

Chapter 9 ELECTIONS*

***Charter reference(s)**--Elections, art. IV.

Cross reference(s)--Administration, Ch. 2.

State law reference(s)--Elections generally, 21 M.R.S.A. § 1 et seq.; city officials and elections, 30 M.R.S.A. § 5351 et seq.

Art. I. In General, §§ 9-1--9-15

Art. II. Precincts, §§ 9-16--9-35

Art. III. Initiation and Referendum, §§ 9-36--9-47

Art. IV. Peaks Island Council, §§ 9-51-9-60

Art. V. Clean Elections, §§ 9-61-9-90

Art. VI. Campaign Finance, §§ 9-91-9-95

ARTICLE I. IN GENERAL

Sec. 9-1. Council districts.

(a) *Map included.* The districts and precincts of the City for all elections of the City shall be as shown on the map dated January 29, 2014, on file in the Office of the City Clerk.

(b) *Narrative description of districts.* The districts shown on the map as enacted by this section are further described below. Any reference to Census Tracts, Block Groups, and/or Blocks refers to Census 2010 defined areas. The descriptions are as follows:

District 1. Beginning at the center of the mouth of Back Cove at the centerline of Tukey's Bridge and I-295; thence easterly, southeasterly, and then southerly along the northerly and easterly edges of Census Tracts 1, 2, and 3, around the northeasterly end of the Portland Peninsula, until it intersects with the Portland/South Portland boundary near the mouth of the Fore River in Portland Harbor, said point being southerly of Fish Point and northwesterly of Bug Light; thence following the Portland/South Portland boundary southwesterly to the centerline of Casco Bay Bridge; thence northwesterly along the centerline of the Casco Bay Bridge to a point directly above the shoreline of Portland Harbor; thence northeasterly along the shore of Portland

Harbor and the southeasterly edge of the piers, bulkheads, and wharfs to Hobson's Wharf; thence northwesterly along the street on Hobson's Wharf to Commercial Street; thence southwesterly along the centerline of Commercial Street until it intersects the centerline of High Street; thence northwesterly along the centerline of High Street to the centerline of Park Avenue; thence northwesterly along the centerline of the extension of High Street, that passes through Deering Oaks, to the centerline of Forest Avenue; thence northwesterly along the centerline of Forest Avenue to the centerline of Dartmouth Street; thence northeasterly along the centerline of Dartmouth Street to the centerline of Baxter Boulevard; thence easterly along the centerline of Baxter Boulevard to a point on said centerline that is northerly of Forest Park and is on the easterly edge of Census Block 003, of Census Tract 15, Block Group 1; thence northerly to Back Cove along the easterly edge of Census Block 003, of Census Tract 15, Block Group 1; thence westerly and northwesterly along Back Cove which is also the northeasterly edge of Census Block 003, of Census Tract 15, Block Group 1 to a point along Back Cove, that is easterly of the intersection of Belmont Street and Baxter Boulevard; thence northeasterly along the boundary between Census Tract 15 and 18 to a point in Back Cove; thence southeasterly following the boundary between Census Tract 15 and 18 to a point in Back Cove where the boundaries of Census Tracts 15, 18, and 5 intersect; thence northeasterly along the boundary between Census Tract 18 and 5 to a point in Back Cove where the boundaries of Census Tracts 23, 18, and 5 intersect; thence continuing northeasterly along the boundary between Census Tracts 23 and 5 to the centerline of I-295 on Tukey's Bridge; thence southerly along the centerline of I-295 to the point of beginning. In addition to this area, District 1 includes all islands within the City limits.

District 2. Beginning at the intersection of the Casco Bay Bridge and the boundary between Portland and South Portland; thence following the Portland/South Portland boundary southwesterly, westerly, northwesterly along the Fore River until said Portland/South Portland boundary intersects a projection of Danforth Street's centerline to the southwest of the intersection of Danforth Street and West Commercial Street; thence following said projection of Danforth Street and the centerline of Danforth Street itself in a northeasterly direction to where the centerline of Danforth Street cross the railroad tracks of Portland Terminal Company, said intersection also being at the boundary between Census Tracts 3 and 13; thence northerly along the westerly edge of Census Tract 13 and the Portland Terminal Company's railroad tracks to a point, just north of the Congress Street grade crossing with

the Portland Terminal Company's tracks, where the Union Branch tracks diverge from the mainline tracks, said point is southerly of Park Avenue and westerly of Saint John Street; thence along the northwesterly edge of Census Tract 13 and along the railroad tracks of the Union Branch to the centerline of Deering Avenue; thence northwesterly along the centerline of Deering Avenue to the intersection of Dartmouth St. Thence northeasterly along the centerline of Dartmouth Street to the centerline of Forest Avenue; thence southwesterly along the centerline of Forest Avenue to its intersection with the centerline of the extension of High Street, that passes through Deering Oaks; thence southeasterly along the centerline of said extension of High Street, to the intersection of High Street and Park Avenue; thence southeasterly along the centerline of High Street to the centerline of Commercial Street; thence northeasterly along the centerline of Commercial Street to its intersection with the street on Hobson's Wharf; thence southeasterly along the street on Hobson's Wharf to the end of said wharf; thence southeasterly along the piers, wharfs, bulkheads, and shore of Portland Harbor, such that the piers, wharfs, and bulkheads in their entirety will be contained in District 2, to the Casco Bay Bridge; thence along the centerline of the Casco Bay Bridge to the Portland/South Portland boundary and the point of beginning.

District 3. Beginning on the Portland/South Portland boundary where it would intersect a projection of Danforth Street's centerline if projected southwesterly of the intersection of Danforth Street and West Commercial Street; thence northwesterly and westerly along the Portland/South Portland boundary, in the Fore River, to the centerline of I-295 as it crosses the Fore River; thence westerly along the Portland/South Portland boundary to the point where the Portland/South Portland and the Portland/Westbrook boundaries meet; thence northerly along the Portland/Westbrook boundary to where said town line intersects the Boston and Maine Railroad's location, this point of intersection is westerly of Riverside Street, southerly of Warren Avenue, and northerly of Larrabee Road; thence easterly along the Boston and Maine Railroad's location to where it crosses Capisic Brook; thence westerly and southerly along the Capisic Brook to where it intersects the boundary between Census Tracts 21.02 and 20.01, said boundary is a line running parallel with Birchwood Drive in a northwesterly to southeasterly orientation and lies southerly of the homes on the southerly side of Birchwood Drive; thence southeasterly, then northerly, and southeasterly again along the boundary between Census Tracts 21.02 and 20.01, and northerly of Penwood Drive and Woodvale Street, to a point on said Census Tract

boundary and the southerly boundary of Evergreen Cemetery; thence southeasterly along the southerly boundary of Evergreen Cemetery as it runs north of the homes on the northerly side of Ludlow Street, said line is also the boundary between Census Tracts 21.02 and 20.01, to the point where this course intersects the boundary of Evergreen Cemetery that lies westerly of and roughly parallel to Hamblet Avenue; thence southeasterly along Wayside Rd. to Brighton Avenue. Thence southeasterly along the centerline of Brighton Avenue to the centerline of Columbia Road; thence northeasterly along the centerline of Columbia Road to the centerline of Ludlow Street; thence southeasterly and then northeasterly along the centerline of Ludlow Street to the centerline of Stevens Avenue; thence southerly along the centerline of Stevens Avenue to the centerline of Woodford Street; thence easterly along the centerline of Woodford Street to the centerline of Clifton Street; thence northeasterly along the centerline of Clifton Street to the centerline of Vannah Avenue; thence easterly along the centerline of Vannah Avenue to the centerline of Baxter Boulevard; thence southerly along the centerline of Baxter Boulevard to the intersection of the centerlines of Baxter Boulevard and Belmont Street; thence easterly along the boundary of Census Tracts 15 and 18 to a point on the shore of Back Cove; thence southeasterly along the shore of Back Cove, which is also the easterly edge of Census Block 003, of Census Tract 15, Block Group 1, to a point that is northerly of Forest Park and is on the easterly edge of Census Block 003, of Census Tract 15, Block Group 1 at the shore of Back Cove; thence southerly to the centerline of Baxter Boulevard and along the easterly edge of Census Block 003, of Census Tract 15, Block Group 1; thence westerly along the centerline of Baxter Boulevard to the centerline of Dartmouth Street; thence southwesterly along the centerline of Dartmouth Street to the centerline of Deering Avenue; thence southeasterly along the centerline of Deering Avenue to the railroad tracks of the Union Branch at the northerly edge of Census Tract 13; thence southwesterly along the railroad tracks of the Union Branch and the northwesterly edge of Census Tract 13 to a point, just north of the Congress Street grade crossing with the Portland Terminal Company's tracks, where the Union Branch tracks diverge from the mainline tracks, said point is southerly of Park Avenue and westerly of Saint John Street; thence southerly along the westerly edge of Census Tract 13 and the Portland Terminal Company's railroad tracks to a point where the centerline of Danforth Street cross the railroad tracks of Portland Terminal Company, said intersection also being at the boundary between Census Tracts 3 and 13 and said point is southeasterly of the easterly end of Veterans Memorial Bridge; thence southwesterly along the centerline of Danforth

Street and a projection of Danforth Street's centerline to the Portland/South Portland boundary and the point of beginning.

