regarding 42-day pre-election reports and as otherwise provided herein.

In addition to the reports required for municipal candidates by Title 21-A of the Maine Revised Statutes, 42-day pre-election reports must be filed by municipal candidates no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date.

Nothing in this charter shall prohibit the use of electronic or revised voting methods and procedures to the extent authorized by state and/or federal law. (Referenda 11/4/08; 11/6/2018)

ARTICLE V. RECALL

Section 1. Applicability.

Any member of either the city council or the school board may be recalled and removed from office by the registered voters of the City of Portland, as hereinafter provided, except that this provision shall not apply to a member of either body who has one (1) year or less to serve in his or her term, i.e., any petition to recall a member must be certified by the clerk no later than November 30 of the year prior to that member's next scheduled November re-election date. (Referenda 11/4/86; 11/2/10)

Section 2. Petition for recall.

In the case of either an at large member of the city council or of the school board, any five hundred (500) registered voters of the city may affirm and file with the city clerk an affidavit containing the name of the member of the city council or of the school board whose removal is sought, together with a statement of the reasons why such removal is desired. In the case of a district member of the city council or of the school board, any two hundred and fifty (250) registered voters of the member's district may affirm and file with the city clerk an affidavit containing the name of the district member whose removal is sought, together with a statement of the reasons why such removal is desired. Members of the city council and of the school board shall not be included on the same affidavit and only one member's name shall be on an affidavit.

Within seven (7) calendar days of receipt of such an affidavit, the city clerk shall prepare a sufficient number of petitions which shall contain the signature of the city clerk, his or her official seal, the date, and the name of the person whose removal is sought. In addition, the statement of reasons for removal referred to above shall either be printed on such petitions or attached thereto. Such petitions shall be on paper of uniform size with as many individual sheets as reasonably necessary.

The city clerk shall file the completed petitions in his or her office. During the thirty (30) days following their filing, the city clerk shall arrange to have petitions, noting that removal is being sought as well as the reasons therefor, available for signature both at city hall and also at public places as indicated below. Notice of the location of the public places where petitions may be signed shall be given by publication at least forty-eight (48) hours in advance and such notice shall contain the specific location of such public place or places, the dates it or they will be open, and the times

during which petitions may be signed. In the case of either a district councilor or a district school board member, the city clerk shall select one (1) site outside of city hall, but within the district of the member whose removal is sought, and such location shall be open for four (4) days between the hours of noon and 8:00 p.m. In the case of at large councilors or members of the school board, the city clerk shall select four (4) sites outside of city hall and such locations shall be open for four (4) days each between the hours of noon and 8:00 p.m.

The city clerk shall designate election clerks to supervise each such site. Election clerks shall be residents of Portland and at least eighteen (18) years of age. They shall be sworn to the faithful performance of their duties by the city clerk. Each qualified voter who signs a petition shall include his or her place of residence, providing either the street and number or a description sufficient to identify the place.

To mandate a vote in the case of an at large councilor or an at large member of the school board, the recall petition must be signed by at least three thousand (3,000) registered voters of the city, or in the case of a district councilor or district member of the school board, by at least fifteen hundred (1,500) registered voters of that member's district. (Referenda 12/1/75, 11/4/86; 11/2/10)

Section 3. Verification of recall petition.

At the expiration of the thirty (30) day period for signing petitions described in section 2, the city clerk shall declare the petition closed and, within ten (10) days thereafter, shall ascertain whether or not the petitions have been signed by the requisite number of registered voters. The city clerk shall attach his or her certificate, showing the results of such examination, to the petitions.

If the clerk's certificate should show that the petitions are insufficient, he or she shall advise both the city council and also the person or persons whose removal was sought of that fact. A finding of insufficiency shall not prejudice the filing of a new petition for the same purpose, except that such new petition shall not be filed within twelve (12) months from the date of the receipt of the clerk's certificate by the city council. (Referenda 11/4/86; 11/2/10)

Section 4. Calling of recall election.

If the clerk's certificate should show that the petitions are sufficient, he or she shall submit them, together with the clerk's certification, to the city council at its next regular meeting following certification, and shall also notify the person or persons whose removal is sought. The city council shall, within ten (10) days of receipt of the clerk's certificate, order an election to be held not less than forty-five (45) nor more than ninety (90) days thereafter; except that, if a regular municipal election should occur within ninety (90) days after receipt of the certificate, the city council may, in its discretion, schedule the recall election for the same date as the regular municipal election. The recall election shall be called and held as other elections under this charter, except for the specific limitations imposed by this article.

All registered voters in the city may vote on the recall of an at large member of the council or school board; only the registered voters of the applicable district may vote on the recall of a district member of the council or school board. (Referenda 11/4/86; 11/2/10)

Section 5. Form of ballot.

Unless the member or members whose removal is sought shall have resigned within ten (10) days after the receipt by the city council of the clerk's certificate, the form of the question to be submitted to the voters shall, as nearly as possible, be: "Shall (name of official and his or her title) be recalled?" (Referendum 11/4/86)

Section 6. Count of ballots.

In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, he or she shall be thereby removed, and, in that event, the candidate to succeed such person for the balance of the unexpired term shall be determined as provided for in the case of a vacancy in the office.

If a majority of those voting should decline to recall a particular official, then no proceedings, seeking the recall of that same official, shall be initiated under this article within

twelve (12) months from the date of the election in which his or her recall was sought. (Referendum 11/4/86)

Section 7. Election may be ordered.

If a member of either the city council or school board who is recalled should either request a recount or dispute the election as permitted by law, then that member shall remain in office until the recount or dispute has been finally determined; and the provisions of article II, section 7 and article III, section 6, relating to vacancies in the city council or school board, shall be stayed. (Referendum 11/4/86; 11/2/10)

ARTICLE VI. ADMINISTRATIVE OFFICERS

Section 1. Appointments.

(a) The following officers shall be appointed by vote of at least five (5) members of the city council: city manager, city clerk, and corporation counsel, and they may appoint constables at large.

(b) All department heads shall be appointed by the city manager, subject to confirmation by the city council.

(c) All attorneys employed in the corporation counsel's office shall be appointed by the corporation counsel, subject to confirmation by the city council.

(d) All other employees shall be appointed by the city manager upon recommendation of the heads of their departments. (Referendum 11/4/86; 11/2/10)

Section 2. Organizational powers.

