

Order 45-08/09

Postponed on 8/4/08

Amended & Passed 8/18/08 8-1 (Duson)

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 PLACING AMENDMENTS TO
PORTLAND CITY CHARTER ARTICLE IV (ELECTIONS)
ON NOVEMBER 4, 2008 MUNICIPAL BALLOT**

ORDERED, that the following question is hereby placed on the
November 4, 2008, Regular Municipal Election ballot:

[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 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 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 _____, _____.

Attorney/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, that pursuant to Title 30-A, § 2104(6) and § 2105(3)(C), the Portland City Council determines that it is not practical to print the proposed amendment on the ballot, that the following summary does not misrepresent the subject matter of the proposed amendment and fairly describes the

contents of the proposed amendment, and does not contain information designed to promote or oppose the amendment; and

BE IT FURTHER ORDERED, that the City Clerk is directed to include the following summary on the November 4, 2008 ballot instead of the text of the proposed amendment:

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

SUMMARY OF AMENDMENTS

Section 3. Wardens and ward clerks.

Summary: The amendments to this section delete 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 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, and these amendments reflect that practice.

Sections 4. Nominations.

Summary: The amendments to this section clarify that only at-large council or school committee seats require 300-500 signatures. In addition, it removes the references to nomination petitions for wardens and ward clerks to be consistent with the change in Section 3 above, and provides that the voter may petition for more than 1 candidate for each office to be filed at an election.

Section 5. Form of nomination petition.

Summary: The amendments to this section conforms the form of the nomination petition to the amendments in Section 4 above permitting the voter to sign more than one candidate petition for an office, and deletes an outmoded reference to "Justice of the Peace" on the petition form.

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

Summary: The amendments to this section require 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. Form of ballot.

Summary: The amendments to this section delete the reference to wardens and ward clerks and clarify that instructions will be included as to how to vote the ballot.

Section 11. State election laws applicable.

Summary: The amendments to this section clarify that the state election laws in Title 21-A will apply to matters not addressed specifically in the Charter. It also permits use of electronic or revised voting procedures as authorized by state or federal law.