

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***Editor's note--**Historical references are cited in parentheses at the end of each section.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 as follows:

1. Town of Portland incorporated by Act of Commonwealth of Massachusetts on July 4, 1786; Town of Portland Records, p. 1

2. City of Portland incorporated by adoption of charter on March 26, 1832; original charter can be found in Chapter 248, Special Laws of Maine 1832, p. 380; amendments as follows:

c. 325, S.L. 1833, p. 501

c. 500, S.L. 1834, p. 749

c. 402, S.L. 1838, p. 511

c. 541, S.L. 1839, p. 648

c. 33, P & SL 1842, p. 25

c. 200, P & SL 1845, p. 258

c. 266, P & SL 1845, p. 310

c. 233, P & SL 1849, p. 333

c. 330, P & SL 1850, p. 458

c. 167, P & SL 1853, p. 158

c. 35, P & SL 1857, p. 48

c. 103, P & SL 1857, p. 93

c. 109, P & SL 1857, p. 100

3. A total revision of the charter was accomplished in 1863; c. 275, P & SL 1863, p. 257; amendments as follows:

c. 348, P & SL 1870, p. 316

c. 647, P & SL 1871, p. 624

c. 21, P & SL 1875, p. 16

c. 8, P & SL 1881, p. 9

c. 86, P & SL 1881, p. 86

(c. 450, P & SL 1897, p. 707--Revision of charter rejected by voters in 1897)

c. 384, P & SL 1901, p. 569

c. 68, P & SL 1903, p. 116

(c. 287, P & SL 1905, p. 328--abolishing common council rejected by voters April 24, 1905)

c. 344, P & SL 1907, p. 638

c. 427, P & SL 1907, p. 758

(c. 148, P & SL 1921, p. 513--"Murray Bill" charter revision rejected by voters September 13, 1921)

(c. 149, P & SL 1921, p. 532--"Brewster Bill" charter revision rejected by voters September 13, 1921)

4. A total revision of the charter was accomplished in 1923 by adoption by voters of "Brewster Bill" on September 11, 1923; c. 109, P & SL 1923, p. 596; ("Nichols Bill" c.104, P & SL 1923, p. 557 was rejected same date); amendments as follows:

c. 56, P & SL 1929, p. 484

(c. 112, P & SL 1929, p. 604--Mayor--Alderman form rejected by voters on September 10, 1929)

c. 31, P & SL 1931, p. 353

c. 50, P & SL 1945, p. 629

c. 113, P & SL 1945, p. 736

c. 144, P & SL 1945, p. 71

c. 72, P & SL 1947, p. 722

c. 72, P & SL 1949, p. 765

c. 103, P & SL 1949, p. 803

c. 28, P & SL 1953, p. 528

c. 108, P & SL 1955, p. 756

c. 88, P & SL 1957, p. 707

c. 143, P & SL 1959, p. 873

5. A total revision of the charter was accomplished in 1961; c. 194, P & SL 1961, p 1125; amendments as follows:

- c. 64, P & SL 1963, p. 966
- c. 65, P & SL 1963, p. 967
- c. 157, P & SL 1963, p. 1187
- c. 177, P & SL 1963, § 1, p. 1291
- (c. 6, P & SL 1965, p. 649 rejected by voters on December 6, 1965)
- c. 7, p & SL 1965, p. 650
- c. 81, P & SL 1965, p. 760
- (c. 127, P & SL 1965, p. 849 rejected by voters on December 6, 1965)
- c. 221, P & SL 1967, p. 136
- c. 83, P & SL 1969, p. 1628
- c. 136, P & SL 1969, p. 1792
- c. 146, P & SL 1969, p. 1820
- (c. 185, P & SL 1969, p. 1958 rejected by voters on November 3, 1970)

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

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|-------------------|---------------------------------------|
| 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

State law reference(s)--Home rule, 30 M.R.S.A. § 1911 et seq.