The city council shall have power to provide by ordinance for the organization, conduct, and operation of the departments, agencies, offices, and boards of the city, for the creation of additional departments, agencies, offices, and boards and for the division of any such departments, agencies, offices, and boards; and for the alteration, abolition, assignment, or reassignment of all such departments, divisions, agencies, offices and boards; provided, however, there shall be a director of finance to perform the functions specified in article VII of this Charter. The city council shall, by ordinance, designate

those department heads responsible for performing duties required by state law. (Referendum 11/4/86)

Section 3. Civil service rules.

The city council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension, and removal of the members of the police department and of the fire department, other than the chiefs of such departments, and for a civil service commission to administer the same.

Section 4. Compensation and tenure of offices.

The city council shall fix by order the salaries of the appointees of the city council. Salaries of the appointees of the city manager shall be fixed by the city manager, subject to the approval of the city council. All appointive officers shall hold office during the pleasure of the appointing power.

Section 5. Appointment; qualifications; powers and duties of the city manager.

The city manager shall be chosen by the city council solely on the basis of character and executive administrative qualifications, and may or may not be a resident of the City of Portland or of the State of Maine at the time of appointment. Such person shall give bond for the faithful discharge of his or her duties to the City of Portland and in such sum as the city council shall determine and direct, and with surety or sureties to be approved by the city council. The premium on such bond shall be paid by the city. Such person shall be the administrative head of the city and shall be responsible to the city council for the administration of all departments. Neither the mayor nor members of the city council shall direct, request or interfere with the appointment or removal of any of the officers or employees of the city for whom the city manager is responsible, nor shall any of them give an order, publicly or privately, to any such city officer or employee relating to any matter in the line of that officer's or employee's city employment. Notwithstanding the foregoing, nothing herein is intended to prevent the city manager from assigning staff to work and communicate directly with councilors, boards

and commissions, council committees, neighborhood and other groups and organizations, on city work.

The city manager's powers and duties shall be as follows:

- (a) To see that the laws and ordinances are enforced, but shall delegate to the chief of the police department the active duties connected therewith regarding criminal conduct.
- (b) To exercise control over all departments, divisions, agencies, and offices created herein or that may be hereafter created.
- (c) To implement the policy decisions of the city council.
- (d) To coordinate city programs and operations and recommend improvements in such programs and operations to the council.
- (e) To prepare city budgets, in consultation with and incorporating policy guidance of the mayor, and to present such budgets to the council.
- (f) To make appointments as provided in this charter.
- (g) To attend meetings of the city council, except when his or her removal is being considered, and recommend for adoption such measures as he or she may deem expedient.
- (h) To keep the city council fully advised as to the business and financial condition and future needs of the city and to furnish the city council with all available facts, figures, and data connected therewith when requested.
- (i) To prepare a five (5) year rolling capital improvement plan for annual presentation to the city council, which plan includes the following:
 - 1. A one (1) year plan of specific projects and their cost;

2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
 3. A discussion of the basis for the plan and the factors which went into its development or amendments.
- (j) To prepare and submit to the city council such reports as are requested or he or she deems advisable; and
- (k) To perform such other duties as may be prescribed by this charter or required by ordinance of the city council. (Referenda 11/4/86; 11/2/10)

Section 6. Vacancy in office of city manager.

During any vacancy in the office of city manager, and during any absence or disability of the city manager of more than sixty (60) days, the city council shall designate a properly qualified person to perform the duties of manager and fix such person's compensation. During a temporary absence of sixty (60) days or less, the city manager may designate a qualified person to perform the duties of manager during such absence. While so acting, such person shall have the same powers and duties as those given to and imposed on the city manager. Before entering his or her duties, he or she shall give bond to the City of Portland in a sum and with surety or sureties to be approved by the city council. The premium on such bond is to be paid by the city. (Referendum 11/2/10)

Section 7. Duties of administrative officers.

Duties of administrative officers shall be prescribed by the appointive power, but such duties shall not be inconsistent with this charter or any ordinance enacted by the city council as provided herein. (Referendum 11/4/86; 11/2/10)

Section 8. Continuity in office.

Any and all officers, department heads, and employees of the City of Portland on the effective date of this charter shall continue in such capacity until a successor is appointed and qualified as provided herein, unless sooner removed by the appointive power designated herein. (Referendum 11/4/86; 11/2/10)

ARTICLE VII. BUSINESS AND FINANCIAL PROVISIONS

Section 1. Accounts and records.

Accounts shall be kept by the director of finance, showing the financial transactions of all departments of the city, and the school department. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The director of finance shall furnish to the city manager each month a report containing in detail the revenues, expenses and expenditures of the city on all accounts, and for each appropriation item the expenditures made and the obligations incurred during the preceding calendar month and the total unencumbered balance. All the accounts of the city and the school department shall be audited annually by a qualified certified public accountant to be chosen by the city council. (Referendum 12/1/75; 11/2/10)

Section 2. Collaboration between city and schools.

To the extent practicable and lawful, the city and the school department shall endeavor to share staff and resources and otherwise cooperate with one another in order to provide better city and school services in a cost effective manner. (Referendum 11/2/10)

Section 3. Reports.

The director of finance shall publish each month a set of financial statements reflecting the financial condition of the city and the school department, and such other financial information as may be required by the city council.

The director of finance shall produce a comprehensive financial report on an annual basis which conforms to "Generally Accepted Accounting Principles." (Referendum 11/2/10)

Section 4. Fiscal year.

The fiscal year of the city shall be July 1 through June 30, or such other fiscal year as the city council shall determine. (Referenda 6/13/78; 11/4/86; 11/2/10))

Section 5. Annual budget.

Not later than two (2) months before the end of the fiscal year, the city manager shall submit to the city council a proposed city budget prepared by the city manager for the ensuing fiscal year. The mayor shall submit comments on the proposed city budget, along with any proposed modifications, concurrently with the manager's submission.

The city council shall fix a time and place for holding a public hearing upon the proposed city budget prepared by the manager, and shall give not less than ten (10) days prior public notice of such hearing, which hearing shall be at least ten (10) days before the final passage of the appropriation resolve. (Referenda 6/13/78; 11/4/86; 11/2/10)

Section 6. Budget content.

The proposed city budget prepared by the manager shall provide a complete financial plan of city general and enterprise funds and activities for the ensuing fiscal year. In organizing the budget, the city manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating proposed tax levies, and all proposed expenditures, including debt service for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year.