District 4. Beginning at the intersection of the centerlines of Lawn Avenue and Woodford Street; thence easterly along the centerline of Woodford Street to the centerline of Clifton Street; thence northeasterly along the centerline of Clifton Street to the centerline of Vannah Avenue; thence easterly along the centerline of Vannah Avenue to the centerline of Baxter Boulevard; thence southerly along the centerline of Baxter Boulevard to the intersection of the centerlines of Baxter Boulevard and Belmont Street; thence easterly along the boundary of Census Tracts 15 and 18 to a point on the shore of Back Cove; thence northeasterly along the boundary between Census Tract 15 and 18 to a point in Back Cove; thence southeasterly following the boundary between Census Tract 15 and 18 to a point in Back Cove where the boundaries of Census Tracts 15, 18, and 5 intersect; thence northeasterly along the boundary between Census Tract 18 and 5 to a point in Back Cove where the boundaries of Census Tracts 23, 18, and 5 intersect; thence continuing northeasterly along the boundary between Census Tracts 23 and 5 to the centerline of I-295 on Tukey's Bridge; thence northerly to a point at the northerly shoreline at the mouth of Back Cove; then easterly and northeasterly along the shoreline of Casco Bay, between the mouth of Back Cove and the mouth of the Presumpscot River, to the Portland/Falmouth boundary at the Presumpscot River and the Route 1 Bridge at Martins Point; thence northwesterly by the Falmouth/Portland boundary and the Presumpscot River to a point easterly of the intersection of Interstate 295 and the Portland/Falmouth boundary; then westerly along the Portland/Falmouth boundary, crossing Interstate 295, and continuing in a generally westerly direction by the Portland/Falmouth boundary until said town boundary intersects the centerline of Allen Avenue; thence southwesterly along the centerline of Allen Avenue to the centerline of Forest Avenue; thence southerly along the centerline of Forest Avenue to the centerline of Stevens Avenue; thence southerly along the centerline of Stevens Avenue to the centerline of Pleasant Avenue; thence easterly along the centerline of Pleasant Avenue to the centerline of Lawn Avenue; thence southerly along the centerline of Lawn Avenue to the point of beginning.

District 5. Beginning at the intersection of the centerlines of Lawn Avenue and Woodford Street; thence northerly along the centerline of Lawn Avenue to the centerline of Pleasant Avenue; thence westerly along the centerline of Pleasant Avenue

to the centerline of Stevens Avenue; thence northerly along the centerline of Stevens Avenue to the centerline of Forest Avenue; thence northerly along the centerline of Forest Avenue to the centerline of Allen Avenue; thence northeasterly along the centerline of Allen Avenue to the Portland/Falmouth boundary; thence northwesterly and then northeasterly along the Portland/Falmouth boundary to the Presumpscot River; thence along the Portland/Falmouth boundary and the Presumpscot River to the Falmouth Spur of the Maine Turnpike; thence southwesterly along the Falmouth Spur of the Maine Turnpike to a point where the Portland/Falmouth boundary changes direction and heads northwesterly across the Falmouth Spur of the Maine Turnpike, this point being northerly of Alice Court; thence southwesterly along the Portland/Falmouth boundary, again crossing the Falmouth Spur of the Maine Turnpike, to a point on the Portland/Falmouth boundary where said town line boundary turns northwesterly; thence northwesterly along the Portland/Falmouth boundary to the Portland/Falmouth Boundary along the Presumpscot River; thence southwesterly along the Portland/Falmouth boundary and the Presumpscot River to the point where the Portland/Falmouth boundary intersects the Portland/Westbrook boundary along the Presumpscot River; thence continuing southwesterly along the Portland/Westbrook boundary and the Presumpscot River to the point where the Portland/Westbrook boundary along the Presumpscot River turns southeasterly and leaves the river; thence southeasterly along the Portland/Westbrook boundary to where said town line intersects the Boston and Maine Railroad's location, this point of intersection is westerly of Riverside Street, southerly of Warren Avenue, and northerly of Larrabee Road; thence easterly along the Boston and Maine Railroad's location to where it crosses Capisic Brook; thence westerly and southerly along the Capisic Brook to where it intersects the boundary between Census Tracts 21.02 and 20.01, said boundary is a line running parallel with Birchwood Drive; thence southeasterly, then northerly, and southeasterly again along the boundary between Census Tracts 21.02 and 20.01, and northerly of Penwood Drive and Woodvale Street, to a point on said boundary and the southerly boundary of Evergreen Cemetery; thence southeasterly along the southerly boundary of Evergreen Cemetery as it runs north of the homes on the northerly side of Ludlow Street, said line is also the boundary between Census Tracts 21.02 and 20.01, to the point where this course intersects the boundary of Evergreen Cemetery that lies westerly of and roughly parallel to Hamblet Avenue; thence southwesterly to the centerline of Ludlow Street; thence northeasterly along the centerline of Ludlow Street to a point beyond the easterly side of Wayside Rd. to the intersection of

Brighton Avenue; thence southeasterly along the centerline of Brighton Avenue to the centerline of Columbia Road; thence northeasterly along the centerline of Columbia Road to the centerline of Ludlow Street; thence southeasterly and then northeasterly along the centerline of Ludlow Street to the centerline of Stevens Avenue; thence southerly along the centerline of Stevens Avenue to the centerline of Woodford Street thence easterly along the centerline of Woodford Street to the centerline of Lawn Avenue and the point of beginning.

(c) *Conflicts between map and description.* In the event of any conflict between the above map and the preceding description, the map provision shall control.

(Ord. No. 375-84, § 1, 11-16-84; Ord. No. 219-93, § 1, 2-2-93; Ord. No. 81-93, 8-16-93; Ord. No. 191, 1-20-99; Ord. No. 124-99, 12-20-99; Ord. No. 36-01/02, 8-20-01; Ord. No. 174-01/02, 3-4-02; Ord. No. 25-02/03, 8-19-02; Ord. No. 145-03/04, 2-2-04; Ord. No. 20-04/05, 9-2-04; Ord. No. 149-08/09, 2-2-09; Ord. No. 144-13/14, 2-24-14)

Charter reference(s)--Election districts, Art. II, § 1.

Sec. 9-2. Ranked choice voting; instant runoff tabulation.

For the position of mayor only, the city clerk shall implement a ranked choice voting protocol according to these guidelines:

(a) The ballot shall give voters the option of ranking mayoral candidates in order of choice.

(b) If a mayoral candidate receives a majority, i.e. at least one more than fifty percent (50%) of the first choice votes cast, that candidate is elected.

(c) If no candidate receives a majority of first choice votes, an instant runoff re-tabulation shall be promptly conducted by the city clerk and completed within five (5) business days of the election. The instant runoff re-tabulation shall be conducted in successive rounds, with the majority determined for each successive round by the number of votes cast in that round. The candidate with the fewest votes after each successive round in which no candidate receives a majority of the votes cast in that round shall be eliminated, and the votes in the successive rounds shall be re-tabulated among the remaining candidates until one candidate receives a majority of the votes cast in that round. In each successive round, each voter's ballot shall count as a single vote

for whichever candidate the voter has ranked highest who has not been eliminated in a prior round, if any.

(d) After the first round, a majority is determined as at least one (1) more than fifty percent (50%) of the votes cast for a remaining candidate in a particular round.

(e) The city clerk may adopt additional regulations consistent with Article II, section 3 of the Charter this section 9-2 to implement these provisions. The ballot shall contain instructions on how to vote for each office.

(Ord. No. 26-23/24, 9-6-2023)

Sec. 9-3. Proportional ranked choice voting for multiple seat elections.

Whenever two (2) or more persons are to be elected to the same office (a "multiple seat election"), the several persons up to the number to be chosen shall be elected by proportional representation. The City Clerk shall implement a proportional representation voting protocol according to these guidelines:

(a) The total number of ballots indicating a valid vote for a candidate shall be determined prior to counting of ballots for individual candidates.

(b) Each candidate shall be credited with one vote for every valid ballot that is sorted to that candidate as first choice, or otherwise credited to that candidate as hereinafter provided, and no ballot shall ever be credited to more than one candidate at the same time.

(c) A "quota" is the smallest number of votes that any candidate must receive in order to be assured of election without more candidates being elected than there are offices to be filled. A quota will be determined by dividing the total number of valid ballots by one more than the total number of candidates to be elected and adding one to the result, disregarding fractions. Whenever, at any stage of the counting, the number of ballots credited to a candidate becomes equal to the quota, that candidate shall be declared elected, and no ballots in excess of the quota shall be credited to that candidate except as provided in (f) or (l) of this section.

(d) The ballots shall be sorted according to the first choices marked on them.

(e) If a candidate is elected while the ballots are being sorted according to first choices, any subsequent ballots that show that candidate as first choice shall each be credited to the second choice marked on it, or, if the second choice also has been elected, to the next choice marked on it for a candidate not yet elected.

(f) If during the first sorting of ballots, ballots are found that are marked for a candidate already elected as first choice, but show no clear choice for any unelected candidate, such ballots shall at the end of the sorting be given to the candidate of their first choice, and in their place an equal number, as nearly as possible, of the last ballots sorted to that candidate that show a clear choice for unelected candidates, all as determined by the City Clerk, shall be taken and re-sorted to unelected candidates as if they were then being sorted for the first time.

(g) When all the ballots have been thus sorted and credited to the first available choices marked on them, every candidate who is credited with fewer ballots than the number of signatures required for that candidate's nomination shall be declared defeated.

(h) All the ballots of the candidates thus defeated shall be transferred, each to the candidate indicated on it as next choice among the continuing candidates. A "continuing candidate" is a candidate not as yet either elected or defeated. Any ballot taken for transfer which does not clearly indicate any candidate as next choice among the continuing candidates shall be set aside as "exhausted."

(i) When all the ballots of the candidates thus defeated have been transferred, the one candidate who is then lowest on the poll shall be declared defeated and all that candidate's ballots transferred in the same way.

(j) Thereupon the candidate who is then lowest shall be declared defeated and all that candidate's ballots similarly transferred; and in like manner candidates shall be declared defeated one at a time and all their ballots transferred.

(k) If, when a candidate is to be declared defeated, two or more candidates are tied at the bottom of the poll, that one of the tied candidates shall be declared defeated who was credited

with fewest ballots immediately prior to the last transfer of ballots. If two or more of the tied candidates were tied at that stage of the count, also, the second tie shall be decided by referring similarly to the standing of candidates immediately prior to the last transfer of ballots before that. This principle shall be applied successively as many times as may be necessary, a tie shown at any stage of the count being decided by referring to the standing of the tied candidates immediately prior to the last preceding transfer of ballots. In interpreting this and other rules contained in this section the transfer of all ballots from candidates defeated together under rule (g) of this section, and the transfer of all ballots from each candidate defeated thereafter shall each constitute a single separate transfer.