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- Art. I. Grant of Powers to the City, §§ 1, 2
 - Art. II. City Council, §§ 1--8
 - Art. III. School Committee, §§ 1--5
 - 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

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 said 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, not exceeding one thousand dollars in any one case, to be recovered for such uses as said by-laws, regulations, or ordinances shall provide. (Referendum 12/4/72)

Section 2. Powers and duties.

The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, except the general management, care, conduct, and control of the schools of said city which shall be vested in a school committee as hereinafter provided, 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 said 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 said city, and all powers granted by this charter, except as herein otherwise provided, shall be vested in said city council.

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 said election districts into voting districts. (Referenda 11/2/76; 6/13/78; 11/4/86)

Section 2. Composition, election, tenure of office, compensation.

The city council shall be composed of nine (9) members, who shall hold office 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, from and by the registered voters of each 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 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 shall take effect during the then current municipal year, and no such payment of compensation shall be made in advance. 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)

***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 councilmen 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.

Section 3. Chairman.

On the first Monday in December following the regular municipal election, or as soon thereafter as possible, the city council shall elect one (1) of its members as chairman of the council for the ensuing year and until a successor is elected and qualified, and the city council may fill for the unexpired term any vacancy as chairman that may occur.

If the chairman shall fail from sickness, disability, absence from the city or other cause to attend to and perform the duties incumbent on him or her as such chairman, the remaining members of the city council may by unanimous vote, after notice and hearing, terminate the term of office of said chairman and remove him or her therefrom, and thereupon by majority vote may elect some other member of said city council chairman, and such newly elected member shall thereupon and thereafter hold the office and perform the duties of chairman for the balance of that year and until a successor is elected and qualified.

The chairman shall preside at all meetings of the council, and shall perform such other duties, consistent with this office, as the council may provide. He or she shall be entitled

to vote, and such vote shall be counted upon all matters and things as a vote of other members of the council. The chairman shall be the official head of the city and shall be called mayor. He or she shall perform the duties of chairman of the city council as set forth herein and shall have the powers and authority given to perform the duties required of mayors of cities for all purposes required by any statute. In the temporary absence or disability of the chairman the council may select a chairman pro tempore from among its number and such person shall exercise all the powers of the chairman. (Referendum 6/13/78; 11/7/00)

Section 4. 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 said 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 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 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 120 days after the date the vacancy occurs or is declared, unless the council, by a vote of six (6) of its

members, calls a special election on an earlier date. The warrant 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. (Referenda 11/2/76; 11/4/86; 11/2/99)

Section 5. 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 said meeting the 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 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)

Section 6. Special meetings.

Special meetings may be called by the chairman, and in case of his or her absence, disability, or refusal may be called by a majority of the members of the city council. Notice of such meeting shall be served in person or left at the residence of each member of the city council at least twenty-four hours before the time for holding said special meeting.

Section 7. Quorum.

A majority of the 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 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.

Section 8. 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. 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 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 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 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.

ARTICLE III. SCHOOL COMMITTEE

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

The school committee 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 committee shall be entitled to receive as compensation for all services rendered. (Referenda 11/2/76; 6/13/78; 11/4/86; 11/3/87)

Section 2. Chairman.

On the first Monday in December following the regular municipal election, or as soon thereafter as possible, the school committee shall elect one of its members as chairman for the ensuing year and until a successor is elected and qualified, and may fill for the unexpired term any vacancy as chairman that may occur. (Referenda 11/2/76; 6/13/78; 11/7/00)

Section 3. Organization.

The school committee shall meet for organization on the first Monday in December following the regular municipal election. 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. A majority of the whole number elected shall be a quorum. (Referenda 6/13/78; 11/7/00)

Section 4. Powers and duties.

The school committee shall have all the powers, and perform all the duties in regard to the care and management of the public schools of said city, which are now conferred and posed upon school committees by the laws of this state, except as otherwise provided in this charter. Not later than two (2) months before the end of the fiscal year the school committee shall submit to the city council budget estimates of the various sums required for the support of public schools for the ensuing fiscal year and shall thereafter provide the city council with such information relating to such estimates as the city council shall require. A budget hearing on such budget estimates shall be held together with the hearing on the budget estimates of the

city manager. 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 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 committee except by a vote of six (6) members of the city council. Such appropriation shall be expended under the direction and control of the school committee but no such appropriation shall be exceeded except by consent of the city council. (Referendum 6/13/78)

Section 5. Vacancies.