The total of proposed expenditures shall not exceed the total of proposed income. (Referenda 6/13/78; 11/2/10)

Section 7. Appropriation resolve.

The city council shall adopt the annual appropriation resolve for the next fiscal year on or before the last day of the twelfth month of the fiscal year currently ending. Such resolve shall appropriate those amounts deemed necessary for general city purposes and additionally one gross amount for school purposes as required by section 5 of article III. The total amount appropriated shall not exceed the estimated revenue of the city.

If it fails to adopt such resolve by this date, the city council may make appropriation for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force. These continuing appropriations shall not be subject to the mayor's veto in section 8 below.

The city council may by resolution appropriate to any purpose or object for which there shall have been no appropriation for the current year, or for which the appropriation for the current year has proved insufficient, any accruing revenue of the city not appropriated as hereinbefore provided and any unencumbered appropriation balance, or portion thereof, remaining after the purpose of the appropriation shall have been satisfied or abandoned. Such appropriations shall not be subject to the mayor's veto in section 8 below. (Referenda 6/13/78; 11/2/10)

Section 8. Mayoral veto of general city purposes appropriations in the appropriation resolve.

Within five (5) business days of the meeting at which the city council adopts the annual appropriation resolve, the mayor may veto the appropriation for general city purposes in such resolve by written communication to the other members of the city council. Such communication shall specify the reasons for such veto and shall, at minimum, be posted upon the city's website or similar location and sent to the councilors by electronic mail and by the same means that agendas are delivered to councilors.

Any such veto of the appropriation for general city purposes shall not affect city payment of debt service obligations on previously authorized bonds, nor shall it affect the school budget appropriation.

An order to override the veto shall be placed on the next city council agenda which is at least five (5) calendar days after the date of the mayor's veto communication, and such veto may be overridden by a vote of at least six (6) members of the city council. The mayor shall not vote on such override item.

If a veto is overridden, the general city purposes appropriation will take effect on the first day of the fiscal

year, or on the day immediately following the override vote, if such vote is after the first day of the fiscal year.

If a veto is not overridden, then at the same meeting the override vote is taken, the general city purposes appropriation which was vetoed shall become an item for further consideration by the city council, without the need for a motion for reconsideration, and the city appropriation may be modified, amended, or otherwise acted upon to secure passage at that meeting or a subsequent meeting without the need for two readings prior to passage.

In the event the city council does not override the veto or does not secure passage of the annual appropriation for general city purposes prior to the start of the fiscal year, or has not otherwise acted to provide continuing appropriations under the second paragraph of section 7 above, then the appropriations for general city purposes in effect for the prior fiscal year shall go into effect as of the first day of the fiscal year, with expenditures chargeable to the appropriation for the year, until the appropriation for general city purposes is approved. (Referendum 11/2/10)

Section 9. Unexpended appropriations.

All appropriations in the annual budget shall lapse at the close of the fiscal year unless specifically continued by order of the city council, and the unexpended appropriations shall be transferred to the appropriate fund balance account. (Referendum 11/2/10)

Section 10. Borrowing.

The borrowing of money by and for the city shall be limited as to form and purpose by section 11 and section 12 of this article. The credit of the city shall in no manner be loaned to any individual, association or corporation. (Referendum 11/2/10)

Section 11. Bond issues.

Money may be borrowed, within the limits fixed by the constitution and statutes of the state, now or hereafter applying to Portland, by the issue and sale of bonds or notes pledged on the credit of the city, or on the revenues or assets of the projects financed with the proceeds of such borrowings, the proceeds to be used for the acquisition of land, the

construction, reconstruction, major alteration, extraordinary repairs, and equipment of buildings and other permanent public improvements, the purchase of departmental equipment, for economic development to the extent determined by the City Council to serve a valid public purpose, to create reserves to settle workers' compensation obligations, to fund, refund, pay or to create reserves for the payment of the city's unfunded pension fund liabilities and for the payment of refunding bonds, notes and other evidences of indebtedness previously issued, or for any other purpose permitted by state law.

No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in two (2) public places in the City of Portland and publishing such notice at least twice in a newspaper of general circulation in Portland at least two (2) weeks before final action of the city council. In addition, the city council may, in its discretion, provide that such notice shall be published on the city's website and in such other additional media as the city council determines are appropriate to notify the general public of the public hearing.

Any order authorizing the issue of bonds must be approved by vote of at least seven (7) members of the city council. (Referenda 11/4/86; 11/5/91; 11/8/94; 11/2/99; 11/2/10)

Section 12. Temporary loans.

Money may be borrowed in anticipation of receipts from taxes during any fiscal year but the aggregate amount of such loans outstanding at any one (1) time shall not exceed eighty (80) percent of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of the receipts from taxes for the fiscal year in which the loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized; all such loans shall be subject to the provisions of the laws of the State of Maine in relation thereto. This section shall not limit in any way the power granted to towns and cities to borrow money as contained in the Revised Statutes of the State of Maine and acts amendatory thereof and additional thereto. (Referendum 11/4/86; 11/2/10)

Section 13. Payments.

The director of finance shall establish adequate financial controls to reasonably ensure that all payrolls, bills and other claims and demands against the city are in proper form, correctly computed, duly certified and legally due and payable.

The director of finance may require any claimant to make oath to the validity of his or her claim, may investigate any claim and for such purpose or purposes may examine witnesses under oath. (Referendum 11/2/10)

Section 14. Bonds of officers.

The city council shall require a bond with sufficient surety or sureties, satisfactory to the city council, from all persons trusted with the collection, custody or disbursement of any of the public moneys; and may require such bond from such other officials as it may deem advisable; the premium charges for such bonds to be paid by the city. (Referendum 11/2/10)

Section 15. Collection and custody of city moneys.

All moneys received by any officer, employee or agent of the city belonging to the city, or for or in connection with the business of the city, shall forthwith be paid by the officer, employee or agent receiving the same into the city treasury, and shall then be deposited by the director of finance with a federally insured banking institution or institutions or insured credit union or unions. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city. (Referendum 11/2/10)

Section 16. Voter referendum required for certain city council actions.

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or
- (2) Orders or resolves directly or indirectly obligating the city to expend, over a term greater than one (1)

municipal year, municipal tax funds in excess of an amount greater than seven and one-half one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

(c) Any order or resolve described in subsection (a) of this section shall be approved by separate action of the city council.