(l) Whenever candidates to the number to be elected have received the quota, any transfer of ballots in progress when the last quota was reached shall be completed, but immediately thereafter all continuing candidates shall be declared defeated and the election shall be at an end. Whenever all ballots of all defeated candidates have been transferred, and it is impossible to defeat another candidate without reducing the continuing candidates below the number still to be elected, all the continuing candidates shall be declared elected and the election shall be at an end.

(m) A record of the count shall be kept in such form as to show, after each sorting or transfer of ballots, the number thereby credited to each candidate, the number thereby set aside as exhausted, the total for each candidate, the total set aside as exhausted, and the total number of valid ballots found by adding the totals of all candidates and the total set aside as exhausted.

(n) Every ballot that is transferred from one candidate to another shall be stamped or marked so that its entire course from candidate to candidate can be conveniently traced.

(o) If at any time after the first sorting of the ballots a ballot is found to have been credited to the wrong candidate, it may be transferred, as part of the transfer that is in progress, to the continuing candidate, if any, to whom it should have been credited at the time the error was made, or, if it should previously have become exhausted, may be set aside as exhausted as part of the transfer that is in progress; provided, that if the number of misplaced ballots found is sufficient to make it possible that any candidate has been wrongly defeated, so much of the sorting and transferring as may be required to correct the

error shall be done over again before the count proceeds. If in correcting an error any ballots are re-sorted or re-transferred, every ballot shall be made to take the same course that it took in the original count unless the correction of an error requires its taking a different course. The principles of the rules of this section shall apply also to any recount which may be made after the original count has been completed.

(p) The city clerk may adopt additional regulations consistent with Article II, section 3 of the Charter and this section 9-3 to implement these provisions. The ballot shall contain instructions on how to vote for each office.

(Ord. No. 26-23/24, 9-6-2023)

Sec. 9-4. Reserved.

Sec. 9-5. Reserved.

Sec. 9-6. Reserved.

Sec. 9-7. Reserved.

Sec. 9-8. Reserved.

Sec. 9-9. Reserved.

Sec. 9-10. Reserved.

Sec. 9-11. Reserved.

Sec. 9-12. Reserved.

Sec. 9-13. Reserved.

Sec. 9-14. Reserved.

Sec. 9-15. Reserved.

ARTICLE II. PRECINCTS*

***Editor's note--**Ord. No. 375-84, §§ 2 and 3, adopted Nov. 16, 1984, amended § 9-16 in its entirety and repealed §§ 9-17--9-21, relative to election precincts. Formerly, §§ 9-16--9-21 derived from Code 1968, § 105.1 and Ord. No. 105-79, adopted Feb. 22, 1979.

Sec. 9-16. Generally.

The districts of the city established by section 9-1 of this Code pursuant to section 1 of article II of the charter are for voting purposes divided into the precincts shown on the map incorporated into said section 9-1 with voting places within or near each such precinct as hereinafter designated by order of the council.

(Ord. No. 375-84, § 2, 11-16-84)

Sec. 9-17. Polling places.

The number of voting or polling places in any election shall be at least the number of voting places in each city council district as used in the June 10, 2008 election. The city council may consolidate voting places only in accordance with the provisions of 21-A M.R.S.A. § 631-A, after public notice and hearing, and consolidation shall be made only upon a specific finding that the voter turnout in the election is likely to be unusually small, as in the case of a special election for Portland Water District Trustee. There shall be no consolidation of voting places in any election where any state or federal office is to be filled, or in any state wide referendum.
(Ord. No. 25-A, 8-18-08)

***Editor's Note:** This ordinance preserves or restores the number of voting places prior to the planned reduction in voting places based on cuts adopted in the FY'09 budget. In 2017, it was renumbered from 9-48 to 9-17 to place it with appropriate and relevant subject matter in Article II.

Sec. 9-18. Reserved.
Sec. 9-19. Reserved.
Sec. 9-20. Reserved.
Sec. 9-21. Reserved.
Sec. 9-22. Reserved.
Sec. 9-23. Reserved.
Sec. 9-24. Reserved.
Sec. 9-25. Reserved.
Sec. 9-26. Reserved.
Sec. 9-27. Reserved.
Sec. 9-28. Reserved.
Sec. 9-29. Reserved.
Sec. 9-30. Reserved.
Sec. 9-31. Reserved.
Sec. 9-32. Reserved.
Sec. 9-33. Reserved.
Sec. 9-34. Reserved.
Sec. 9-35. Reserved.

ARTICLE III. INITIATION AND REFERENDUM
[AS APPROVED BY PORTLAND VOTERS ON MAY 7, 1991]

Sec. 9-36. How invoked.

(a) *In general.* The submission to the vote of the people of any proposed ordinance dealing with legislative matters on municipal affairs or of any such ordinance enacted by the city council and which has not yet gone into effect, may be accomplished by the presentation of a petition therefor to the city council in the manner hereinafter provided and signed by at least one thousand five hundred (1,500) voters. The submission of a proposed ordinance, or amendment or repeal, in whole or in part, of an ordinance already in effect shall be hereinafter referred to as the direct initiation of legislation or "initiative." The submission of a petition to override any ordinance passed by the city council but which has not yet gone into effect shall be hereinafter referred to as the "people's veto."

(b) *Applicability.* Neither this article, nor ordinances dealing with appropriations, tax levy, or with wages or hours of city employees shall be subject to the initiative and "people's veto" referendum provisions herein established.

(c) *Petition procedure.* Any ten (10) registered voters of the city may file with the city clerk an affidavit stating:

- (1) That the ten (10) registered voters will constitute the petitioners' committee;
- (2) The names and addresses of the ten (10) registered voters;
- (3) The address to which all notices to the committee are to be sent; and
- (4) That the ten (10) registered voters will circulate the petition and file it in proper form.

Upon filing of said affidavit by ten (10) such voters, the city clerk shall have seven (7) calendar days to prepare the proper petition forms pursuant to section 9-37 below with a copy of the submitted ordinance either printed on the petition or attached thereto and shall provide such petition to members of the petitioners' committee and to any other registered city voter who wishes to circulate it. The petition may be circulated for signature by registered voters of the city for eighty (80) calendar days from the original date of issuance of the petition, which date shall be noted by the clerk on each blank form; provided, however, that any petition for the "people's veto" of an ordinance not in effect must be filed with the city clerk prior to the effective date of said ordinance or within thirty (30) calendar days after passage by the city council, whichever is less. Any "people's veto"

petition not so filed is void. All provisions as to the filing and the form of petitions in this article, other than the aforementioned time frame, shall apply to both initiative and "people's veto" petitions.

(d) *Filing of petition.* The petition must be returned to the city clerk for filing by close of business within eighty (80) calendar days from the date of issuance thereof. If the eightieth day is a Saturday, Sunday or holiday, said petition shall be filed by the close of business of the next immediate business day. All petition forms not so submitted are void. The petition forms shall be assembled as one (1) instrument, with each page numbered, attached to a written statement from the petitioners' committee stating the number of petition forms being filed. The clerk shall certify the date of filing and the number of forms returned.

(e) *Verification of petition.*

- (1) Within fifteen (15) calendar days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars which render it defective. The clerk shall promptly send a copy of the certificate to the petitioners' committee by certified mail, return receipt requested, or by hand-delivery, and shall file a copy with the city council.
- (2) A petition certified insufficient may be amended once, if the petitioners' committee files a written notice of intention to amend it with the clerk within eight (8) calendar days after mailing by certified mail, return receipt requested, or hand-delivery of the copy of the clerk's certificate. Within ten (10) calendar days after this notice of intention is filed, the petitioners' committee may file a supplementary petition to correct technical deficiencies in the original which shall, in form and content, comply with the requirements for an original petition but which shall not contain additional signatures of voters.
- (3) Within five (5) calendar days after a supplementary petition is filed, the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.
- (4) Any petition finally determined to be insufficient is void. The clerk shall stamp the petition void and seal and retain it in the manner required for secret ballots.

- (5) The clerk's decision as to the sufficiency of the petitions shall be a final determination, reviewable as provided by law.

(f) *Hearing.* At its first regular meeting after receipt of a report that a petition is sufficient and has at least one thousand five hundred (1,500) valid signatures of the registered voters of the city, the city council shall set a date for public hearing, which hearing shall be held within thirty (30) calendar days thereafter. Notice of the hearing shall be published in a newspaper having general circulation in the city at least ten (10) calendar days prior to the hearing and shall contain the text of the petition. As provided by section 9-39, the city council shall take the necessary steps to submit to the voters of the city the ordinance proposed in the petition; provided that, in the case of the "people's veto" referendum, the entire repeal by the city council of the ordinance sought to be referred and, in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under the petition. (Code 1968, § 102.1; Ord. No. 349-75, 6-16-75; Ord. No. 262-91, 3-4-91)

Sec. 9-37. Form of petition.

(a) *Form.* The petition used to originate the initiative or the "people's veto" referendum shall be substantially in the following form on paper of uniform size with as many individual sheets as reasonably necessary:

PETITION TO THE CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy of which is printed hereon or attached hereto, be adopted/repealed? (as applicable)

We, the undersigned, under oath, depose and say: That we are duly qualified voters of the City of Portland residing respectively at the addresses placed opposite our names, and we hereby petition the city council to submit the foregoing question to the voters of the City of Portland.

Signature	Printed Name	Residence (Street Address)	Date

City Clerk

Date of Issuance of Petition

(To be filled in by city clerk as original date of issuance of petition for signatures.)

Each signature must be in ink or other indelible instrument and must be followed by the printed name and the residence of the voter with street and number and the date of signing.

(b) *Ordinance and summary.* At the time of submitting the proposed ordinance, the petitioners must submit a summary to accompany the proposed ordinance on the petition. Said summary shall be clearly and objectively describe the content of the proposal and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposal. In the event sufficient signatures are obtained to submit the ordinance to the voters, the summary included on the petition shall accompany the title and text of the ordinance on the ballot, except as otherwise provided in section 9-41(b) below.