A vacancy in the membership of the school committee 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 committee 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 committee or at least sixty (60) percent of the regular meetings of the school committee held in any one calendar year unless said 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 committee resign his office effective at a future date specified in said written resignation. Once submitted to the school committee, 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 school committee 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 council, by a vote of six (6) of its members, calls a special election on an earlier date. The warrant 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. (Referenda 11/2/76; 11/4/86; 11/2/99)

ARTICLE IV. ELECTIONS

Section 1. Continuity in office.

In the event redistricting of the city shall cause a then council member or school committee 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 committee 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)

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 committee 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)

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, 11/4/08)

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; 11/4/08)

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

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; 11/4/08)

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)

[]_____

[]_____

(Referendum 11/4/86; 11/4/08)

Section 8. Specimen ballots.

The city clerk shall cause specimen ballots to be prepared from the arrangement of the first group of ballots as provided above 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)

Section 9. Count of ballots.

As soon as the polls are closed, the warden shall immediately open the ballot boxes, take therefrom the ballots and sort, count, and declare them in open meeting in the presence of the ward clerk; and the ward clerk shall make a list of the persons voted for, with the number of votes for each person against his or her name and shall make a true and fair record thereof in the presence of the warden and in open ward meeting enter the total number of votes for each candidate on a tally sheet provided by the city clerk, which tally sheet shall be duly attested by the warden and ward clerk and forthwith returned to said city clerk. The ward clerk shall thereupon deliver to each warden or ward clerk a certificate of election and shall forthwith deliver to the city clerk a certified copy of the record of such election. (Referendum 11/4/86)

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 highest number of votes given at said election, shall be determined and declared to be elected. The city clerk shall provide written notice of the election results to all candidates. (Referendum 11/6/01)

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.
(Referenda 11/4/08)

ARTICLE V. RECALL

Section 1. Applicability.

Any member of either the city council or the school committee may be recalled and removed from office by the qualified 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. (Referendum 11/4/86)

Section 2. Petition for recall.

In the case of either a councilor or member of the school committee, any five hundred (500) qualified voters of the city may affirm and file with the city clerk an affidavit containing the name or names of the member or members whose removal is sought, together with a statement of the reasons why such removal is desired.

Upon receipt of such an affidavit, the city clerk shall prepare a sufficient number of petitions which shall be addressed to the city council, and contain the signature of the city clerk, his or her official seal, the date, and the name or names of the person or persons whose removal is sought. In addition, the affidavit and statement of reasons for removal referred to above shall either be printed on such petitions or attached thereto.

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 committee 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 other councilors or members of the school committee, 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 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 a councilor or a member of the school committee, the recall petition must be signed by at least three thousand (3,000) qualified voters. (Referendum 12/1/75, 11/4/86)

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 qualified 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. (Referendum 11/4/86)

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. (Referendum 11/4/86)

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 committee 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 4 and article III, section 5, relating to vacancies in the city council or school committee, shall be stayed. (Referendum 11/4/86)

ARTICLE VI. ADMINISTRATIVE OFFICERS

Section 1. Appointments.

(a) The following officers and boards shall be appointed by vote of five (5) members of the city council: city manager, city clerk, corporation counsel, and two (2) members of the board of registration under the statutes of the State of Maine, and they may appoint not more than twenty (20) 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)

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 said 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 said 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. 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, offices and boards created herein or that may be hereafter created.

(c) To make appointments as provided in this charter.

(d) 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.

(e) 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.

(f) To perform such other duties as may be prescribed by this charter or required by ordinance of the city council.
(Referendum 11/4/86)

Section 6. Vacancy in office of city manager.

During any vacancy in the office of city manager, and during the absence or disability of the city manager, the city council may designate a properly qualified person to perform the duties of manager and fix such person's compensation. 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 said bond is to be paid by the city.