(d) No order or resolve described in subparagraph (a) of this section, not excepted by subparagraph (b), shall become effective until approved by a majority of voters voting at a regular or special municipal election. In the event that the total number of votes cast for and against the question for the referred order or resolve should be less than ten (10) percent of the registered voters of the city, then such order or resolve shall be deemed to be approved and effective.

(e) The form of the ballot question for the referred order or resolve shall be substantially as follows:

Shall the order or resolve entitled "____
____", be approved?
(Referendum 11/4/86; 11/2/10)

ARTICLE VIII. MISCELLANEOUS PROVISIONS

Section 1. No personal interest.

No member of the city council or school board or board or commission thereof and no officer or employee of the city or school department shall:

- (a) Have a substantial financial interest, direct or indirect, in any contract entered into by or on behalf of the City of Portland or the school board, except his or her employment contract, or in the sale to or by the city or school department of any land, materials, supplies or services when such officer, employee or member exercises on behalf of the city or school department any function or responsibility with respect to such contract or sale. All contracts or sales made in violation hereof are void, and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such transaction.
- (b) Purchase or accept anything from the city or school department, other than those items or services which are offered to the public generally, and then only upon the same terms and under the same procedures offered to and used for the general public. This shall not include those items or services which are received as compensation, or as a part of such person's employment contract, or which are necessary for the performance of such person's duties.
- (c) Accept or receive from any person, firm, or corporation acting under a franchise, contract, or license from the city or school department, any frank, free pass, free ticket, or free service, or accept, directly or indirectly, from any such person, firm, or corporation any service upon terms more favorable than those granted to the public generally. (Referenda 11/4/86; 11/2/10)

Section 2. Ordinances, rules and regulations continued.

All ordinances in force at the time that this charter takes effect, not inconsistent with this charter, shall continue in

force until amended or repealed. All rules and regulations of the municipal officers or of any office of the City of Portland in force at the time that this charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Section 3. Continuity of actions.

All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent therewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Section 4. Summons before city council and civil service commission.

The clerks of the supreme judicial and superior courts may issue summonses or subpoenas for witnesses to attend and to produce books, documents and papers at any meeting of the city council or of the civil service commission of the City of Portland at which a hearing is had in any matter regarding any alleged dereliction, which summonses shall be served as summonses are required to be served in matters before the supreme judicial or superior courts. Failure to obey a summons or subpoena shall be punished by the appropriate court in the same manner as contempt is punished under the general law. (Referendum 11/4/86)

Section 5. Effect of private and special laws.

Private and special laws which apply to the City of Portland in effect on November 4, 1986 shall continue in force until amended or repealed. (Referendum 11/4/86)

APPENDIX A

Charter Legislative History

1. Town of Portland incorporated by Act of Commonwealth of Massachusetts on July 4, 1786; Town of Portland Records, p. 1
2. City of Portland incorporated by adoption of charter on March 26, 1832; original charter can be found in Chapter 248, Special Laws of Maine 1832, p. 380; amendments as follows:
 - c. 325, S.L. 1833, p. 501
 - c. 500, S.L. 1834, p. 749
 - c. 402, S.L. 1838, p. 511
 - c. 541, S.L. 1839, p. 648

- c. 33, P & SL 1842, p. 25
- c. 200, P & SL 1845, p. 258
- c. 266, P & SL 1845, p. 310
- c. 233, P & SL 1849, p. 333
- c. 330, P & SL 1850, p. 458
- c. 167, P & SL 1853, p. 158
- c. 35, P & SL 1857, p. 48
- c. 103, P & SL 1857, p. 93
- c. 109, P & SL 1857, p. 100
- 3. A total revision of the charter was accomplished in 1863; c. 275, P & SL 1863, p. 257; amendments as follows:
 - c. 348, P & SL 1870, p. 316
 - c. 647, P & SL 1871, p. 624
 - c. 21, P & SL 1875, p. 16
 - c. 8, P & SL 1881, p. 9
 - c. 86, P & SL 1881, p. 86
 - (c. 450, P & SL 1897, p. 707--Revision of charter rejected by voters in 1897)
 - c. 384, P & SL 1901, p. 569
 - c. 68, P & SL 1903, p. 116
 - (c. 287, P & SL 1905, p. 328--abolishing common council rejected by voters April 24, 1905)
 - c. 344, P & SL 1907, p. 638
 - c. 427, P & SL 1907, p. 758
 - (c. 148, P & SL 1921, p. 513--"Murray Bill" charter revision rejected by voters September 13, 1921)
 - (c. 149, P & SL 1921, p. 532--"Brewster Bill" charter revision rejected by voters September 13, 1921)
- 4. A total revision of the charter was accomplished in 1923 by adoption by voters of "Brewster Bill" on September 11, 1923; c. 109, P & SL 1923, p. 596; ("Nichols Bill" c.104, P & SL 1923, p. 557 was rejected same date); amendments as follows:
 - c. 56, P & SL 1929, p. 484
 - (c. 112, P & SL 1929, p. 604--Mayor--Alderman form rejected by voters on September 10, 1929)
 - c. 31, P & SL 1931, p. 353
 - c. 50, P & SL 1945, p. 629
 - c. 113, P & SL 1945, p. 736
 - c. 144, P & SL 1945, p. 71
 - c. 72, P & SL 1947, p. 722
 - c. 72, P & SL 1949, p. 765
 - c. 103, P & SL 1949, p. 803
 - c. 28, P & SL 1953, p. 528
 - c. 108, P & SL 1955, p. 756
 - c. 88, P & SL 1957, p. 707
 - c. 143, P & SL 1959, p. 873
- 5. A total revision of the charter was accomplished in 1961; c. 194, P & SL 1961, p 1125; amendments as follows:
 - c. 64, P & SL 1963, p. 966
 - c. 65, P & SL 1963, p. 967
 - c. 157, P & SL 1963, p. 1187
 - c. 177, P & SL 1963, § 1, p. 1291
 - (c. 6, P & SL 1965, p. 649 rejected by voters on December 6, 1965)
 - c. 7, p & SL 1965, p. 650
 - c. 81, P & SL 1965, p. 760

(c. 127, P & SL 1965, p. 849 rejected by voters on December 6, 1965)
c. 221, P & SL 1967, p. 136
c. 83, P & SL 1969, p. 1628
c. 136, P & SL 1969, p. 1792
c. 146, P & SL 1969, p. 1820
(c. 185, P & SL 1969, p. 1958 rejected by voters on November 3, 1970)

State constitutional law reference--Municipal home rule, Const. of
Maine, Art. VIII, Pt. 2.

