



City of Portland Ad Hoc Committee Agenda

Charter Commission Education Committee, October 6, 2021 at 6:00 PM

1. Call the Meeting to Order

a. a.

Due to the existence of an "emergency or urgent issue", the Charter Commission Committees 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.

You are invited to a Zoom webinar.

When: Oct 6, 2021 06:00 PM Eastern Time (US and Canada)

Topic: Charter Commission Education Committee

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/83628048172?pwd=MjVHSTZDSzdvamwxcllYWVRpRHZMdz09>

Passcode: 809050

Or One tap mobile :

US: +16465588656,,83628048172#,,,,*809050# or

+13017158592,,83628048172#,,,,*809050#

Or Telephone:

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

US: +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799 or +1 720 707 2699 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 836 2804 8172

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International numbers available: <https://us06web.zoom.us/j/83628048172?pwd=MjVHSTZDSzdvamwxcllYWVRpRHZMdz09>

2. Approval of the prior meeting minutes

a. Approval of the 9-15 meeting minutes

3. Education Workshop

a. During this workshop the Committee will be discussing a memorandum sent to us by Superintendent Botana. Guests will be city and school officials.

Guests:

Kate Snyder - Mayor

Ethan Strimling-Former Mayor

Rep. Michael Brennan- Former Mayor

Councilor Nicholas Mavodones

Agnieszka Dixon Drummond Woodsum

Xavier Botana, PPS Superintendent

Emily Figdor, School Board Chair

Anna Trevorrow, School Board

4. Public Hearing
5. New Business
6. Adjournment



City of Portland
Education Committee Meeting Minutes
September 15, 2021 at 6:00 PM

1. Call to Order

- Chair Houston opens the meeting. Introductions.

2. Approval of Minutes

- Eglinton motions to approve the minutes from last meeting. Chann seconds the motion.
- Roll Call: Chann, Eglinton, Houston vote yes. Motion passes unanimously.

3. Discussion on Guests for Future Meetings

- Memo from Drummond Woodsum to Portland Public Schools. Commissioner Eglinton would like to request the attorney from Drummond Woodsum, which represents Portland Public Schools, to give a briefing on the memo sent to the Committee. Chair Houston will reach out to PPS Attorney/Superintendent to arrange a time to appear.
- Mayor and City Council Involvement in School Budget. Commissioner Eglinton suggests we reach out to School Board finance chair and representative from City Council knowledgeable of school budget process. Mayor is open to appearing before the Education Committee or full Charter Commission, but would also like to invite all three former elected mayors. Commissioner Eglinton volunteers to reach out to council, mayor, and corporation counsel.
- Commissioner Chann will reach out to School Board Finance Chair Anna Trevorrow and School Board Chair Emily Figdor to request appearance at Education Committee meeting.

4. Public Hearing

- Comment on Zoom Link not working. Commissioners will look into why the link in the agenda is not working.
- Comment approving of Commission looking into state statutes related to education and asking what the public hearing is on.

Commissioner Eglinton gives summary of what was covered before public hearing portion.



- Comment on City Council/School Board relationship on school budget, specifically in light of revaluation; resident voting appealing; having school budget vote on voting day with greater turnout.

5. Other Business

- Commissioner Chann suggests addressing zoom link issue and providing public comment at the end of the next meeting as well. Chair Houston will check with the City Clerk.

6. Adjourn

- Motion to adjourn made by Commissioner Eglinton. Seconded by Commissioner Chann. Roll Call Vote: Commissioners Chann, Eglinton, and Houston vote yes. Motion passes unanimously.

MEMORANDUM

TO: Xavier Botana, Superintendent Portland Public Schools FROM: Melissa Hewey, Agnieszka Dixon, and Elek Miller Drummond Woodsum DATE: August 11, 2021 RE: Portland Charter—School Governance, Policy, and Management Matters

As the newly elected City of Portland Charter Commission (the “Commission”) begins its work to evaluate and recommend modifications to the City of Portland Charter (the “Portland Charter”), you have asked us to provide an overview of the law governing the powers and duties of the Commission to address matters of school governance, policy, and management.

In Part I of this memorandum, we provide a legal overview of the Constitutional and statutory limits on the authority to amend the Portland Charter with respect to matters of school governance, policy, and management. In Part II, we identify and discuss the existing provisions in the Portland Charter which concern the school board, and we compare those provisions with the charter language of other populous Maine charter cities.

Finally, in Part III, we conclude that, while the Commission has broad authority to recommend modifications to the provisions of the Portland Charter for consideration by the voters, that authority is constrained with respect to matters of education. We therefore recommend that the school board continue to evaluate the Commission’s work through the lens of the legal framework presented next, and to seek legal review of any proposals affecting school governance, policy, or management.