(c) *Circulator verification.* Each petition form shall have printed on its back an affidavit, which shall be executed by the circulator stating:

- (1) that the circulator personally circulated the form;
- (2) the number of signatures on that petition form and that all the signatures were signed in the circulator's presence; and
- (3) that the circulator believes them to be genuine signatures of the persons whose names they purport to be.

Signatures on the petition shall be verified pursuant to the same standards applicable to state initiative and "people's veto" referendum petitions pursuant to 21-A M.R.S.A. §§901 et seq., except that each petitioner must be a registered voter of the city at the time of signing the petition.

(Code 1968, § 102.2; Ord. No. 262-91, 3-4-91)

Sec. 9-38. Effect of petition.

Whenever there has been filed with the clerk a petition, which is facially valid with at least one thousand five hundred (1,500) signatures, for the reference to the people of any ordinance passed by the city council, which ordinance has not yet gone into effect, i.e. the "people's veto" petition, said ordinance shall be suspended from going into operation until it has either been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on the question or the petition, after opportunity for amendment and inspection, has been found to be insufficient; whichever occurs first. In the event the required number of signatures are not obtained prior to the date when said ordinance goes into effect, said petition shall be null and void. Once an enacted ordinance has gone into effect, it shall be amended or repealed only through the initiative process.

(Code 1968, § 102.3; Ord. No. 262-91, 3-4-91)

Sec. 9-39. Time of election.

At the first regular council meeting held after the said public hearing, the city council shall set a time for the holding of a special election at which the ordinance shall be submitted to the voters of the city, which special election shall be held not less than sixty (60) nor more than one hundred fifty (150) calendar days after such council meeting; provided that, if the next regularly scheduled election falls within no less than sixty (60) and no more than one hundred eighty (180) calendar days of said council meeting, no special election shall be called, but the question shall be submitted at the regular election.

(Code 1968, § 102.4; Ord. No. 262-91, 3-4-91)

Editor's Note: Upon confronting an issue with the timing of a 2017 Citizen's Initiative Referendum, Corporation Counsel determined that, under Section 21 of the Maine Constitution, final approval of Order 56-11/12, passed by the City Council 8-0 on November 21, 2011, be approved by a majority vote of city residents, which was not done. Because the amendment had not complied with this requirement, the amendment was removed from the Portland City Code on August 9, 2017.

Sec. 9-40. Publication of ordinance.

(a) *Publication.* Whenever any ordinance is required by the provisions of this article to be submitted to the voters of the city at any election, the city council must order one (1) publication of the complete title, text and summary thereof to be made in one or more newspapers of the city, such publication to be

made not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the election.

(b) *Posting.* In addition to the foregoing, a copy of the complete title, text and summary of the ordinance to be submitted shall be posted in the city clerk's office at least fourteen (14) calendar days prior to the date of the election. In addition to the foregoing, a copy of the complete title, text and summary of the ordinance submitted to the voters shall be posted at each polling place on election day.

(Code 1968, § 102.5; Ord. No. 262-91, 3-4-91)

Sec. 9-41. Form of ballot.

(a) *In general.* The ballot shall contain the full title and text of the proposed ordinance and the summary included on the petition, except as provided below.

(b) *Title and summary only.* At any point in the process after a petition has been certified as sufficient but no less than sixty (60) calendar days prior to the election, the city clerk shall report to the city council if he or she determines that it is not reasonably possible to reproduce the full text and summary of the proposed ordinance on the ballot. In such case, the summary provided with the petition shall accompany the title on the ballot in place of the full text.

(c) *Wording of questions.* Ballots for a vote on an initiative or "people's veto" referendum question shall set out the question to be voted upon in the following form:

- (1) With respect to an initiative question, the question shall be presented to the voters substantially as follows:
"Do you favor the change in the city ordinance(s) proposed by citizen petition as provided below?"
- (2) With respect to a "people's veto" question, the question shall be presented to the voters substantially as follows:
"Do you favor repealing the city ordinance(s) enacted by the city council on (insert date)?"
- (3) In the event that the city council adopts a competing measure to an initiated ordinance, the questions shall be presented to the voters substantially as follows: "Do you favor one of the two (2) city ordinances set forth below:
'A' as proposed by citizen petition; 'B' as enacted by

the city council; or should both be rejected as provided in 'C'?"

(Code 1968, § 102.6; Ord. No. 262-91, 3-4-91)

Sec. 9-42. Result of election

If a majority of the qualified voters voting on a proposed initiative ordinance or a referred ordinance shall vote in favor thereof, such ordinance shall take effect thirty (30) calendar days after the declaration of the official canvass of the return of such election. Notwithstanding the foregoing, said effective date shall not be deemed to prohibit a retroactive effective date of an initiated ordinance, to the extent permitted by law, if said retroactive date is specifically provided for in the petition and/or the question approved by the voters. Any such date in the petition shall be included in the question on the ballot. Such retroactive date shall not be earlier than the date of filing of the affidavit originating the petition which is finally submitted to the voters, if any.

(Code 1968, § 102.7; Ord. No. 262-91, 3-4-91)

Sec. 9-43. Conflicting ordinances.

Any number of proposed or referred ordinances may be voted upon at the same election. If two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall be paramount, and all questions of construction shall be determined accordingly.

(Code 1968, § 102.8; Ord. No. 262-91, 3-4-91)

Sec. 9-44. Order upon ballot.

If two (2) or more ordinances are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the city council on its own initiative.

(Code 1968, § 102.9; Ord. No. 262-91, 3-4-91)

Sec. 9-45. City council may initiate ordinance.

The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance (except as otherwise provided in section 9-36(b) above) to be voted upon at any regular or special municipal election, and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed or amended accordingly.

In the event the council submits a proposition to the voters hereunder, it shall provide a summary to accompany the full title and text. Said summary shall clearly and objectively describe the content of the proposition and shall be written in words with common and everyday meaning. The summary shall not contain language designed to promote or oppose the proposition. The ballot shall contain the full title, text and summary of the proposition except as otherwise provided in section 9-41. The complete title, text and summary of the proposition shall be published and posted prior to the election as provided in section 9-40.

(Code 1968, § 102.10; Ord. No. 262-91, 3-4-91)

Sec. 9-46. Repeal or amendment of ordinance.

An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide. After five (5) years from the effective date of the ordinance, the city council after public hearing may repeal or amend such ordinance by vote of five (5) of its members.

(Code 1968, § 102.11; Ord. No. 262-91, 3-4-91)

Sec. 9-47. Public hearing.

Whenever a public hearing is required to be held in accordance with the provisions of this article, notice of the time, place and purpose of the hearing shall be published in one of the newspapers of the city, such publication to be not less than ten (10) calendar days nor more than twenty (20) calendar days prior to the date of the hearing.

(Code 1968, § 102.12; Ord. No. 262-91, 3-4-91)

Sec. 9-48. Reserved.

Sec. 9-49. Reserved.

Sec. 9-50. Reserved.

ARTICLE IV. PEAKS ISLAND COUNCIL

Sec. 9-51. 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.
(Ord. No. 16-07/08, 7-16-07)

Sec. 9-52. 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 fifty-five (155) 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 later than ninety-nine (99) 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 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. (Ord. No. 16-07/08, 7-16-07; 137-23/24, 3-4-2024)

Sec. 9-53. 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.

(Ord. No. 16-07/08, 7-16-07)

Sec. 9-54. 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.

(Ord. No. 16-07/08, 7-16-07)

Sec. 9-55. 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 (72) 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 four (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 four (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 provision 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 a 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 one hundred and twenty (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.

When a vacancy occurs, the Peaks Island council may appoint an interim councilor, who shall be sworn into office and who shall serve with full powers and duties until a successor is elected as provided above and sworn into office.
(Ord. No. 16-07/08, 7-16-07; Ord. No. 139-09/10, 1-4-10, emergency enacted)

Sec. 9-56. Effective date.

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

Sec. 9-57. Reserved.

Sec. 9-58. Reserved.

Sec. 9-59. Reserved.

Sec. 9-60. Reserved.

ARTICLE V. CLEAN ELECTIONS

Section 9-61. Applicability.

This Article applies to candidates running for mayor, city council, and the school board who choose to participate in the City of Portland Clean Election Fund established by Article IV, Section 12 of the City Charter ("Portland's Clean Election Fund"). Candidate participation in the Portland's Clean Election Fund is voluntary. Candidates who choose to participate in Clean Elections must comply with this Article and all applicable State of Maine election and campaign laws and regulations. Some sections of this Article also apply to and impose obligations on privately financed candidates and political committees that raise contributions and make expenditures in races involving Clean Election candidates.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-62. Definitions.

As used in this Article, the following terms have the following meanings:

(a) *Bank Account*. The word "Bank Account" shall mean a federally insured bank account established by a Candidate for Election campaign purposes.

(b) *Candidate*. The word "Candidate" shall mean any individual who seeks election in the City of Portland for mayor, city council, or the school board. An individual shall be a Candidate when they:

- (1) Register as a Candidate with the City Clerk;
- (2) Obtain nomination petitions; or
- (3) Receive Contributions or make Expenditures with the intent of qualifying as a Candidate by the submittal of nomination petitions and consents pursuant to Article IV of the City Charter.

(c) *Certified Candidate*. The term "Certified Candidate" shall mean a Candidate running for mayor, city council, or the school board who chooses to participate in Portland's Clean Election Fund and who is certified pursuant to section 9-64.

(d) *Contested Race*. The term "Contested Race" shall mean a race in which there are at least two (2) Candidates for the office or seat sought.

(e) *Contribution*. The word "Contribution" shall be as defined in 21-A M.R.S. §1012(2).

(f) *Election*. The word "Election" shall mean any regular or special City of Portland municipal election for elected municipal offices.