Referenda 12/4/72	Art. I, 1
Referenda 12/1/75	Art. II, 2 Art. IV, 2 Art. IV, 4 Art. V, 2 Art. VII, 1
Referenda 11/2/76**	Art. II, 1 Art. II, 4 Art. III, 1,2,5 Art. IV, 2,3,4,6 Art. V, 2
Referenda 6/13/78	Art. II, 1,2,3,5 Art. III, 1,2,3,4 Art. IV, 1,2,3,6 Art. VII, 3,4,5,6
Referenda 11/4/86***	Art. II, 1,2,4,5 Art. III, 1,5 Art. IV, 1,2,3,4,6,7,9 Art. V, 1,2,3,4,5,6,7 Art. VI, 1,2,5 Art. VII 7-10 (Rpld) Art. VI, 11-12 (Rnbd as Art. VI, 7-8) Art. VII, 3,4,9,10,16 Art. VIII, 1,4,5 Art. VIII, 6 (Rpld)
Referenda 11/3/87	Art. II, 2 Art. III, 1
Referenda 11/5/91	Art. VII, 9
Referenda 11/8/94	Art. VII, 9
Referenda 11/2/99	Art. II, 4 Art. III, 5 Art. VII, 9
Referenda 11/7/00	Art. II, 3,5 Art. III, 2,3 Art. IV, 2
Referenda 11/6/01	Art. IV, 2,6,8,10
Referenda 11/4/08	Art. IV, 3,4,5, 6,7,11
Referenda 11/2/10****	Charter Revisions recommended by the Portland Charter Commission established on November 4, 2008, and passed by the voters on November 2,2010

****Editor's note**--The amendment establishing district councilor elections became effective January 1, 1976, except that for the purpose of nomination and election of district councilors such amendment shall apply as the

presently occupied district seats become available thereafter by normal expiration of term or by vacancy and to every district election thereafter.

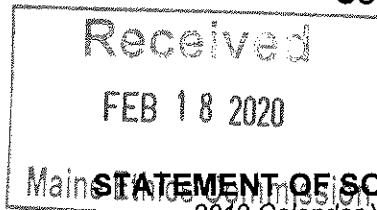
*****Editor's note--**A referendum passed Nov. 4, 1986 and effective July 1, 1987, repealed former sections 7 through 10 of article VI to eliminate references to obsolete offices (assistant assessors, director of public welfare) and renumbered former sections 11 and 12 as 7 and 8 respectively. Former sections 7 through 10 derived from the legislation enumerated in the first editor's note to this Charter.

*****Editor's note--**A referendum passed Nov. 4, 1986, effective July 1, 1987, amended section 4 of article VIII to clarify the summons-subpoena power and to provide that failure to obey either a summons or a subpoena will subject offenders to contempt. Former section 5 of this article was deleted as a result of the amendment to section 4 and a new section 5 added to preserve certain rights granted to the city by special acts of the legislature. Former section 6 was deleted to conform to 30 M.R.S.A. § 1915(4) which establishes the effective date of Charter revisions. See the editor's note to the Charter for derivations of deleted sections.

******Editor's note--**Portland voters approved a referendum passed on November 4, 2008 to establish a Portland Charter Commission to make recommendations to revise the Portland City Charter. Those recommendations were subsequently passed by the voters on November 2, 2010, and incorporated the provisions on the popularly elected mayor in Article 2, as well as making changes to the School and Elections articles and technical amendments throughout the document.



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES



MAIL: 135 STATE HOUSE STATION, AUGUSTA, MAINE 04333
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WEBSITE: WWW.MAINE.GOV/ETHICS
EMAIL: ETHICS@MAINE.GOV
PHONE: 207-287-4179

STATEMENT OF SOURCES OF INCOME FOR LEGISLATORS
2019 Calendar Year: January 1, 2019 - December 31, 2019

☐ Check here if this statement is an amendment of a previously filed statement.

Name <i>Shenna Bellows</i>	Office ☐ House ☒ Senate
Mailing Address <i>33 Kerns Hill Rd</i>	District Number <i>14</i>
City/Town, State, Zip <i>Manchester, ME 04351</i>	E-mail Address <i>shenna.bellows@legislature.maine.gov</i>

FILING DEADLINE *maine.gov*

Please file this statement with the Clerk of the House or Secretary of the Senate by **5:00 p.m., Friday, February 18, 2020.**

GENERAL INSTRUCTIONS TO COMPLETE THIS FORM

- Complete all sections. If a section is not applicable, check the box labeled "None" for that section.
- A glossary is located in the back of this form.
- If completing this form by hand, **PLEASE WRITE LEGIBLY.**
- Report the sources of income for you, your spouse or domestic partner, and your dependent children.
- Report only specific sources of income. **Dollar amounts should not be reported.**
- Campaign contributions and Maine Clean Election Act payments should not be reported in this statement.
- The completed statements are posted on the Commission's website and copies are made available to the public upon request.
- Please keep a copy of this statement for your records.

IMPORTANT NOTICE: REQUIREMENT TO FILE AN UPDATED STATEMENT

Legislators are required to update their statement of sources of incomes within 30 days of a substantial change in income, reportable liabilities, or positions of the Legislator or an immediate family member (except dependent children) that occurs in the current calendar year. (1 M.R.S.A. § 1016-G(2)(B)) Updated statement forms are available at www.maine.gov/ethics or by calling the Commission. Substantial changes include but are not limited to:

- A new employer or other source of income that has paid the Legislator or immediate family member \$2,000 or more in the current year;
- A new reportable liability of \$3,000 or more obtained during the current calendar year;
- A new contract or other arrangement between the Legislator, immediate family member or associated organization and a State agency, board or commission for the lease or sale of goods or services with a value of more than \$10,000 during the current calendar year; and
- A new position in a political action committee, ballot question committee, party committee, or non-profit or for profit organization.

Please call the Commission staff 207-287-4179 if you have any questions.

Thank you for your cooperation!