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)

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)

Editor's note--A referendum, passed Nov. 4, 1986 and effective July 1, 1987, repealed former sections 7 through 10 of Art. 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 editor's note to this Charter.

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. A general accounting system for same shall be recommended by the director of finance and prescribed by the city manager, and approved by vote of the city council in regular session. 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 receipts and disbursements 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 shall be audited annually by a qualified accountant to be chosen by the city council. (Referendum 12/1/75)

Section 2. Reports.

The director of finance shall publish each month a statement of the financial condition of the city.

Each of the administrative officers and boards shall annually, on such date as may be fixed by the city council, render to the city manager a full report of the transactions of his or their department for the year. On the basis of these reports, the city manager shall prepare and publish an annual report for general distribution. In addition to a summary of the services rendered by the various departments, the report shall show:

(a) Receipts classified according to sources.

(b) Expenditures classified according to objects. The classification of receipts and expenditures in the report shall conform in general to the classification in the director of finance's books.

(c) Balance sheets.

(d) Such other financial information as may be required by the city council.

Section 3. 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)

Section 4. Annual budget.

Not later than two (2) months before the end of the fiscal year, the city manager shall submit to the city council budget estimates for the ensuing fiscal year.

An accurate summary of such budget shall be made available not later than two (2) weeks after its submission to the city council. The city council shall fix a time and place for holding

a public hearing upon the city manager's budget, 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)

Section 5. Budget content.

The city manager's budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city council may require. 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. (Referendum 6/13/78)

Section 6. 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 4 of Article III hereinbefore. The total amount appropriated shall not exceed the estimated revenue of the city.

If it fails to adopt said 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.

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. (Referendum 6/13/78)

Section 7. Surpluses.

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 unencumbered balances shall be transferred to the surplus account.

Section 8. Borrowing.

The borrowing of money by and for the city shall be limited as to form and purpose by Section 9 and Section 10 of this Article. The credit of the city shall in no manner be loaned to any individual, association or corporation.

Section 9. Bond issues.

Money may be borrowed, within the limits fixed by the constitution and statutes of the state, now or hereafter applying to said 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.

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 said notice at least twice in a daily newspaper of general circulation in said Portland at least two (2) weeks before final action of the city council, and the approval of seven (7)

members of the city council. (Referenda 11/4/86; 11/5/91; 11/8/94; 11/2/99)

Section 10. 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)

Section 11. Sinking fund.

The sinking fund shall be applied only to the payment of the bonded indebtedness of the city. The sinking fund shall be invested as provided by the Revised Statutes of the State of Maine and all acts in addition thereto and in amendment thereof.

Section 12. Payments.

Money shall be paid out only in warrants on the city treasury issued by the director of finance.

The director of finance shall examine all payrolls, bills and other claims and demands against the city, and shall issue no warrant for payment until he or she finds that the claim is 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.

Section 13. 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 said bonds to be paid by the city.

Section 14. 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 some responsible banking institution or institutions to be chosen by said city council. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city.

Section 15. Cumulative reserve fund.

A cumulative reserve fund is hereby authorized for the purpose of enabling the city to pay losses incurred under deductible insurance policies. Such fund shall be derived from contributions from other accounts within the general and other operating funds which shall be appropriated annually. The city council may appropriate additional sums to such fund and shall in the annual appropriation resolve include provision for payment out of such cumulative reserve fund all losses which may occur during the next fiscal year. Such cumulative reserve fund shall be a permanent fund to be used for the purposes herein set forth and no other and shall continue from year to year, its surplus not reverting to the general fund surplus at the end of any fiscal year. Said fund shall be kept, held and administered as provided by the Revised Statutes for other reserve funds of municipalities.

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 the larger of \$900,000.00 or 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 the larger of \$1,350,000.00 or 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 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)

ARTICLE VIII. MISCELLANEOUS PROVISIONS

Section 1. No personal interest.

No member of the city council or school committee 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 committee, 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. (Referendum 11/4/86)

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)

Editor's note--A referendum of Nov. 4, 1986, effective July 1, 1987, amended section 4 of this article 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.