I. AUTHORITY OF THE COMMISSION WITH RESPECT TO EDUCATIONAL MATTERS— A LEGAL OVERVIEW

At the outset, it should be understood that the scope of the Commission’s authority is constrained by the Maine Constitution and state law, which extensively regulates public education in the state and thereby limits the scope of any charter commission’s authority over matters of education.

A. The Legislature has plenary control over public education.

In Maine, the Legislature has plenary authority over public education. *School Committee of the Town of Winslow v. Inhabitants of the Town of Winslow*, 404 A.2d 988, 991-992 (Me. 1979). Exercising this authority, the Legislature has created a system of local school administrative units to provide free public education to Maine children. A “school administrative unit” is defined by statute as “the state-approved unit of school administration and includes a municipal school unit.” 20-A M.R.S. § 1(26). A “municipal school unit” is defined as a state-approved unit of school administration composed of a single municipality. 20-A M.R.S. § 1(19). Public education in Portland is provided by the Portland municipal school unit, which is a creature of the Legislature and not a subdivision or department of city government.

The Maine Supreme Judicial Court, acting as the Law Court, has made it clear that municipal school boards “are agents of the state and are legally distinguished from municipalities.” *Pickering v. Town of Sedgwick*,

628 A.2d 149, 150 (Me. 1993). The separate roles of the municipal school unit and the municipal government are well-defined and do not overlap.

The school board is the governing body of a municipal school unit. *See* 20-A M.R.S. § 1(28). State law provides that “the control and management of the public schools shall be vested in the legislative and governing bodies of local school administrative units, as long as those units are in compliance with appropriate state statutes.” *See* 20-A M.R.S. § 2(2). Thus, the school board has sole authority to oversee the affairs of a municipal school unit, including adoption of policies, management of the schools (including custody, care, and repair of school buildings), selection of the superintendent (who is the chief administrative officer of the municipal school unit), employment of administrators, and employment of teachers. *See* 20-A M.R.S. §§ 1001, 1051, 13201, and 13302. As discussed in greater detail in Part I.C, below, a city council has no statutory duties or authority with respect to public education, with the exception of approving the total amount of the school budget to be submitted to the voters in a budget validation referendum provided that a municipal charter confers that authority upon the council. *See* 20-A M.R.S. § 2307(2). The authority to allocate funds within the total budget and expend those funds is reserved to the school board. *Id.*

The school board is not subordinate to the city council but derives its duties and authority directly from the Legislature. “Its members,” the Law Court has observed, “are chosen by the voters of the town, but after election they are public officers deriving their authority for the law and responsible to the State for the good faith and rectitude of their acts.” *Shaw v. Small*, 124 Me. 36, 41 (1924).

B. The Commission’s authority over public education is circumscribed by the Maine Constitution and state law.

While the Legislature has plenary authority over public education and has delegated local control over education to school administrative units and their elected school boards, the home rule provisions of the Maine Constitution and state law authorize the voters of a municipality, by charter, to impose local regulation of public education only if Legislature has not expressly prohibited local regulation or where the Legislature “has intended to occupy the field and the legislation would frustrate the purpose of a state law.” *School Committee of Town of York v. Town of York*, 626 A.2d 935, 939 (Me. 1993).¹

The Law Court reaffirmed this home rule limitation last year, stating that the Maine Constitution grants municipalities the power to amend their charters “on all matters, not prohibited by Constitution or general law, which are local and municipal in character” and further stating that the Constitution “commits the general power to promote education to the Legislature” *MSAD 6 Bd. of Dir’s v. Town of Frye Island*, 2020 ME 45, ¶¶ 17, 19, 229 A.3d. 514, 520-21 (internal quotations omitted). In the *Frye Island* case, the Court held that a town could not attempt to withdraw from its school administrative unit by amending its charter because such a charter provision implicated public school funding—“an issue falling squarely within the Legislature’s purview”—and was therefore not a valid exercise of the municipality’s home rule authority. *Id.* ¶¶ 19, 22 & n.7.

¹ In the *York* case, the Law Court upheld a charter provision that created a municipal budget committee, separate from the school board and the select board, with the power to approve the school budget before it was submitted to voters for approval. “The Legislature,” the Court wrote, “is free to delegate to municipalities all of its authority over education so long as the delegation is not unconstitutional.” *Town of York*, at 940. Since the charter provision did not conflict with the Constitution or state law regulating school budget approval, the Court said that the creation of the budget committee with authority over the school budget was within the authority of the charter commission. Subsequent to the *York* decision, the Legislature enacted a detailed statutory process for school budget approval assigning specific roles to the school board and the municipal legislative body, which presumably overruled the *York* decision to the extent that the *York* charter provision conflicts with that detailed process. That process is summarized in the next section.