Part 1. Income from Employment by Another				
☐ None. Check this box if you did not have income from employment by another.				
Name of Employer	Address	Principal Type of Economic or Business Activity of Employer	Job Title	
Maine State Legislature	State House Augusta, ME	Government	Legislator	
Holocaust and Human Rights Center of Maine	46 University Dr. Augusta, ME	Nonprofit	Executive Director	
Part 2. Income from Self-Employment				
☒ None. Check this box if you did not have income from self-employment.				
Name of Your Business/Trade Name	Address	Principal Type of Economic or Business Activity		
Name of Client or Customer, if required (see instructions)	Address	Principal Type of Economic or Business Activity of Client		
Part 3. Business Entities				
☒ None. Check this box if you and your immediate family did not own or control more than 5% of any business.				
Name of Business	Address	Principal Type of Economic or Business Activity		
Part 4. Income from the Practice of Law				
☒ None. Check this box if you did not have income from the practice of law.				
Name of Practice or Firm	Address	Your Major Areas of Practice	Firm's Major Areas of Practice	Position: Partner, Associate, Sole Practitioner

Part 5. Income from Any Other Source		
☒ None. Check this box if you did not have income from any other source.		
Name of Source	Address	Description of Income
Part 6-A. Compensation Income of Immediate Family Members		
☐ None. Check this box if no members of your immediate family received income of \$2,000 or more from employment or compensation.		
Name and Job Title (do not list name of dependent child)	Employer's Name and Address	Principal Type of Economic or Business Activity of Employer
Brandon Baldwin Project Director Civil Rights Team Project	State of Maine Office of Attorney General Augusta, ME	Government
Part 6-B. Other Sources of Income of Immediate Family Members		
☒ None. Check this box if no members of your immediate family received income of \$2,000 or more from any other source.		
Name of Spouse or Partner (do not list name of dependent child)	Source of Income Name and Address	Type of Income

Part 7. Loans		
☒ None. Check this box if you did not have reportable liabilities.		
Lender's Name	Lender's Address	Principal Type of Economic or Business Activity of Lender
Part 8. Gifts, Including Travel and Accommodations		
☐ None. Check this box if you did not receive any gifts.		
Source of Gift	Description of Gift	
Council of State Governments	Travel to nat'l conference to present on privacy in Puerto Rico. Airfare: \$517.40, Hotel: \$512.46	
Part 9. Honoraria		
☒ None. Check this box if you did not receive honoraria.		
Source of Honoraria	Source of Honoraria	
1.	2.	
3.	4.	
Part 10. Positions in Political Action, Ballot Question or Party Committees		
☐ None. Check this box if you and your immediate family were not a treasurer, or principal officer, decision-maker or fundraiser of a PAC, BQC, or Party Committee.		
Name of Committee	Name of Official or Family Member	Title
1. Bellows for Senate	Sherna Bellows	Assistant Treasurer
2.		
3.		

Part 11. Conducting Business with State Agencies

☒ None. Check this box if neither you nor your immediate family did business with any State agency.

Name of Agency	Name of Individual/Organization Selling Goods or Services	Description of Good or Services

Part 12. Representing Others Before State Agencies

☒ None. Check this box if neither you nor your immediate family represented another before a State agency.

Name of Agency	Name of Individual Receiving Compensation

Part 13. Positions in For-Profit and Non-Profit Organizations

☐ None. Check this box if you and members your immediate family did not hold positions in any for-profit or non-profit organizations.

Organization/Business and Address	Title	Name of Position Holder	Relationship to Legislator	Compensated Yes/No
Holocaust and Human Rights Center of Maine	Executive Director	Shenna Bellows	☒ Self ☐ Spouse ☐ Dependent	yes
Manchester Conservation Commission	Member	Shenna Bellows	☒ Self ☐ Spouse ☐ Dependent	No
			☐ Self ☐ Spouse ☐ Dependent	

SIGNATURE

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

Shenna Bellows
Signature

2/18/20
Date

THE INTENTIONAL FILING OF A FALSE STATEMENT IS A CLASS E CRIME (1 M.R.S.A. § 1016-G(3)(B))

WINDHAM MUNICIPAL CODE OF ETHICS

Declaration of Policy

The proper operation of the Town of Windham requires that all Town officials with executive decision-making authority, whether elected or appointed, be impartial, equitable and responsive to the needs of the people and each other in the performance of their respective functions and duties; that proper conduct by Town officials will promote public confidence in the integrity of government and will be maintained by all Town officials; that public office not be used for personal or financial gain or advantage; that the structure of Town government be used properly in decision and policy making. In recognition of these goals and the importance of protecting public interest and Town officials, a Code of Ethics is hereby established for all.

Definitions

BUSINESS - any corporation, partnership, individual, sole proprietorship, joint venture, or any other legal recognized entity organized for the purposes of making a profit.

CENSURE - a judgment or resolution condemning a person for misconduct.

EXECUTIVE BOARDS - Town Council, Board of Assessment Review, Planning Board and Zoning Board of Appeals.

FINANCIAL INTEREST - a direct or indirect interest having monetary or pecuniary value, including, but not limited to, the ownership of shares of stock.

IMMEDIATE FAMILY - spouse, and the following when living in the household of a Council member, board member or commission member: children, parents, brothers and sisters.

SPECIAL INTEREST - any interest which will allow some form of personal gain, usually of pecuniary nature.

TOWN OFFICIAL - any individual who is a member of an executive board.

Standards of Conduct

The purpose of this Code is to establish ethical standards of conduct for the Town's officials by setting forth those acts or actions that may be in conflict or incompatible, or that create the appearance of impropriety, with the best interests of the Town of Windham.

Statutory Standards

There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the

following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all Town officials of the Town of Windham whenever applicable as if more fully set forth therein, to wit:

17 MRSA SS 3104	Conflicts of Interest; Purchases by the State
17-A MRSA SS 456	Tampering with Public Records of Information
17-A MRSA SS 602	Bribery in Official and Political Matters
17-A MRSA SS 603	Improper Influence
17-A MRSA SS 604	Improper Compensation for Past Action
17-A MRSA SS 605	Improper Gifts to Public Servants
17-A MRSA SS 606	Improper Compensation for Services
17-A MRSA SS 607	Purchase of Public Office
17-A MRSA SS 608	Official Oppression
17-A MRSA SS 609	Misuse of Information
17-A MRSA SS 903	Misuse of Entrusted Property
21 MRSA SS 533	Persons Ineligible to Serve as Election Officials
30-A MRSA SS 2605	Conflicts of Interest
30-A MRSA SS 5122	Interest of Public Officials, Trustees or Employees

Disclosure of Confidential Information

No Town official shall, to the detriment of the Town, disclose confidential information concerning the property, government or affairs of the Town; nor shall he/she use such information to advance the financial or private interest of him/herself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town municipal official only because of his or her position with the Town, and is not a matter of public record. Information received and discussed during an executive session of the Windham Town Council called pursuant to 1 MRSA SS 405 et seq. shall be considered within the constraints of this section, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

Contracts, Purchases and Employment

No Town official shall participate directly by means of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the Town, and the award of any contracts with the Town, where to his/her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

- A. him/herself or a member of his/her immediate family;
- B. a business in which he/she or a member of his/her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
- C. any other person or business with whom he/she or a member of his/her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

No Town official shall participate by means of deliberation, approval or disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, as the case may be, or vote for appointed positions, where said applicant or employee is:

- A. a member of his/her immediate family; or
- B. a person with whom either he/she or a member of his/her immediate family are in business.