(g) *Election Cycle*. The word "Election Cycle" shall mean the period beginning January 1st of a given year and ending on the day of an Election in that same year.

(h) *Expenditure*. The word "Expenditure" shall be as defined in 21-A M.R.S. § 1012(3).

(i) *Fund*. The word "Fund" shall mean the Portland Clean Election Fund created by section 9-65(a).

(j) *Non-participating Candidate.* The term "Non-participating Candidate" shall mean a Candidate who does not choose to participate in Portland's Clean Election Fund and who is not seeking to be certified as a Certified Candidate under Section 9-64.

(k) *Participating Candidate.* The term "Participating Candidate" shall mean a Candidate who has chosen to participate in Portland's Clean Election Fund but who has not yet been deemed a Certified Candidate under section 9-64.

(l) *Qualified Elector.* The term "Qualified Elector" shall mean a person who is registered to vote in the city of Portland and, in any district Race, is also a resident of such district.

(m) *Qualifying Contribution.* The term "Qualifying Contribution" shall mean a donation of no more and no less than five dollars (\$5.00) that is received from a Qualified Elector during the Qualifying Period by a Participating Candidate seeking to become a Certified Candidate. A Candidate running for a district-specific seat on the city council or the school board shall only receive Qualifying Contributions from Qualified Electors registered to vote in the district in which the Candidate is running.

(n) *Qualifying Period.* The term "Qualifying Period" shall mean the period during which a Participating Candidate seeking to become a Certified Candidate is permitted to collect Qualifying Contributions and to apply for certification as a Certified Candidate. For Elections in FY 2023-2024, the Qualifying Period begins on June 1, 2023 and ends September 11, 2023. For subsequent Elections, the Qualifying Period begins on the date an individual registers as a Candidate with the City Clerk and files a Declaration of Intent under section 9-63 and ends fifty-seven (57) days before the Election. In no event shall the Qualifying Period for such subsequent Elections begin earlier than January 1 of the election year for the office and seat (at-large or district) the Candidate is seeking.

(o) *Race.* The word "Race" shall mean the electoral process in which one (1) or more Candidates run and one (1) Candidate is

elected to a municipal office -- the office of mayor, city councilor, or school board member.

(p) *Seed Money Contribution.* The term "Seed Money Contribution" shall mean a Contribution made and accepted in compliance with the provisions of section 9-63(c) and used exclusively for expenses incurred in obtaining Qualifying Contributions and seeking certification as a Certified Candidate.

(q) *Seed Money Period.* The term "Seed Money Period" shall mean the period during which a Candidate seeking to become a Certified Candidate is permitted to collect Seed Money Contributions. For Elections in FY 2023-2024, the Seed Money Period begins on June 1, 2023 and ends September 11, 2023. For subsequent Elections, the Seed Money Period begins on the date on which an individual registers as a Candidate with the City Clerk and files a Declaration of Intent under section 9-63 and ends fifty-seven (57) days before the Election. In no event shall the Seed Money Period begin earlier than January 1 of the election year for the office and seat (at-large or district) the Candidate is seeking.

(r) *Uncontested Race.* The term "Uncontested Race" shall mean a race in which there is only one (1) Candidate for the office or seat sought.
(Ord. No. 171-22/23, 5-1-2023)

Section 9-63. Procedures for Participation.

(a) *Eligibility for Participating Candidates.* To qualify as a Certified Candidate eligible to receive and retain payments from the Fund pursuant to section 9-66, a Candidate must:

- (1) Meet the requirements to be listed on the ballot as a Candidate for mayor, city council, or the school board pursuant to the provisions of Article IV of the City Charter, respectively;
- (2) File a Declaration of Intent pursuant to section 9-63(b) below;

- (3) Collect the requisite number of Qualifying Contributions pursuant to section 9-63(d) below;
- (4) File the requisite documentation and reports pursuant to section 9-63(c) and (d) below; and
- (5) Receive certification pursuant to section 9-64.

(b) *Declaration of Intent.* A Candidate who intends to seek certification as a Certified Candidate must file, on a form provided by the City Clerk, a "Declaration of Intent" during the Qualifying Period and prior to collecting any Seed Money Contributions or Qualifying Contributions. The individual must register as a Candidate with the City Clerk prior to or concurrent with filing the Declaration of Intent. The Declaration of Intent form must include the following affirmations:

- (1) that the Candidate is seeking certification as a Certified Candidate;
- (2) that the Candidate understands that any Contributions, Seed Money Contributions, or Qualifying Contributions collected before filing the Declaration of Intent will not be counted toward the required number of Qualified Contributions under section 9-63(d) (2) and shall disqualify such Candidate from becoming a Certified Candidate;
- (3) that the Candidate has not accepted any Contributions as of the date(s) of registering as a Candidate and filing the Declaration of Intent;
- (4) that the Candidate has disposed of campaign surplus funds in accordance with the requirements of Title 21-A §1017(8), including donating such surplus to the Fund; provided, however, that a Candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Article regarding Seed Money Contributions. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that Candidate's personal Seed Money Contribution limit pursuant to subsection (c) (2) below;

- (5) that if the Candidate has any campaign debt from previous campaigns in which the Candidate participated in, that the Candidate will not accept Contributions to repay that debt as a Participating Candidate or Certified Candidate, except that the Candidate may forgive any campaign loans to himself or herself made during any previous campaigns;
- (6) that the Candidate will continue to comply with applicable Seed Money Contribution restrictions and other requirements of the Fund including, but not limited to, procedures for collecting Qualifying Contributions;
- (7) that the Candidate has read and will comply with this Article;
- (8) that the Candidate will participate in at least one (1) City-sponsored forum or voter education event;
- (9) that the Candidate has established a Bank Account; and
- (11) that the Candidate authorizes the City, its agents or representative, to conduct financial audits of the Candidate's campaign financial records and accounts.

(c) *Seed Money Contributions.* After registering as a Candidate and filing a Declaration of Intent but prior to certification as a Certified Candidate, a Participating Candidate may collect and spend only Seed Money Contributions as provided by subsection (c)(3) below. A Participating Candidate may not solicit, accept, or collect Seed Money Contributions after becoming a Certified Candidate. The restrictions on Seed Money Contributions apply to both cash and in-kind Contributions.

- (1) Seed Money Contribution Form. Each Seed Money Contribution shall be accompanied by a form signed by the contributor which shall include the contributor's name, home address, telephone number.
- (2) Total. The aggregate amount of Seed Money Contributions from any one contributor, including the Candidate or

the candidate's spouse or domestic partner, to any one Candidate shall not exceed one hundred dollars (\$100.00), and the aggregate amount of Seed Money Contributions accepted by a Candidate shall not exceed the following amounts:

- i. \$5,000.00 for a Mayoral Candidate;
- ii. \$2,500.00 for an at-large City Council Candidate;
- iii. \$500.00 for a district City Council Candidate;
- iv. \$1,500.00 for an at-large School Board Candidate;
or
- v. \$500.00 for a district School Board Candidate.

(3) Seed Money Restrictions. The following restrictions shall apply to Seed Money Contributions:

- i. All goods and services received by a Participating Candidate prior to certification as a Certified Candidate must be paid for with Seed Money Contributions, except for goods and services that are excluded from the definition of Contribution in in 21-A M.R.S. § 1012(2)(B). It is a violation of this Article for a Certified Candidate to use Fund revenues received after certification to pay for goods and services received prior to certification.
- ii. Prior to certification, a Participating Candidate may obligate an amount greater than the Seed Money Contributions collected, but may only receive that portion of goods and services that has been paid for or will be paid with Seed Money Contributions.
- iii. A Participating Candidate who has accepted Contributions or made Expenditures that do not comply with the Seed Money Contributions restrictions or the prohibited Expenditures under this Article may petition the City Clerk to remain eligible for certification as a Certified Candidate, if the failure to comply was

unintentional and does not constitute a significant infraction of these restrictions.

iv. Upon requesting certification, a Participating Candidate shall file a report, on a form provided by the City Clerk, of all Seed Money Contributions and Expenditures. The report shall disclose the amount of any Seed Money Contributions along with the name and address of the individual contributor. If the Candidate is certified, any unspent Seed Money Contributions will be deducted from the amount distributed to the Candidate as provided in Section 9-66 and the Candidate shall be allowed to spend such unspent Seed Money Contributions on campaign Expenditures allowed under this Article.

v. If a Candidate has accepted Contributions that are not Seed Money Contributions as defined herein or do not comply with these Seed Money Contributions restrictions, the Candidate is ineligible to be a Certified Candidate in the same Election Cycle.

- (4) Bank Account Required. Seed Money Contributions shall be deposited into the Candidate's Bank Account. A Candidate shall not solicit or accept any such Contributions until such Bank Account is established and shall not commingle any Seed Money Contributions with any personal funds. All Expenditure of Seed Money Contributions shall be made from such Bank Account.

(d) *Qualifying Contributions.* A Candidate may collect Qualifying Contributions only during the Qualifying Period for certification. Qualifying Contributions must be acknowledged by the person making the contribution and reported on forms provided by the City Clerk.

- (1) Qualifying Contribution Forms. The Qualifying Contribution forms must include:

i. The name, residential address, signature and telephone number of the contributor;

ii. An affirmation by the contributor that the Contribution was made with his or her personal funds, in support of the Candidate and that the contributor did not receive anything of value in exchange for his or her signature and Contribution;

iii. A clear and conspicuous statement that the Candidate is collecting signatures and Qualifying Contributions in order to obtain public funding to finance the Candidate's campaign;

iv. A confirmation that the contributor is a Qualified Elector; and

v. A notarized affirmation by the person who circulated the form that the circulator collected the Contribution, that to the best of the circulator's knowledge and belief the Contribution came from the personal funds of the contributor, that nothing was provided to the contributor in exchange for the Contribution, and any additional information required by the city clerk in order to protect the reliability of the qualification process.