C. A charter may modify the school budget approval process, but not the power of the school board to direct expenditures of education funds or the responsibility of the municipal legislative body to determine the total school budget.

Maine law now provides that municipal school budgets “must follow the same school budget requirements as regional school units.” 20-A M.R.S. § 2307. We are all now familiar with the school budget procedures that have been followed for over a decade, including school board formulation and approval of a budget organized by specific cost centers and warrant articles prescribed by law. The approved school board budget is then submitted to the “budget meeting.” In charter municipalities such as Portland, the budget meeting is a “meeting of the municipal council or other municipal legislative body established by the charter with authority to approve the budget.” 20-A M.R.S. § 2307(1). The final step in budget approval is the budget validation referendum decided by the voters (although the voters may eliminate that step by referendum).

State law specifically provides:

In charter municipalities where the municipal charter confers upon a municipal council or other municipal legislative body the authority to determine the total amount of the school budget and confers upon the school committee or school board the authority to direct the expenditure of those funds for school purposes, the municipal council or other municipal legislative body shall determine the total amount of the school budget to be submitted to a budget validation referendum and the school committee or school board shall determine the allocation of the approved school budget among the cost centers of the cost center summary budget format.

20-A M.R.S. § 2307(2). In short, in a charter municipality like Portland, the municipal council or other municipal legislative body acts only on the total amount of the school budget, and the school board determines the budget allocation among cost centers. This delegation of authority over the school budget between the school board, on the one hand, and the municipal council or other municipal legislative body, on the other hand, is a subject matter where the Legislature appears to have “occupied the field”—and, in our view, a charter provision that alters it would likely be invalid.

Although, in our view, a charter provision may not modify the school board’s power to direct the expenditure of funds for school purposes, other charter provisions concerning the budget approval process may likely be modified or altogether eliminated. In that regard, it has been asked whether the Portland Charter may be revised to eliminate the city council’s responsibility to determine the total school budget. As noted above, state law provides that the budget meeting to approve a municipal school budget must be a meeting of either “the municipal council or other municipal legislative body.” 20-A M.R.S. § 2307(1) (emphasis added). Accordingly, we believe the Portland Charter may lawfully assign the final authority to approve the school budget to a municipal legislative body other than the city council.

We note that we know of no precedent within a city charter² regarding the form that such an alternative legislative body may take, however. In Maine, legislative bodies typically consist of (i) a town meeting

² We do know of at least one town charter which provides a municipal legislative body that is not a town council. The Town of York, which has a rather unique “Town Manager—Town Meeting by Secret Ballot Vote” form of local government, provides in its charter that its municipal legislative body is the town meeting consisting of the voters. See York Charter, Art. II, § 1 (*available at www.yorkmaine.org/DocumentCenter/View/691/Home-Rule-Charter-PDF*). There, an elected budget committee prepares the town budget and the school committee prepares the school budget, but final authority for approving a composite town and school budget, in line-item format, rests with the voters at a secret ballot budget referendum after public hearing. See *id.*, Art. II, §§ 4, 5, 10, 12. If the voters vote down a given line-item, the charter calls on the Town’s Board of Selectmen—that is, its governing body—to appropriate an amount equal to the budgeted appropriation for that line-item during the previous fiscal year. See *id.*, Art. II, § 14.C.

composed of all voters of a town, (ii) the school budget meeting composed of all voters of the member municipalities of a school administrative unit, or (iii) a representative council established by charter. Any proposal to establish a municipal legislative body, separate and distinct from a representative council, to approve the school budget would need to be thoroughly vetted against the statutory role of the school board, the continuing requirement for a budget validation referendum, and the statutory meaning of the phrase “municipal legislative body” in 20-A M.R.S.A. § 2307, among other legal considerations.

II. OTHER PROVISIONS IN THE PORTLAND CHARTER CONCERNING THE SCHOOL BOARD—A DISCUSSION AND A COMPARISON

The Portland Charter includes other provisions affecting the duties and powers of the school board, which we discuss next. For your reference, we have prepared, in [Appendix A](#), a table that identifies the key Portland Charter provisions affecting school boards and compares them with the charter provisions of other populous charter cities in Maine—namely, Auburn, Bangor, Biddeford, Lewiston, and Sanford. In [Appendix B](#), we have attached a copy of the Portland Charter showing the provisions affecting the school board highlighted in yellow.