Incompatible Employment

No Town official shall engage in or accept private employment or render or sell services or goods for private interests when such employment or service is incompatible with the proper discharge of his/her official duties.

Solicitation of Future Employment

A Town official shall not solicit future employment with any person who has a substantial matter pending before the Council, Board or Committee in which the official was a member. A matter is "substantial" if it involves a financial value of one thousand (\$1,000) dollars or more or involves a question of policy of comparable significance.

An individual who has served as an official shall not, within one (1) year after termination of his/her service, assist any person, other than the Town, in any matter that was pending before the Council, Board or Committee in which he/she was a member or appear before the Council, Board, or Committee in which he/she was a member or assist any other person to make such an appearance.

Gifts and Favors

No Town official, shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any elected or appointed municipal official: accept any gift, favor or thing of value that tends to influence or could reasonably be expected to influence him/her in the performance of official duties or was intended as a reward for any official action. This does not prohibit:

- A. gifts or social courtesies related to a family relationship or friendship between the elected or appointed official and the donor, which are not designed to influence the proper judgment or action of the officer or employee in a matter within his authority;

- B. public, government-sponsored or informational events, generally accepted as a condition of office, where refreshments may be served, which are not designed to influence the proper judgment or action of the elected or appointed official in a matter within his/her authority;
- C. political contributions received in compliance with law;
- D. loans obtained according to commercial practice at the prevailing rate of interest;
- E. customary performance, merit awards or honorariums, consistent with municipal practices.

Use of Town Property and Facilities

No Town official shall use or authorize others to use Town-owned property, including but not limited to, motor vehicles, equipment and buildings except for the following:

- A. for Town business;
- B. for purposes and on terms generally available to other persons;
- C. according to a contract of employment with the Town in which use of such property is part of the compensation or a term of employment.

Representing Third Party Interests Before Town Agencies

No Town official shall either appear on behalf of any third party interest before any Town agency, or represent a third party interest in any action, proceeding, or litigation in which the Town or one of its agencies is a party. Nothing herein shall prohibit a Town official, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Town official, on behalf of his or her personal interest, from appearing before a Town agency. No Town official shall appear on behalf of any third party interest before a Town agency of which he or she is a current member. Nothing herein shall prohibit a Town official, on behalf of his or her personal interest, from appearing before any Town agency including that of which he or she is a current member. An official who is employed or under retainer by a person having a matter pending before the agency of which the official is a member shall disclose that fact and shall abstain from participation in the matter. Participation includes but is not limited to discussion and/or voting on the matter.

Conflicts of Interest

No Town official shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before his/her collective body in which he/she or a member of his/her immediate family has a financial or special interest of a pecuniary nature, other than an interest held by the public generally.

Disclosure of Conflict

Any Town official who believes that he/she or a member of his/her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her

collective body, shall disclose the nature and possible extent of such interest. The collective body will vote to determine if there is a conflict.

Any Town official who believes that any fellow Town official, or a member of his/her immediate family has a financial or special interest, other than an interest held by the public generally, in any item before his/her collective body, shall disclose the possibility of such interest, and the Town Clerk or his/her designee shall make a record of such disclosure, with a copy forwarded to the Chair of the Appropriate Executive Board.

Determination of Conflict

Once the issue of conflict has been initiated relative to an individual Town official, and disclosure has been made as provided above, such individual's fellow Town officials shall vote on whether or not such individual shall be excused from participating in the deliberation or vote.

Avoidance of Appearance of Conflict

To avoid the appearance of a violation of this section, once any individual Town official is determined to have a conflict of interest in respect to any agenda item, said individual shall immediately remove him/herself from the meeting room or to the area of the room occupied by the general public. He/she shall not return to his/her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual Town official to remove him/herself for any item contained on a "Consent Agenda" on which there is no deliberation, the individual's conflict has been determined by the other members, and the right to abstain from voting on the item has been granted.

Personal Interest

Nothing herein shall be construed to prohibit any Town official from representing his/her own personal interest by appearing before his/her collective body on any such agenda item.

Disclosure Statement by Town Elected and Appointed Municipal Official

Within fifteen (15) days after each annual municipal election, every elected official shall file a completed disclosure form with the Town Clerk with a copy forwarded to the Chair of the appropriate Executive Board and to the chair of the Town Council. Within thirty (30) days after his/her appointment, every appointed official shall file a completed disclosure form with the Town Clerk, with a copy forwarded to the Chair of the appropriate Executive Board. Each executive body is responsible for ensuring that members comply with the filing of a disclosure statement. An extension beyond the stated time frame for filing a disclosure statement may be approved with a majority vote of the appropriate executive body. Each executive body will review the financial reports of its members. Should a conflict be discovered, a majority vote of the executive body can refer the matter to the Ethics Board for an opinion. Such disclosure forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

- A. the name of each person or entity, whether incorporated or not, doing business with the Town in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party or member of his/her immediate family has received money or other thing of value in an amount in excess of \$1,000 during the preceding calendar year, including, but not limited to, campaign contributions where applicable;

- B. the name of each entity, whether incorporated or not, doing business with the Town in an amount in excess of \$1,000 for preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1,000, including, but not limited to, the ownership of shares of stock;
- C. the name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board. For each such entity, such disclosing party shall provide the following information:
 - a) a brief description of the purpose of each board and/or office;
 - b) a short summary of such disclosing party's or family member's duties relative to any such board and/or office;
 - c) the term of service on each such board and/or office;
 - d) whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this subsection "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services, and any other thing of value.