(2) Required Number of initial Qualifying Contributions. A Participating Candidate must obtain the number of initial Qualifying Contributions for certification during the Qualifying Period as follows:

i. For a Candidate running for the office of Mayor, 200 Qualifying Contributions from separate Qualified Electors;

ii. For a Candidate running for the office of City Councilor at-large, 100 Qualifying Contributions from separate Qualified Electors;

iii. For a Candidate running for the office of City Councilor for a specified district, 50 Qualifying Contributions from separate Qualified Electors registered to vote in the district in which the Candidate is running;

iv. For a Candidate running for the School Board at-large, 60 Qualifying Contributions from separate Qualified Electors;

v. For a Candidate running for the School Board for a specified district, 40 Qualifying Contributions from separate Qualified Electors registered to vote in the district in which the Candidate is running.

- (3) Exchanges for Qualifying Contributions Prohibited. A Candidate or an agent of that Candidate may not give or offer to give a payment, gift, or anything of value in exchange for a Qualifying Contribution.
- (4) Form of Contributions. All Qualifying Contributions shall be in the form of cash, check or money order payable to the Fund and signed by the contributor in support of a Candidate. The City Clerk may establish, at his or her discretion, an online service for members of the public to make qualifying contributions in support of Candidates seeking certification as a Certified Candidate and for candidates to use to verify voter registration and submit contributor lists.
- (5) Check or Money Order Contributions. A contributor making a Qualifying Contribution by check or money order shall sign the check or money order. If the contributor has made a check or money order payable to a Participating Candidate in error, the Candidate may remedy the error by endorsing the check or money order to the Fund.
- (6) Cash Contributions. A contributor may make a Qualifying Contribution to a Participating Candidate in the form of cash, as long as the contributor signs a form prepared by the City Clerk affirming that the contributor made the Contribution with personal funds. A Candidate receiving Qualifying Contributions in cash shall submit the Contributions to the City Clerk in the aggregate in the form of a cashier's check or money order payable to the Fund. The Candidate may not deposit Qualifying Contributions received in cash into the Candidate's campaign Bank Account.

- (7) Additional Qualifying Contributions. Participating or Certified Candidates may collect and submit to the City Clerk additional Qualifying Contributions at the times specified in section 9-66. The City Clerk shall credit a Candidate with either one Qualifying Contribution or one additional Qualifying Contribution, but not both, from any one contributor during the same election cycle. If any Candidate collects and submits to the City Clerk Qualifying Contributions or additional Qualifying Contributions that cannot be credited pursuant to this subsection, those Qualifying Contributions or additional Qualifying Contributions may be refunded to the contributor or deposited into the Fund at the discretion of the Candidate. The procedures and restrictions set out in this section apply to Qualifying Contributions and additional Qualifying Contributions.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-64. Certification of Participating Candidates.

(a) *Request for Certification.* A Participating Candidate may submit a request certification as a Certified Candidate by submitting a completed request for certification form to the City Clerk at any time during the Qualifying Period but not later than 5:00 p.m. on the last day of the Qualifying Period. The form, which will be provided by the City Clerk, shall identify the Candidate and the office and seat (at-large or district) that the Candidate is seeking, and shall set forth:

- (1) The Candidate's affirmation under oath that the Candidate has accepted no Contributions to the Candidate's current Election campaign other than Qualifying Contributions and Seed Money Contributions solicited and accepted pursuant to section 9-63;
- (2) The Candidate's affirmation under oath that the Candidate has made no Expenditures for his or her current Election campaign from any source other than Seed Money Contributions;

- (3) The Candidate's agreement that his or her current Election campaign will not solicit, direct, or accept any further Contributions or make any further Expenditures from any sources other than payments received from the Fund;
- (4) The Candidate's reaffirmation that he or she has established a Bank Account;
- (5) The Candidate's affirmation that, if applicable, any person who circulated receipt and acknowledgement forms and collected Qualifying Contributions acted with the Candidate's knowledge and consent; and
- (6) Any other information relevant to the certification process as determined by the City Clerk.

(b) *Accompanying Documentation.* The request for certification will be deemed complete and considered for certification only when the Candidate has submitted to the City Clerk:

- (1) A valid nomination petition with the requisite the number of signatures specified for the office sought pursuant to Article IV of the City Charter and the required consent, or, if the Candidate is seeking certification prior to qualifying for the ballot, the Candidate shall sign an affidavit stating that the Candidate will return all unspent funds distributed under section 9-66 and personally repay any such spent funds in the event the Candidate fails to qualify for the ballot;
- (2) A list of all individuals making Qualifying Contributions and their address, in a format specified by the City Clerk and sorted alphabetically by the contributor's last name;
- (3) Reports listing all Seed Money Contributions and Qualifying Contributions received by the Candidate and all Expenditures of Seed Money Contributions made by the Candidate, and showing the aggregate amounts of all such Contributions and Expenditures and the aggregate

amounts of all Contributions received from each contributor;

(4) Copies of forms signed by contributors for all Seed Money Contributions and Qualifying Contributions received by the Candidate; and

(5) A check or checks issued to the Fund from the contributors except:

i. Amounts previously spent for the purposes specified in Section 9-62(p); and

ii. The amount, if any, that has been temporarily retained by the Candidate for the purpose of keeping open the Candidate's Bank Account.

(c) *Certification.* The City Clerk will certify a Candidate as a Certified Candidate upon the Participating Candidate's satisfaction of the requirements of this section.

(d) *Revocation of Certification.* The certification of a Certified Candidate may be revoked at any time if the City Clerk determines that the Candidate or an agent of the Candidate:

(1) Did not submit the required number of valid Qualifying Contributions;

(2) Failed to qualify for the ballot;

(3) Submitted any fraudulent Qualifying Contributions or Qualifying Contributions that were not made by the named contributor;

(4) Misrepresented to a contributor the purpose of the Qualifying Contribution or failed to obtain the contributor's signature on the Qualifying Contribution form;

(5) Failed to fully comply with the Seed Money Contribution restrictions;

- (6) Knowingly accepted any Contributions, including any in-kind Contributions, or used funds other than Fund revenues distributed under this Article to make campaign-related Expenditures;
- (7) Knowingly made a false statement or material misrepresentation in any form, report, or other document required to be filed under this Article; or
- (8) Otherwise substantially violated the provisions of this Article.

(e) *Procedures for revocation.* The determination to revoke the certification of a Candidate shall be made by the City Clerk after at least 24 hours written notice to the Candidate and an opportunity for a hearing before the City Clerk. A Candidate whose certification is revoked shall return all unspent funds distributed under this Article to the City Clerk within three (3) days of the City Clerk's decision and may be required to return all funds distributed to the Candidate under this Article. In addition to the requirement to return funds, the Candidate may be subject to a fine. The Candidate may appeal the City Clerk's decision to revoke certification in the manner provided in section 9-70.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-65. Fund Administration.

(a) *Establishing the Fund.* A City of Portland Clean Election Fund is established to be administered by the City Clerk for the purpose of providing public campaign funds to Certified Candidates for elected municipal offices.

(b) *Sources of Funding.* The following must be deposited in the fund:

- (1) An initial special appropriation in the sum of \$464,750 for fiscal year 2023-24, to be deposited by July 1, 2023.
- (2) Each fiscal year after 2023-2024, a sum of not less than \$290,000 shall be budgeted for and deposited in the Fund. The City Council shall appropriate and

deposit in the Fund such additional sums, if any, as may be necessary to ensure the Fund is sustained at a level that facilitates competitive campaigns for Certified Candidates who meet qualifying criteria;

- (3) Qualifying Contributions when submitted to the City;
- (4) Fund revenues that were distributed to a Certified Candidate and that remain unspent after the Election;
- (5) Other unspent Fund revenues distributed to any Certified Candidate who does not remain a Certified Candidate throughout the Election Cycle;
- (6) Voluntary donations made directly to the Fund, including any Candidate's prior campaign surplus;
- (7) All fines levied and collected under this Article by the Clean Elections Review Board or as decreed by a court of competent jurisdiction;
- (8) Such additional appropriations as may be made by the City Council under subsection 9-66(f) of this Article pursuant to City Council Rules of Procedure; and
- (9) Such other appropriations to the Fund as may be made by the City Council as necessary to fulfill the requirements of this Article.

(c) *Deposit limit.* The above notwithstanding, a deposit to the Fund pursuant to subsection (b)(1) of this section shall not be made if the balance in the Fund prior to the deposit exceeds eight hundred thousand dollars (\$800,000.00). If a deposit to the Fund pursuant to subsection (b)(1) of this section would cause the balance in the Fund to exceed eight hundred thousand dollars (\$800,000.00), only so much of the deposit shall be made as will increase the balance to that amount and no more.
(Ord. No. 171-22/23, 5-1-2023)

Section 9-66. Distribution of Funds to Certified Candidates.

(a) *Amounts to be distributed.* Distributions from the Fund to Certified Candidates shall be made as follows:

CONTESTED RACES

(1) Mayor

i. The initial distribution of revenues is \$40,000.00;

ii. For each increment of 100 additional Qualifying Contributions a Candidate for Mayor collects and submits pursuant to subsection 9-66(b), not to exceed a total of 300 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is \$20,000.00;

iii. The total amount of revenues distributed to a Candidate for Mayor shall not exceed \$100,000.00 per Certified Candidate.

(2) City Council At-Large

i. The initial distribution of revenues is \$10,000.00;

ii. For each increment of 50 additional Qualifying Contributions a Candidate for City Council at-large collects and submits pursuant to subsection 9-66(b), not to exceed a total of 150 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is \$10,000.00;

iii. For Certified Candidates for City Council at-large, the total distribution of revenues shall not exceed \$30,000.00 per Certified Candidate;

(3) City Council District

i. The initial distribution of revenues is \$4,000.00;

ii. For each increment of 25 additional Qualifying Contributions a Candidate for City Council for a specified district collects and submits pursuant to subsection 9-66(b), not to exceed a total of 75 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is 2,666.00;

iii. For Certified Candidates for City Council for a specified district, the total distribution of revenues shall not exceed \$12,000.00 per Certified Candidate.