A. In general, control over public schools is expressly delegated to the school board.

The Portland Charter, like all of the charters that we reviewed, contains a general provision excepting from the city council’s authority all duties and powers concerning the management, care, and control of the city’s public schools, and vesting that power and duty in the school board:

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”)*,¹ 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.

Portland Charter, Art. I, § 2 (emphasis added); *see also* Biddeford Charter, Art. I, § 2 (same), Lewiston Charter, § 1.02(a) (same). Importantly, the Portland Charter does not purport to address educational policy or operation of the schools, and this approach is consistent with the Legislature’s scheme which assigns local responsibility for public education to the elected school board. Indeed, the Portland Charter explicitly acknowledges the broad responsibilities of the school board with regard to public education:

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.

Portland Charter, Art. III, § 4; *see also* Bangor Charter, Art. III, § 1 (same), Biddeford Charter, § 3(a) (same), Lewiston Charter, § 5.03(a). As discussed in Part I, any departure from the principle that a school board controls the public schools would likely run afoul of the Constitutional and statutory scheme regarding governance of municipal school units and the limits on home rule authority.

B. The school board controls the preparation and expenditure of the school budget, while the city council approves and appropriates the total school budget.

The Portland Charter provides that the school board must submit to the city council an annual school budget, and any information relating to the budget, to the council. *See* Portland Charter, Art. III, § 5. The city council approves the total budget after holding a hearing and makes one gross appropriation for the

support of the public schools. *Id.* This separation of powers between the school board and city council rests in state law, as discussed, and is a common feature of other city charters. *See, e.g.,* Bangor Charter, Art. III, § 1; Lewiston Charter, §§ 5.03, 6.07(f); Biddeford Charter, Art V, § 4. Unique to the Portland Charter is a provision that the city council may not reduce the school board’s proposed budget except by vote of at least six of its nine members. *See* Portland Charter, Art. III, § 5.

C. The Portland Charter contains specific school budget reporting, consultation, and audit requirements, as well as provisions concerning borrowing and bonding, procurement, and capital improvements.

In addition to this general delegation of responsibility over the school budget, city charters sometimes include school budget reporting, consultation, and audit requirements which may affect how and when a school budget is prepared. For example, the last Portland charter revision in 2010 added specific provisions to the Portland Charter requiring the school board and the city council, or their designated subcommittees (the finance committees), to share information about, review, and consult on the school budget within certain timeframes. *See* Portland Charter, Art. III, § 5. The Portland Charter also requires detailed monthly reporting to the city’s finance director. *See id.*; *see also* Art. VII, §§ 1, 3. The Portland Charter also delegates responsibility to the mayor to “facilitate among the city manager, city council, [school board] and the public to secure passage by the city council of the annual city and school budgets” Portland Charter, Art. II, § 5(h).

Most of the city charters that we reviewed likewise contain some school budget-related consultation, reporting, and audit requirements—although the scope and detail of such requirements vary to a great degree, and some charters are largely silent on these details. *See, e.g.,* Bangor Charter. When charters do speak on these issues, they may:

- Include instructions on the transfer of funds among departments or functions. *See, e.g.,* Sanford Charter, § 613. (Note that we question whether the funds transfer limitation in the Biddeford Charter, Art. IX, § 3, is valid, as it appears to conflict with the school board’s cost center transfer authority under 20-A M.R.S. § 1485(2).)
- Impose deadlines for submitting the school budget to the council or budget committees and prohibitions on the expenditure of funds that exceed appropriation resolves. *See, e.g.,* Lewiston Charter, § 5.03.
- Contain contingency procedures for budget shortfalls. *See, e.g.,* Sanford Charter, § 619.3.
- Include detailed procedures for selecting auditors and conducting annual audits. *See, e.g.,* Auburn Charter, § 8.11.

These types of school budget consultation, reporting, and auditing provisions usually do not conflict with the ultimate authority of the school board to direct expenditures or that of the council to approve only the total school budget. Provided they also do not conflict with other provisions of state law, they likely fall within a charter’s home rule authority to modify or eliminate.

In addition, like most other charters, the Portland Charter houses other finance-related provisions—including requirements for the procurement of goods and services, borrowing and bonding, and capital improvement planning—that may affect school management decisions. For example, the Portland Charter encourages the city and school department to share staff and resources and cooperate to provide better services in a cost-effective manner. *See* Portland Charter, Art. VII, § 2.

