

Order 16-07/08

Second Reading Waived

Public Hearing, Amended & Passed 7/16/07 8-0 (Duson absent)

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CITY OF PORTLAND
IN THE CITY COUNCIL

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AMENDMENT TO PORTLAND CITY CODE
CHAPTER 9 ELECTIONS
RE: PEAKS ISLAND COUNCIL

WHEREAS, the city is composed of many distinct neighborhoods and several offshore island communities that require appropriate and effective mechanisms to bring their local issues to the attention of the city council for review and action; and

WHEREAS, the city's island communities face issues that differ from those of its mainland neighborhoods; and

WHEREAS, Peaks Island is the largest of the city's islands and has substantially more year round residents than the other city islands; and

WHEREAS, Peaks Island's distinctive issues and its relatively large population have led to the need for an elected body of representatives that will work closely with the city council to address island issues; and

WHEREAS, the city wishes to assist the residents of Peaks Island in setting up a structure which will provide a stronger voice on island issues and in city affairs for its residents;

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

1. *That Article IV, Chapter 9 of the Portland City Code is hereby enacted to read as follows:*

ARTICLE IV. PEAKS ISLAND COUNCIL

Sec. 51. Formation of council.

(a) *Purpose.* In order to provide the residents of Peaks Island with a different method of gathering input from its residents as to issues of concern to them and to provide such input to the members of the Portland city council, there is hereby established the Peaks Island council.

(b) *Members.* The Peaks Island council shall consist of seven (7) voting members elected at large from and by the duly registered voters of Peaks Island, beginning at the regular municipal election in November, 2007 and each regular municipal election in November thereafter. In 2007 two members shall be elected for a term of one year, two members shall be elected for a term of two years, and three members shall be elected for a term of three years with the initial terms being based on the number of votes received by each candidate, such that those candidates receiving the highest number of votes will win the longest terms. At the expiration of each initial term, subsequent terms shall be for a period of three years. Each member shall serve without compensation.

(c) *Terms.* The terms of each member shall run from the date of the inaugural meeting for three (3) full years, except as provided above for the initial terms. Members shall be sworn into their positions on the same day as members of the city council and shall serve until a successor is elected and qualified.

(d) The District 1 city councilor and school committee member shall be ex-officio non-voting members of the Peaks Island council and attend its regular meetings. If they cannot attend a meeting they shall designate an alternate to attend.

Sec. 52. Nomination of members.

(a) *Petitions.* The nominations of all candidates for elective offices for membership on the Peaks Island council shall be by written petition to be provided by the city clerk, in substantially the same form as the petition for at-large candidates for the city council as provided in article IV of the city charter. Said petition shall be signed by not less than fifty (50) Peaks Island residents who are registered voters on the island nor more than one hundred (100) such voters. All

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

(b) *Signatures.* 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.

(c) *Filing.* The city clerk shall make nomination petitions available to the candidates one hundred and twenty (120) days prior to the election except that in 2007 the petitions shall be made available one hundred and twelve (112) 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 seventy-eight (78) nor later than sixty-four (64) 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 said 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 be nominated, nor shall any person consent to being nominated, at the same election for any other elective office provided for by the city charter.

Sec. 53. Election

(a) The city clerk shall provide specimen ballots, absentee ballots and ballots for election of the members of the Peaks Island council in substantially the same form and at the same time as those for members of the city council. All voting shall take place in the regular polling place for registered

voters on Peaks Island and the election, count of the ballots and canvass of returns shall be administered by the city clerk in the same manner as provided by city charter for members of the city council. Any dispute as to election results shall be resolved by the city clerk using the same standards provided by city charter and state law for disputed municipal elections, and the decision of the city clerk shall be final and shall not be appealable to court or any other entity.

(b) Following the declaration of the election results by the city clerk, the successful candidates shall be sworn in by the city clerk on or before the inaugural meeting of the Peaks Island council.

Sec. 54. Powers and duties.

