

Order 44-08/09

Passage: 8/4/08 8-0 (Cohen absent)

EDWARD J. SUSLOVIC (MAYOR)

KEVIN J. DONOGHUE (1)

DAVID A. MARSHALL (2)

DANIEL S. SKOLNIK (3)

CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES I. COHEN (5)

JOHN M. ANTON (A/L)

JILL C. DUSON (A/L)

NICHOLAS M. MAVODONES (A/L)

**ORDER SETTING PUBLIC HEARING ON PROPOSED AMENDMENTS
TO ARTICLE IV (ELECTIONS) OF THE PORTLAND CITY CHARTER
FOR SUBMISSION TO THE VOTERS
AT THE NOVEMBER 4, 2008 ELECTION**

ORDERED, that the Portland City Council will hold a public hearing on proposed amendments to Article IV (Elections) of the Portland City Charter on August 18, 2008 at 7:00 p.m. in the Council Chambers at Portland City Hall, said amendments to be in the form attached and to be placed upon the November 4, 2008, Regular Municipal Election ballot if submission to the voters is approved by the Council.

[Language to be added is underlined; language to be deleted is ~~struck out~~.]

Shall Article IV (ELECTIONS), Sections 3, 4, 5, 6, 7 and 11, of the Portland City Charter be amended to read as follows:

. . . .

Section 3. Wardens and ward clerks.

The wardens and 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 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 said ward. (Referenda 11/2/76; 6/13/78; 11/4/86)

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 councilor or school committee member shall be signed by not less than three hundred (300) nor more than five hundred (500) qualified voters of the city. The petition of a candidate for a district council seat or a candidate for a district school committee seat shall be signed by not less than seventy-five (75) nor more than one hundred fifty (150) qualified 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)

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 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 (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 _____, _____.

Justice of the Peace
Notary Public

If this petition is deemed insufficient by the city clerk, he or she shall forthwith notify by mail _____ at _____.

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 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 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)

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. 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. 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. These spaces may be used by a voter to write or paste in the name of any person for whom the voter desires to vote. No sticker shall be used except in the blank spaces provided. Such ballots shall 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.

The face of the ballot shall be substantially in the following form, with instructions included as to how to vote the ballot:

CITY OF PORTLAND
REGULAR (OR SPECIAL) MUNICIPAL ELECTION
OFFICIAL BALLOT

Candidates for office in the City of Portland at an election held on the _____ day of _____, A.D. _____.

COUNCILOR

Vote for (). (Name of candidate and residence)

[]_____

[]_____

SCHOOL COMMITTEE MEMBER

Vote for (). (Name of candidate and residence)

[]_____

[]_____

. . . .

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 otherwise provided herein. 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.

BE IT FURTHER ORDERED, upon approval by the voters, the above amendments shall take effect on November 30, 2008.

SUMMARY OF AMENDMENTS

The above amendments update the election provisions in the Charter, and provide that Title 21-A of the Maine statutes govern whenever the Charter is silent on an issue. The amendments are as follows:

Section 3: This amendment deletes the reference to election of wardens and ward clerks, a change recommended by the 1986 Charter Commission and approved by the voters but inconsistent language in the Charter was inadvertently not deleted. The City Council has been appointing wardens and ward clerks for many years pursuant to state law, based upon recommendations from the City Clerk as to willingness and availability to serve.

Sections 4 and 5: This removes the references to nomination petitions for wardens and ward clerks per the change in Section

3, and provides that the voter may sign as many candidate nomination petitions as they wish.

Section 6: This requires the City Clerk to make nomination petitions available one week earlier (127 days prior to the election) and changes the window period for filing petitions with the clerk by one week (85-71 days prior to the election), giving the clerk an additional week to certify signatures.

Section 7: This modifies the form of the ballot to reflect the above changes regarding wardens and ward clerks, as well as to conform to use of machine ballots.

Section 11: This clarifies that the state election laws in Title 21-A will apply to matters not addressed specifically in the Charter, rather than Title 30-A, which primarily governs town meeting elections. It also authorizes use of electronic or revised voting procedures as authorized by state or federal law.