The Portland Charter also imposes limits and procedures on the sale of bonds or notes pledged on the credit of the city. *Id.* Art. VII, § 11. The Charter is silent with respect to the issuance of bonds specifically for school construction or renovation projects; however, state law provides that in a municipal school unit

“where the responsibility for final adoption of the school budget is vested in the municipal council by municipal charter, a locally funded project may be approved without a referendum vote if the charter does not require a referendum.” 20-A M.R.S. § 15905-A. Care must be taken to adhere to legal requirements when modifying any bond issuance provisions in a charter, as they could affect the city’s ability to issue bonds. Review by bond counsel of any such modifications is strongly recommended.

Notably absent from the Portland Charter is the role of the school board in the capital improvement program (CIP) planning process. Other charters provide a clear roles for the superintendent and school board in preparing and authorizing CIPs, usually jointly with the city manager and council, which can thereby qualify school capital project for capital reserve funding. *See, e.g.*, Bangor Charter, §§ 8.9, 8.10; Sanford Charter, § 610.

D. The Portland Charter contains specific provisions affecting school board governance, including provisions concerning school board elections and conflicts of interest

The Portland Charter contains governance provisions affecting school boards, including the composition of the school board, election and recall procedures, how vacancies are filled, and compensation provisions. While most charters include such provisions, the specifics vary greatly. For example, the Portland Charter is the only charter we reviewed where school boards are elected using ranked choice voting. *See* Portland Charter, Art. II, § 3. In addition, unlike most charters, the Portland Charter contains detailed provisions concerning conflicts of interest and incompatibility of office. In contrast, most other charters are silent on these topics, presumably because there is already a rich framework of state law and case law on these two topics. Please refer to the table in Appendix A for a side-by-side comparison of how each of these provisions appear in the Portland Charter and in the other city charters that we reviewed.

III. CONCLUSION

This memorandum is intended to provide a general overview of the legal landscape affecting charter revision and public education. We encourage the school board to monitor the Portland Charter revision process and to provide input to the Commission on any school-related issues or proposals. The school board may also wish to make proposals to the Commission to change existing charter language, particularly with regard to the school budget process, consistent with the legal principles and recommendations discussed in this memorandum. We are available to assist the school board in evaluating or preparing any such proposals.

Enclosures:

Appendix A: A Comparison of Select Charter Provisions of the Most Populous Maine Charter Cities
Appendix B: Portland Charter, with School-Related Provisions Highlighted