(a) *Authority.* The Peaks Island council may exercise any powers and perform any functions on Peaks Island including but not limited to:

- (1) Advisory or delegated substantive authority, or both, to hold public hearings, gather community input and make recommendations to the city council with respect to such programs as transportation initiatives and parking, community action programs, construction, expansion, location or relocations of public facilities, proposed public works projects, planning and zoning actions, fire safety, crime prevention and juvenile delinquency programs, health services, code inspection and city-sponsored recreational programs, law enforcement, harbor control and management, and education;
- (2) Self-help projects, (such as supplemental refuse collection, beautification) fundraising for local improvements or events and similar volunteer efforts;
- (3) Participation in the selection of the island/neighborhood liaison, and Peaks Island representatives on the island advisory committee, and the island coalition;
- (4) Recommendations for the allocation of funds designated or appropriated by the city or received from other

sources for transportation or parking initiatives or other purposes;

- (5) Control and spend funds designated or appropriated by the city or received from other services for the operation of the Peaks Island council or its programs;
- (6) Recommendations for ordinance amendments; and
- (7) Creation of such subcommittees as it deems necessary.

(b) *Regular agenda item.* The city council shall on its regular agenda schedule timely discussion and opportunity for adoption of recommendations made by the Peaks Island council. City council votes on such recommendations shall be carried out in the same manner as votes on other matters on the city council agenda.

Sec. 55. Procedure of Peaks Island council

(a) *Inaugural Meetings.* In 2007 the inaugural meeting of the Peaks Island council shall be held on the first Tuesday following the election at 7:00 P.M. at the Peaks Island Elementary School . In subsequent years the date, time and place of the meeting shall be established by the written rules adopted by the Peaks Island council.

(b) *Regular Meetings.* The Peaks Island council shall meet at least once every month. The time, date and place of such regular meeting shall be established by written rules of Peaks Island council to be adopted no later than December 15 of each year. Notice of meetings shall be advertised on the city of Portland calendar and shall be posted in at least two public places on Peaks Island.

(c) *Special meetings.* Special meetings may be called by the chairperson, and in case of his or her absence, disability, or refusal may be called by a majority of the members of the council. Notice of such meeting shall be served in person or left at the residence of each member of the council and posted in at least two public places on Peaks Island at least seventy-two hours before the time for holding said special meeting.

(d) *Quorum.* Four (4) members shall constitute a quorum

for the transaction of business and is authorized to transact business at all times, including when there is a vacancy on the council. Final passage of any item shall require four (4) affirmative votes. All votes and actions taken by the Peaks Island council shall be transmitted in a timely manner to the city council, but shall not bind the citizenry or the city council and shall not be enforceable against any person in the courts of the state unless and until adopted by the city council. Such Peaks Island council actions shall not be considered final governmental action for purposes of appeal to court under Rule 80B or any successor rule or statute.

(e) *Rules.* Unless a contrary rule is adopted by the Peaks Island council in writing, the meetings of the Peaks Island council shall be governed by Roberts Rules of Procedure.

(f) *Chairperson.* A member of the Peaks Island council shall be selected annually at the inaugural meeting by a vote of not less than 4 members to serve as chairperson of the meetings and to rule on procedural issues which may arise. In the event of vacancy in the position of chairperson a chairperson pro tem shall be elected to serve for the duration of the chairperson's term by no less than 4 votes of the remaining members. If the chairperson is unable to attend a meeting for reasons that do not create a vacancy, the chairperson may designate an acting chairperson for that meeting.

(g) *Vacancies.* A vacancy in the membership of the Peaks Island 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 island; (4) the conviction of a member of a felony while in office; or (5) the recall of a member pursuant to any provisions for recall established by the council. The Peaks Island council shall declare a vacancy in its membership to exist upon the failure of a member to attend any three (3) consecutive regular meetings of the council, or at least forty (40) percent of the regular meetings of the council held in any one calendar year unless said member shall be excused (by vote of at least four (4) other members) for health reasons or other good cause.

A member may in writing addressed to the Peaks Island council resign his or her office effective at a future date

specified in said written resignation. Once submitted to the council, said resignation may not be withdrawn, and said member's office shall become vacant on said specified future date.

If a vacancy in the membership of the Peaks Island 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 120 days after the date the vacancy occurs or is declared unless the city council, by a vote of six (6) of its members, calls a special election on an earlier date following a request from the Peaks Island council. The notice of election for such special election shall upon vote of the city council be issued by a member of the city council by vote designated for that duty. Such election shall be called and held and nominations made as in other elections.

Sec. 56. Effective date.

This ordinance shall go into effect on July 17, 2007.

Sec. 57. Reserved.

Sec. 58. Reserved.

Sec. 59. Reserved.

Sec. 60. Reserved