(4) School Board At-Large

i. The initial distribution of revenues is \$5,000.00;

ii. For each increment of 40 additional Qualifying Contributions a Candidate for School Board at-large collects and submits pursuant to subsection 9-66(b), not to exceed a total of 120 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is \$1,666.00;

iii. For Certified Candidates for the School Board at-large, the total distribution of revenues shall not exceed \$10,000.00 per Certified Candidate.

(5) School Board District

i. The initial distribution of revenues is \$3,000.00;

ii. For each increment of 15 additional Qualifying Contributions a Candidate for School Board for a specified district collects and submits pursuant to subsection 9-66(b), not to exceed a total of 45 additional Qualifying Contributions, the supplemental distribution of revenues to that Candidate is \$1,000.00;

iii. For Certified Candidates for the School Board for a specified district, the total distribution of revenues shall not exceed \$6,000.00 per Certified Candidate.

UNCONTESTED RACES

- (6) For Certified Candidates for Mayor, the total distribution of revenues is \$10,000.00 per Certified Candidate;
- (7) For Certified Candidates for City Council at-large, the total distribution of revenues is \$2,500.00 per Certified Candidate;
- (8) For Certified Candidates for City Council for a specified district, the total distribution of revenues is \$1,000.00 per Certified Candidate;
- (9) For Certified Candidates for the school board at-large, the total distribution of revenues is \$1,250.00 per Certified Candidate; and
- (10) For Certified Candidates for the school board for a specified district, the total distribution of revenues is \$500.00 per Certified Candidate.

(b) *Collection and Submission of Additional Qualifying Contributions.* Participating or Certified Candidates may collect and submit additional Qualifying Contributions to the City Clerk at any time during the Qualifying Period in any amounts in accordance with the schedules in this Article. The City Clerk shall make supplemental distributions from the Fund to Candidates in the amounts and in accordance with the increments specified in subsection (a) of this section.

(c) *Timing of Initial Distribution.* The City Clerk shall authorize distribution of initial Fund revenues to Certified Candidates by the most expeditious means practicable after certification by the City Clerk of the required number of initial Qualifying Contributions required in Section 9-63(d)(2). The distribution of initial Fund amounts shall begin no earlier than one hundred thirteen (113) days before the Election. In the event that the initial disbursement is prior to Candidates being able to qualify for the ballot, the amount of the initial distribution shall be the amounts specified for Uncontested Races in subsection (a). To receive this initial distribution, a Certified

Candidate must sign the affidavit required in Section 9-64(b) (1) if the Certified Candidate has not qualified for the ballot and has no opponent. The remaining balance owed the Certified Candidate for the initial distribution shall be distributed by the City Clerk as soon as practicable once both the Certified Candidate and an opponent qualify for the ballot.

(d) *Timing of Supplemental Distributions.* The City Clerk shall authorize distribution of supplemental Fund revenues to Certified Candidates by the most expeditious means practicable after certification by the City Clerk of the required number of additional Qualified Contributions. The distribution of supplemental Fund amounts shall begin no earlier than eighty-five (85) days before the Election and end twenty-three (23) days before the Election.

(e) *Manner of Distribution.* The City Clerk shall distribute revenues from the Fund to Certified Candidates by checks payable to the Certified Candidate which shall be deposited into the Certified Candidate's Bank Account.

(f) *Shortfall Provisions.* The City Clerk may not authorize a distribution of revenues to Certified Candidates in excess of the total amount of money deposited in the Fund. If the City Clerk determines that the total amount available in the Fund is less than \$25,000, the City Clerk shall immediately inform the City Council of the amount the City Clerk estimates to be necessary to satisfy the remaining Initial or Supplemental Distributions for all Certified Candidates for the present Election Cycle. The City Council may, by order, appropriate additional amounts, but no greater than the amount of excess revenues and unencumbered budget surplus remaining after the purpose of the original appropriation has been satisfied. Until such funds are appropriated, the City Clerk shall distribute the remaining funds on a first come-first served basis based on when a Candidate is certified for either initial or supplemental distributions. If the City Council appropriates additional amounts to the Fund, the Clerk shall promptly distribute any incomplete initial or supplemental distributions that are submitted prior to twenty-two (22) days before the Election. If the Fund is depleted, and the City Council does not appropriate additional amounts to the Fund, any Candidate that does not

receive either an initial or supplemental distribution after being certified by the City Clerk may collect funds from private sources up to the total amount the Candidate would have otherwise received from the Fund and limited to the maximum single contribution amount allowed by law. For any initial or supplemental distributions, a Certified Candidate shall still be required to collect and submit to the City Clerk all necessary Qualifying Contributions in order to be entitled to collect funds from private sources after the Fund is depleted. Any Certified Candidate that collects funds from private sources pursuant to this subsection shall continue to be considered a Certified Candidate.

(g) *Use of Distributions from the Fund.* All distributions received by a Certified Candidate from the Fund shall be deposited in the Candidate's Bank Account. The distributions must be segregated from, and may not be commingled with, any other funds. A Certified Candidate shall:

- (1) Limit the Candidate's campaign Expenditures and obligations to the applicable Fund distribution amounts;
- (2) Not accept any Contributions;
- (3) Use Fund distribution amounts only for campaign-related purposes and not for any prohibited expenditure as further described in Section 9-67 below;
- (4) Not use Fund distribution amounts to purchase goods to sell for profit;
- (5) Not spend more than \$500.00 of Fund distribution amounts on post-Election parties, thank you notes, or advertising to thank supporters or voters; however, a Candidate may use his or her personal funds for these purposes;
- (6) Not use Fund distribution amounts for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the City; and

- (7) Not make any payments of more than \$50.00 in cash. Payments of more than \$50.00 in Fund distribution amounts must be made by check, debit or credit card or wire transfer.

(h) *Return of Unused Funds.* Upon the filing of the 42-day post-Election report for a general or special Election, all Candidates must return all unspent Fund distribution amounts to the City Clerk by check or money order payable to the Fund.

(i) *Annual Report.* By March 15th of each year the City Clerk shall provide to the City Council and the Mayor a report on the revenues and expenditures of the Fund and candidate participation for the prior Election Cycle. The report shall also include any recommendations to improve the administration of the Fund.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-67. Prohibited Expenditures.

(a) Seed Money Contributions and Fund distribution amounts shall not be used for any non-campaign-related purposes, including, but not limited to, the following:

- (1) The Certified Candidate's personal living expenses, including cell phone or internet service regularly purchased by the Candidate apart from the campaign, or compensation to the Certified Candidate or the Certified Candidate's family for non-campaign related purposes;
- (2) A Contribution to another campaign of the Candidate or a payment to retire debt from another such campaign;
- (3) A Contribution to the campaign of another Candidate or to a political party or political committee or to a campaign supporting or opposing a referendum;
- (4) An Expenditure supporting the election or defeat of another Candidate other than an opponent of the Certified Candidate;

- (5) Payment of legal expenses or any fine levied under this Article;
- (6) Any gift or transfer for which compensating value is not received; and
- (7) Reimbursement to the Candidate or any other person for campaign Expenditures made from personal funds or with a personal credit card.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-68. Record Keeping and Reporting.

(a) *Record Keeping by Participating and Certified Candidates.* Participating and Certified Candidates and their treasurers must comply with applicable record keeping requirements set forth in 21-A M.R.S.A. §§ 1016, 1125 and the City Charter.

(b) *Restrictions on Serving as Treasurer.* A Participating or Certified Candidate may not serve as a treasurer or deputy treasurer for that Candidate's campaign, except that the Candidate may serve as a treasurer or deputy treasurer for up to 14 days after filing the Declaration of Intent until the Candidate identifies another person to serve as treasurer.

(c) *Failure to Keep Records.* Failure to keep or produce the records required under Title 21-A and this Article is a violation of Portland's Clean Election Fund for which penalties may be imposed. The City Clerk may also require the return of distributed funds for Expenditures lacking supporting documentation if a Participating or Certified Candidate or treasurer is found in violation of the record keeping requirements. The Participating or Certified Candidate or the treasurer shall have an opportunity to be heard by the Clean Elections Review Board prior to any decision imposing a penalty or requiring the return of distributed funds under this section.

(d) *Reporting by Participating and Certified Candidates.* Participating and Certified Candidates must comply with applicable reporting requirements set forth in 30-A M.R.S. §2502 and the City Charter.

(e) *Reports and Forms.* All reports and forms that are required by this Article shall be signed under oath and on forms prescribed by the City Clerk. The City Clerk is authorized to reject any incomplete report or form. The City Clerk shall notify a Participating or Certified Candidate that the report or form is incomplete. The City Clerk shall assess a late filing fee of \$50.00 for unexcused late filing of reports or forms.
(Ord. No. 171-22/23, 5-1-2023)

Section 9-69. Recounts, Vacancies, Write-in Candidates, Special Elections.

(a) *Recounts.* Certified Candidates may not spend any Funds for purposes of recount or a court challenge to the results of a recount, but they may receive donations for these purposes in accordance with the donation limitations for Non-participating Candidates pursuant to 21-A M.R.S.A. §1015. However, for the purposes of a recount or a court challenge, the aggregate contribution limit in support of any Candidate shall be reset for Non-participating Candidates.

(b) *Death, Withdrawal, or Disqualification of a Candidate During Campaign.* If a Certified Candidate dies, withdraws, or is disqualified, all unspent funds shall be returned to the City Clerk. If such death, withdrawal or disqualification occurs after the Qualifying Period, no other Candidates may apply for certification as a Certified Candidate.

(c) *Write-In Candidates.* Write-in Candidates may not participate in the Portland Clean Election Fund.