APPENDIX A
A COMPARISON OF SELECT CHARTER PROVISIONS OF THE MOST POPULOUS MAINE CHARTER CITIES

	PORTLAND	AUBURN	BANGOR	BIDDEFORD	LEWISTON	SANFORD
General—Delegation of Authority over Schools	The council is vested with administering all fiscal, prudential, and municipal affairs of the city, “except the general management, care, conduct, and control of the schools.” (Art. I, § 2) The school board is vested with “the care and management, including sound fiscal management, conduct, and control of the public schools” as conferred on school boards by state law. (Art. III, § 4)	The council is vested with all powers granted by charter and state law, except the care and management of the public schools, which is vested in the school committee. (§§ 2.1, 4.1)	The council is vested with all powers granted by charter and state law, except the care and management of the public schools, which is vested in the school committee. (Art. II, § 1) The school committee is vested with “the care and management of the public schools” as conferred on school boards by state law. (Art. III, § 1)	The mayor and council are vested with administering all fiscal, prudential and municipal affairs of the city, except the general management, care, conduct, and control of schools, which is vested in the school committee. (Art. I, § 2) The school committee is vested with “the care and management of the City’s public schools” pursuant to state law. (Art. V, § 3(a))	The mayor and council are vested with administering all fiscal, prudential and municipal affairs of the city, except the general management, care, conduct, and control of schools, which is vested in the school committee. (§ 1.02(a)) The school committee is vested with the “care and management of the city’s public schools” pursuant to state law. (§ 5.03(a))	The school committee is vested with all the “care and management of the public schools” of the city as conferred on municipal school committees by state law. (§ 505.1). The Department of Education is governed and administered the school committee and superintendent, in accordance with state law. (§ 501)
School Budget—Approval, Appropriation, Expenditure	The school board must submit an annual school budget to the council, including any information relating to the budget that the council requires. The council approves the school budget after holding a hearing, and makes one gross appropriation for the support of the public schools. The appropriation may not be less than the school board budget, except by a vote of at least six councilors. (Art. III, § 5) The council adopts an annual appropriation resolve, which contains one gross amount for school purposes. The total appropriation must not exceed the city’s estimated revenues. (Art. VII, § 7) The mayor may veto the annual city appropriation but any such veto of the appropriation may not affect the school budget appropriation. (Art. II, §§ 2, 5(i); Art. VII, § 8) The school board has authority to expend the appropriation but may not exceed it except with the council’s consent. (Art. III, § 5)	Refer to § 8.9 for budget creation process, which is collaborative between city and school department. Authority rests with council to finally approve the budget. (§§ 2.6; 8.7; 8.9) The school committee must expend funds within the limits of the council’s appropriation resolves, together with any other revenues the school committee may receive. (§ 4.1)	The school committee must submit an annual estimated school budget to the council. On the basis of the estimated school budget, the council makes one gross appropriation for the support of the public schools. (Art. III, § 1) Expenditures are under the direction and control of the school committee. The council’s appropriation may not be exceeded except by consent of the council and certification of availability of unanticipated funds. (Art. III, § 1, 10)	The school committee must submit the school budget to a budget committee, which submits it to the council after review. The council decision is final, subject to budget validation referendum. (Art. V, § 4) The council adopts an annual appropriation resolve, which contains amounts necessary for general city purposes and for a contingency fund. (Art. XI, § 3) The school committee may not transfer funds from one function to another without a two-thirds vote of both the school committee and council. (Art. V § 4)	The school committee must submit the school budget to the council at least three months prior to the end of the fiscal year. (§ 5.03(a)) The council adopts the city budget, including the school budget, by resolution. If the council fails to do so at least 20 days prior to the end of the fiscal year, the school committee’s final budget is deemed to be automatically adopted. Adoption of the city budget by the council constitutes appropriations of the amounts specified as expenditures from the funds specified. (§ 6.07(f))	The school committee must submit to the budget committee a line-item balanced school budget containing a complete and detailed financial plan for all school funds and activities. The budget committee must hold public hearings to review the expenditures of each municipal agency or department proposed by the city manager, and of each school agency or department proposed by the superintendent. The council authorizes the school budget, which is then presented to the budget validation referendum. The budget committee’s budget may be changed only by a majority vote of the council. (§§ 505.2, 604, 607) Adoption of the municipal and school budgets by the council constitutes appropriations. The council may authorize the transfer of any unencumbered appropriations between the municipal budget articles, and the school committee may authorize the transfer of any unencumbered appropriations between the school budget articles. (§ 613) If it appears probable to the city manager or superintendent that revenues are insufficient to cover appropriations, the council may take action to prevent or minimize any deficit, including by reducing appropriations to the extent not inconsistent with 20-A M.R.S.A. §§ 15004 and 15613(8). (§ 619.3)

	PORTLAND	AUBURN	BANGOR	BIDDEFORD	LEWISTON	SANFORD
School Budget—Consultation, Reporting, and Auditing Requirements	The mayor is responsible for facilitating among the city manager, council, school board, and the public to secure passage by the city council of the annual city and school budgets. (Art. II, § 5(h)) The superintendent must submit a balanced budget estimate, which provides a “complete financial plan of all school funds and activities,” to the school board no later than 3½ months before the end of the fiscal year. During the 30 days following submission, the school board and council, or their designated subcommittees, must meet jointly at least twice to review the budget estimate. (Art. III, § 5) Accounts must be kept by the finance director of finance, showing the transactions of all departments of the city and the school department. The finance director must publish a monthly financial statement and furnish a monthly detailed report to the city manager of revenues, expenses, and expenditures 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 city and school accounts are audited annually by an auditor selected by the council. (Art. VII, §§ 1,3)	An audit committee, composed of two councilors and two school committee members, select and direct the work of an independent auditor, and report back to a joint meeting of the council and school committee. The council selects the accountant upon recommendation of the committee. The committee also reviews the procurement policy and report to the council and school committee as to the strengths and weaknesses of the policy. (§ 8.11)	The city audits must be audited annually by a CPA chosen by the council. (Art VIII, § 2)	The council must provide an annual independent audit of all City accounts and may provide more frequent audits. (Art. III § 9)	The city administrator establishes a system of bookkeeping, auditing, purchasing and records pertaining to all financial transactions of the school committee, and may establish rules governing such procedure consistent with local and state law. (§ 5.04)	The school committee must present an "audit action plan" with remedies as appropriate to the council for review and approval. (§ 505.3)
Procurement	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 (Art. VII, § 2)	The council must adopt a procurement policy for the city’s purchase of materials and services for all city departments, including the Department of Education. A procurement policy committee composed of two councilors, two school committee members, and a mutually selected fifth member develop the procurement policy, and report back to the council and school board. (§ 8.16)	The city’s purchasing agent purchase all supplies for the city, but educational supplies for the city schools are excepted and may be purchased by the purchasing agent upon requisition by the school committee (Art. VIII, § 5)		The city administrator establishes a system of bookkeeping, auditing, purchasing and records pertaining to all financial transactions of the school committee, and may establish rules governing such procedure consistent with local and state law. (§ 5.04)	The city manager will act as purchasing agent for all departments, except the school department. Whenever possible, the city manager must work with the superintendent to negotiate contracts for supplies, materials and equipment commonly purchased by both the city and school. (§ 402.13)
Capital Improvement Program (CIP)	The mayor must consult with and provide guidance to the city manager in the preparation of an annual CIP. (Art. II, § 5(g)) The city manager must prepare a 5-year rolling CIP for annual presentation to the council. (Art. IV, § 5(i))	The city manager and superintendent must jointly prepare and submit to a joint meeting of the council and school committee a multi-year CIP before submission of the budget, and must publish a general summary of the CIP. The CIP must be revised and extended each year with regard to capital improvements pending or in process of construction or acquisition. (§§ 8.9, 8.10) The council must adopt the CIP by resolution, with or without amendment, after a public hearing (§ 8.10(B))	The charter contains no specific CIP provision.	The charter contains no specific CIP provision.	The administrator prepares and submits to the council a 5-year CIP, including the CIP proposed for the school department. The planning board review the proposed CIP each year, and following public hearing, forward its recommendations to the council. After notice and hearing, the council by resolution adopts the CIP with or without amendment. Adoption does not constitute the appropriation of funds. (§§ 6.05, 6.06)	The city manager and the superintendent annually prepare and submit to the budget committee a 5-year CIP. The budget committee reviews the CIP and makes recommendations to the council for approval. The city creates annual reserves for the CIP by raising and appropriating at least 4% of the budget each year. Projects funded by the CIP include road maintenance, vehicular replacements, roofing projects, major building renovations, major equipment purchase, airport projects, new buildings and the like. (§ 610).