- D. Every Town official shall annually amend his/her disclosure statement as may be required to ensure the continued accuracy thereof. Each such amendment shall be made within fifteen (15) days following the occurrence which requires the amendment.
- E. The Town Clerk shall deliver a copy of each completed disclosure statement to every fellow member of each disclosing party within thirty (30) days after the expiration of the filing period.
- F. For purposes of this Code, a list prepared by the Finance Director of those persons or entities doing business with the Town in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance, and deposits in accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

Political Standards of Conduct

- A. No Town official shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the Town. In conjunction therewith:
- B. No Town official may use his/her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he/she

solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes. No Town official may distribute pamphlets/handbills while he or she is performing their official functions and duties with the Town. Nothing herein shall be construed to prohibit any Town official from participating in the political process in their capacity as private citizens. Acceptable conduct would allow endorsements of a candidate, without the use of an official title. "I, John Doe, support Jim Smith for Council", not "as John Doe, Board member, I support Jim Smith for Council". Except for official functions and duties, political pins can be worn. During Council or Board meetings, view of such pins would not be appropriate.

Incompatible Employment of Office

No Town official shall occupy any other office, elected or appointed, in any other governmental entity, where the duties of such office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this Code, the occupancy of any office, elected or appointed, with any other governmental entity by any municipal official is hereby prohibited in any one of the following circumstances:

- A. where the duties of the other office make it a physical impossibility to discharge the duties of the Town position; or
- B. where one office is subordinate of the other; or
- C. where one office carries the power of removal of the other; or
- D. where the occupancy of both offices is otherwise prohibited by law.

Board of Ethics

BOARD OF ETHICS ESTABLISHED - There is hereby created and established a Board of Ethics consisting of three (3) members who will be sworn in on appointment by the Town Council.

TERMS - All members shall be appointed for terms of three (3) years each. Each member shall serve until December 31st of the final year on term, subject to continuance in office for a period not to exceed six (6) months until a successor is appointed. All members must be residents of the Town of Windham. No member shall serve more than two (2) complete consecutive terms.

OTHER OFFICES PROHIBITED - No member of the Board shall hold any other Town office or position or be the member of any Town Council appointed committees. A rare exception can be made by majority vote of the Town Council, if so warranted.

PROCEDURES AND RECORDS - The Board shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Board shall at all times maintain in the office of the Town Clerk appropriate records of its opinions and proceedings subject to the State's "Right to Know" Law.

DUTIES - The Board shall render advisory opinions to any of the executive boards when there is doubt as to the applicability of any provisions of this Code to any particular situation. In the performance of its duties, the Board shall limit its review and fact finding only to those issues referred to it by the respective

executive board. The Board shall also perform such other duties as may be prescribed from time to time by the Town Council.

PROCEDURE - Any Town official seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement describing the nature of the matter to the chairperson of the appropriate executive board as well as the Chair of the Town Council. If the chairman of the executive board feels that an advisory opinion is necessary, or if three (3) or more members of the executive board feel that an advisory opinion is necessary, they may refer the matter in a written statement to the Ethics Board. The Council may seek legal guidance of its own will or the will of the Board. If the Ethics Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, they shall so advise the appropriate executive board. It is the purpose and intent of this Code to provide a mechanism by which all such matters shall be investigated by the Ethics Board and reported to the appropriate executive body as a whole within thirty (30) days if its findings warrant further action. The orderly and impartial fashion of this process will protect the best interest of the citizens of the Town of Windham and the personal and private interest of its Town officials. Upon written request to the appropriate executive board (due to extenuating circumstances) an extension can be obtained.

ORIENTATION OF EXECUTIVE BOARD MEMBERS AND MUNICIPAL OFFICIALS - All executive Board members are requested to attend an annual orientation meeting to be scheduled during the month of January of each calendar year or as can be scheduled.

All municipal officials are encouraged to attend an annual presentation given by the Board.

DUTIES OF THE BOARD OF ETHICS - The Board shall meet at least quarterly and, prior to December 31 of each calendar year, shall prepare and submit to the Town Council an annual report outlining its doings during the preceding 12 month period.

PUBLIC RELEASE OF FINDINGS OF INNOCENCE OF WRONGDOING - In cases where the respective executive board finds the person accused not guilty of wrongdoing, he/she will be publicly cleared, at the next regular meeting of the executive board.

PENALTIES - In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the Town Council. A majority of the Windham Town Council shall conduct such proceedings.

SEPARABILITY - If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of the Code.

Adopted: May 28, 1991

Amended: February 25, 1992

March 9, 1993

August 24, 2011 (Order 11-142. Cleaned up document formatting, added ability of three or more members of a board to seek advisory opinions.)

Title 30-A: MUNICIPALITIES AND COUNTIES**Part 2: MUNICIPALITIES****Subpart 3: MUNICIPAL AFFAIRS****Chapter 123: MUNICIPAL OFFICIALS****Subchapter 1: GENERAL PROVISIONS****§2605. Conflicts of interest**

Certain proceedings of municipalities, counties and quasi-municipal corporations and their officials are voidable and actionable according to the following provisions. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Voting. The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Contracts. A contract, other than a contract obtained through properly advertised bid procedures, made by a municipality, county or quasi-municipal corporation during the term of an official of a body of the municipality, county or quasi-municipal corporation involved in the negotiation or award of the contract who has a direct or an indirect pecuniary interest in it is voidable, except as provided in subsection 4.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Restrain proceedings. The Superior Court may restrain proceedings in violation of this section on the application of at least 10 residents of the municipality, county or area served by the quasi-municipal corporation.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a

decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Former municipal and county officials. This subsection applies to former municipal and county officials.

A. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body for one year after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was completed at least one year before the termination of that official's employment or term of office. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body at any time after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was pending within one year of the termination of the municipal or county official's employment or term of office. [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. This subsection may not be construed to prohibit former municipal or county officials from doing personal business with the municipality or county. This subsection does not limit the application of Title 17-A, chapter 25 (./17-A/title17-Ach25sec0.html). [PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

For the purpose of this subsection, a municipal or county government body includes an agency, board, commission, authority, committee, legislative body, department or other governmental entity of a municipality or county.

[PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

[PL 1989, c. 104, Pt. A, §22 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

[PL 1989, c. 561, §19 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§A22,C8,C10 (AMD). PL 1989, c. 561, §19 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

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