(d) *Special Elections.* If a vacancy occurs in the office of mayor, city council, or school board because an incumbent dies, resigns, becomes disqualified, or changes residence that results in a disqualification, and a special Election will be held to fill the vacant office or seat, the following provisions apply:

- (1) The City Clerk will establish a qualifying period during which any Candidate in a special Election may decide to become a Participating Candidate, collect

Qualifying Contributions, and apply to become a
Certified Candidate; and

- (2) Any Candidate in a special Election must otherwise comply with the requirements of this Article, including but not limited to Seed Money Contribution limits and Qualifying Contribution requirements. The City Clerk will notify any Candidates of the opportunity to participate in the Fund and the procedures for compliance with this Article during a special Election.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-70. Clean Elections Review Board.

(a) *Creation; Composition.* There shall be a Clean Elections Review Board of three (3) members. Members of the Clean Elections Review Board shall be residents of the City and shall not be officers or employees of the City or any of its agencies or departments. All members shall be appointed to fill at-large seats, and may reside in any part of the City.

(b) *Appointment; Terms.* For the initial members of the Clean Elections Review Board one member shall be appointed by the City Council for a term of one (1) year, another member for a term of two (2) years, and the third member for a term of three (3) years; thereafter, the City Council shall appoint members for terms of three (3) years. Such members shall serve until their successors are duly appointed and qualified.

(c) *Vacancies.* Permanent vacancies on the Clean Elections Review Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

(d) *Removal of Members.* Any member of the Clean Elections Review Board may be removed for cause by the City Council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

(e) *Compensation.* Members of the Clean Elections Review Board shall serve without compensation.

(f) *Chair; minutes, public records.* The members of the Clean Elections Review Board shall annually elect one (1) of their members as chair to preside at all meeting and hearings and to fulfill the customary functions of that office.

(g) *Staff Secretary; minutes, public records.* The City Manager shall designate a member of his or her staff to serve as staff secretary of the Clean Elections Review Board and attend all of its proceedings. The staff secretary shall keep the minutes of the proceedings of the Clean Elections Review Board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings, and all correspondence of the Clean Elections Review Board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

(h) *Quorum and Necessary Vote.* As to any matter requiring a hearing, no business shall be transacted by the Clean Elections Review Board without a quorum, consisting of two (2) members being present. The concurring vote of at least two (2) members shall be necessary to authorize any action by the Board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding ten (10) business days at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

(i) *Meetings, Hearings, and Procedures.*

- (1) Regular meetings of the Clean Elections Review Board shall be held at the call of the chair or as provided by the rules of the Board. Special meetings shall be called by the chair at the request of any member of the Board or at the request of the City Clerk or City Council. All meetings and hearings of the Board shall be open to the public.

- (2) The Clean Elections Review Board shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the State of Maine and this Article. Such rules shall be filed with the staff secretary and with the City Clerk. Any rule so adopted which relates to the conduct of hearings, and which is not required by the statutes of the State of Maine or by this Article, may be waived by the Board upon good cause being shown.

(j) *Public Hearings; Standard of Review.*

- (1) A public hearing shall be set, advertised and conducted by the Clean Elections Review Board as required by various state statutes, codes, and ordinances pursuant to which matters are brought before the Clean Elections Review Board and shall be conducted in accordance with relevant State law, the City Code, and the rules of the Board.

- (2) The Board shall hear all appeals *de novo*. The appellant shall bear the burden of proof.

(j) *Record and Decisions.*

- (1) The minutes of the staff secretary, and the transcript, if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Clean Elections Review Board, and the decision of the Board shall constitute the record.
- (2) Every final decision of the Clean Elections Review Board shall include written findings of fact, and shall specify the reason or reasons for such decision.
- (3) The staff secretary shall mail notice of any decision of the Clean Elections Review Board to the appellant and any designated interested parties within five (5) days of such decision.

(k) *Conflicts.* No member of the Clean Elections Review Board shall participate in the hearing or disposition of any

matter in which they have an interest, as defined by 30-A M.R.S. §2605, as amended, and common law.

(1) *Appeals to Superior Court.* An appeal from any final decision of the Clean Elections Review Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(m) *Jurisdiction and Authority.* In addition to the jurisdiction conferred on it by other sections of this Article and in accordance therewith, the Clean Elections Review Board shall have the following jurisdiction and authority:

- (1) To hear, review, and approve or deny a petition by a Participating Candidate who has accepted Contributions or made Expenditures that do not comply with the Seed Money Restrictions or prohibited Expenditures under this Article to remain eligible for certification as a Certified Candidate;
- (2) To hear, review, and approve or deny any appeal by a Candidate who has been denied certification as a Certified Candidate by the City Clerk, the opponent of a Candidate who has been granted certification as a Certified Candidate or other interested persons;
- (3) To hear, review, and approve or deny any appeal by a Certified Candidate or other interested persons regarding the revocation of the certification of a Certified Candidate by the City Clerk;
- (4) To hear, review, and approve or deny any appeal by a Certified Candidate or other interested persons regarding the enforcement of violations pursuant to section 9-71; and
- (5) To require a Candidate whose certification as a Certified Candidate is reversed on appeal or a Candidate whose revocation is upheld on appeal to return to the Fund any unspent Fund revenues distributed.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-71. Violations.

In addition to any other penalties that may be applicable, a person who violates any provision of this Article is subject to a fine not to exceed \$1,000.00 per violation payable to the Fund. In addition to any fine, for good cause shown, a Candidate, treasurer, or consultant or other agent of the Candidate or the political committee authorized by the Candidate found in violation of this Article may be required to return to the Fund all amounts distributed to the Candidate from the Fund or any funds not used for campaign-related purposes. The City Clerk's determination that a violation of this Article has occurred and any fines assessed may be appealed to the Clean Elections Review Board. Fines paid under this Article must be deposited in the Fund. In determining whether or not a Candidate is in violation of the expenditure limits of this Article, the City Clerk may consider as a mitigating factor any circumstances out of the Candidate's control.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-72. Severability.

The provisions of this article and each of its sections, subsections, paragraphs, subparagraphs, sentences and clauses are severable. In the event that any such provision is held to be invalid or unenforceable by any judicial or administrative tribunal, it is the intent of the governing body that all other provisions thereof shall remain in full force and effect.

(Ord. No. 171-22/23, 5-1-2023)

Section 9-73. Effective date.

This ordinance shall go into effect on May 31, 2023.

(Ord. No. 171-22/23, 5-1-2023)

Sections 9-74 to 9-90. Reserved.

ARTICLE VI. CAMPAIGN FINANCE

Sec. 9-91. Definitions.

As used in this Article, the following terms have the following meanings:

(a) *Business Entity*. The word "business entity" means any firm, partnership, corporation, incorporated association, limited liability company, or other organization, whether organized as a for-profit or a nonprofit entity.

(b) *Business Entity that is substantially under foreign influence*. The term "business entity that is substantially under foreign influence" means a business entity for which at least one of the following conditions is met:

- (1) A single foreign owner holds, owns, controls, or otherwise has direct or indirect beneficial ownership of one percent (1%) or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interest of the business entity;
- (2) Two or more foreign owners, in aggregate, hold, own, control, or otherwise have direct or indirect beneficial ownership of five percent (5%) or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interest of the business entity; or
- (3) A foreign owner participates directly or indirectly in the business entity's decision-making process with respect to the business entity's political activities in the United States.

(c) *Campaign*. The word "campaign" means any course of activities to influence the nomination or election of a candidate or to initiate or influence any municipal referendum or initiative.

(d) *Candidate*. The word "candidate" shall be defined in Article V, Section 9-62 of this Chapter.

(e) *Contribution*. The word "contribution" shall be as defined in 21-A M.R.S. §1012(2).

(f) *Expenditure*. The word "expenditure" shall be as defined in 21-A M.R.S. §1012(3).

(g) *Foreign investor*. The word "foreign investor" means a person or entity that:

- (1) Holds, owns, controls, or otherwise has direct or indirect beneficial ownership of equity, outstanding voting shares, membership units, or other applicable ownership interests of a Business Entity; and
- (2) Is a government of a foreign country; a foreign political party; a partnership, association, corporation, organization, or other combination of persons organized under the laws or having its principal place of business in a foreign country; or an individual who is not a citizen of the United States or a national of the United States and who is not lawfully admitted for permanent residence.

(h) *Foreign owner*. The word "foreign owner" means (1) a foreign investor; or (2) a Business Entity wherein a foreign investor holds, owns, controls, or otherwise has directly or indirectly acquired beneficial ownership of equity or voting shares in an amount that is equal to or greater than 50 percent of the total equity or outstanding voting shares.

(i) *Municipal Office*. The term "municipal office" means the office of mayor, city council, or school board.

(j) *Political action committee*. The term "political action committee" shall be defined in 21-A M.R.S. §1052(5)

(k) *Separate Segregated Fund Committee*. The term "separate segregated fund committee" means a Political Action Committee described in section 9-91(j) above.
(Ord. No. 171-22/23, 5-1-2023)

Sec. 9-92. Business Entity Contributions to Candidates Prohibited.

A Business Entity may not make Contributions to any Candidate for municipal office. A Separate Segregated Fund Committee may not make Contributions to any Candidate for municipal office using funds that derive, in whole or in part, from a Business Entity. Where a Business Entity establishes a Separate Segregated Fund Committee, that Business Entity may provide the Separate Segregated Fund Committee with the use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the Business Entity.

(Ord. No. 171-22/23, 5-1-2023)

Sec. 9-93. Foreign Contributions to Initiative or Referendum Campaigns.

A Business Entity that is substantially under foreign influence shall be prohibited from making any Contribution or Expenditures for or against any initiative or referendum Campaign.

(Ord. No. 171-22/23, 5-1-2023)

Sec. 9-94. Additional Rules by Ordinance.

The City Council may adopt additional regulations and ordinances governing Campaign spending, not inconsistent with Article IV, Section 13 of the Charter.

(Ord. No. 171-22/23, 5-1-2023)

Sec. 9-95. Campaign Contributions Reporting.

All contributions to Campaigns must be reported to the City Clerk, in conformance with any applicable State law. The City Clerk must establish a searchable, online, and publicly-accessible database of all information included in all registrations and campaign finance reports filed with the City Clerk.

(Ord. No. 171-22/23, 5-1-2023)