	PORTLAND	AUBURN	BANGOR	BIDDEFORD	LEWISTON	SANFORD
Borrowing and Bonding	Money may be borrowed, within the limits fixed by the Constitution and state law, 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 council issues an order providing for the issue of bonds after notice and hearing. A council order authorizing the issuance of bonds must be approved by at least 7 councilors. With some exceptions, the issuance of general obligation bonds greater than 0.05% of the city’s last state valuation or any obligation to expend tax funds over multiple years greater than 0.075% of the city’s last state valuation for a single capital improvement or piece of equipment and the issuance of must be submitted to voter referendum. (Art. VII, §§ 11, 16)	The city may issue bonds pledging the credit of the city in the manner prescribed by state law. The council votes to issue the bonds after notice and hearing. (§ 8.13)	Money may be borrowed by order of the council, within the limits fixed by the Constitution and state law, by the issue and sale of bonds or notes pledged on the credit of the city, or on other enumerated revenues. (Art. VII, § 13) With some exceptions, the issuance of general obligation bonds greater than 0.05% of the city’s last state valuation or any obligation to expend tax funds over multiple years greater than 0.075% of the city’s last state valuation for a single capital improvement or piece of equipment and the issuance of must be submitted to voter referendum. (Art. VIII, § 19)	Money may be borrowed, within the limits fixed by the Constitution state law, by the issue and sale of bonds or notes pledged on the credit of the city. (Art. XI, § 6)	Money may be borrowed temporarily in anticipation of taxes or of the issuance of bonds, in accordance with the provisions of 30-A M.R.S.A. § 5771 (§ 6.13)	The budget committee must review all bond requests presented by the council and school committee, and shall make recommendations for bonding to the city manager and superintendent when appropriate during the budget review process. (§ 604.4). Capital projects of the municipal and school departments to be financed through the issuance of bonds for \$250,000 or less may be approved by the council. (§ 705.1) See amended § 705 for more information on bonding, including for bonds over \$250,000.
School Board Composition and Election Procedures	The school board is composed of nine members, four at large and one from each of the five districts who hold office for a term of three years and until their successors are elected and qualified. All candidates must be residents of the city for a period of at least three months prior to the date on or before which nomination papers are to be filed. The candidate from each of the 5 districts must be a resident of such district. (Art. III, § 1) For the positions of mayor, city councilor, and school board member, the city uses a ranked choice voting protocol. (Art. II, § 3; Art. IV, § 10) Nominations are by petition, with minimum signature requirements. (Art. IV, § 4) For vacancy provisions, refer to Art. II, § 7; Art. III, § 6. Recall procedures are set forth in Art. V, § 2.	The school committee is composed of the mayor, or a city councilor selected by the mayor and 7 other members. Five members are elected, one from each ward by and from its registered voters. Two members are elected at-large. Members hold office for a term of two years. (§ 4.2). For vacancy provisions, refer to § 4. Recall procedures are set forth in § 9.1(C).	The school committee is composed of seven members elected at large who hold office for a term of 3 years with a term limit of 3 consecutive terms. (Art. III, § 2) The members of the school committee annually by majority vote designate one of its members to serve as Chair.(Art. III, Sec.3)	The school committee is composed of seven members at large who hold office for a term of 2 years, but no more than two members from any one ward, who shall hold office for a term of two years. The mayor is the ex officio chair with no veto power, who may not make a motion and may only vote to break a tie. (Art. V, §§ 1,2) For vacancy provisions, refer to Art. V, § 5. Recall procedures are set forth in Art. IX, § 2.	The school committee is composed of nine members, one elected from each ward, one at-large, and one council member nominated by the mayor and appointed by the council from any ward. Members hold office for a term of 2 years. (§ 5.01(a)) For vacancy provisions, refer to § 5.01. The charter contains no specific recall procedures.	The school committee is composed of five members, who are elected at-large and who hold office for a term of 3 years. Nominations are by petition, with minimum signature requirements. (§§ 501, 1103) For vacancy provisions, refer to § 503. Recall procedures are set forth in § 1201.
School Board Compensation	The council establishes the amount each member of the school board is entitled to receive as compensation, which must be the same as that received by members of the city council, other than the mayor. The council must provide additional compensation to the chair of the school board. (Art. III, § 1)	Compensation is set by the council through ordinance, upon recommendation from school committee. (§ 4.2)	The charter contains no specific school board compensation provision.	School committee members receive compensation at the rate of \$10 for every regularly scheduled meeting attended, not to exceed \$500 per year. (Art. V, § 1)	Compensation is set by the council through ordinance. (Sec. 5.01(b)).	Compensation is fixed each year by the school committee. (§ 507)

	PORTLAND	AUBURN	BANGOR	BIDDEFORD	LEWISTON	SANFORD
School Board Conflicts of Interest	No member of the 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. (Art. VIII, § 1)	The charter contains no specific conflict of interest provision.	The charter contains no specific conflict of interest provision.	The charter contains no specific conflict of interest provision.	The charter contains no specific conflict of interest provision.	No school committee member shall hold any other compensated city office or city employment, except as on-call emergency personnel, during their term of office. No school committee member shall hold any paid office or position of employment with the school department. If a member of the school committee ceases to possess any of these qualifications or is convicted of a crime punishable by imprisonment for more than six months, the office shall immediately become vacant. (§ 502)
Incompatibility of Office	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. (Art. II, § 4)	Except where authorized by law, no member shall hold any other elected public office during the term for which the member was elected. No member shall hold any other city office or employment during the term for which the member was elected. No former member shall hold any compensated appointive city office or city employment until at least one year after expiration of the member's elective term.	The charter contains no specific incompatibility of office provision for school board members.	The charter contains no specific incompatibility of office provision for school board members.	The charter contains no specific incompatibility of office provision for school board members.	The charter contains no specific incompatibility of office provision. See above section for more information on prohibited positions.

	PORTLAND	AUBURN	BANGOR	BIDDEFORD	LEWISTON	SANFORD
Web Link	https://www.portlandmaine.gov/DocumentCenter/View/1102/City-Charter---Revised-332020?bidId	https://www.auburnmaine.gov/CMSContent/City_Clerk/charter.pdf (<i>See also</i> https://www.auburnmaine.gov/pages/government/city-charter-ordinances).	https://ecode360.com/14036615	City of Biddeford, ME City Charter (ecode360.com)	https://www.lewistonmaine.gov/DocumentCenter/View/181/City-Charter?bidId= (<i>See also</i> https://www.lewistonmaine.gov/151/City-Charter).	https://www.sanfordmaine.org/index.asp?SEC=B7910104-37A4-4F19-8A4E-58A42A843356&DE=FE82D1BD-194C-4DA6-856D-13123C3BD050&Type=B_BASIC (<i>See also</i> https://www.sanfordmaine.org/vertical/sites/%7B9A3D3C8D-76EE-4CC5-B86E-C19FDBF5E473%7D/uploads/Final_Report_Corrected_Website.pdf

APPENDIX B
PORTLAND CHARTER, WITH SCHOOL-RELATED PROVISIONS HIGHLIGHTED

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
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)
0. 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
4. 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.
