

## **BALLOT QUESTION # 8—Ethics Commission and Code of Ethics**

### **Shall the Municipality Approve the Charter Modifications Recommended by the Charter Commission Relating to Universal Resident Voting as Summarized Below?**

#### **1. Proposed Summary:**

This modification requires the City Council to form an independent Ethics Commission and to adopt a Code of Ethics recommended by the Ethics Commission.

- The Ethics Commission shall have discretionary power to render advisory opinions on matters of city business and violations of public trust.
- The modification also allows the Ethics Commission to recommend the hiring of an Accountability Officer to provide education to the public and officials; to serve as an independent ombudsperson in resolution of disputes in an advisory capacity; and to provide training to city officials on ethical matters.

#### **2. Charter Language for Question**

**Note:** This contains only the provisions related to the Commission proposal in **Question # 8** and only those sections which will be changed if this question is adopted. Deletions are shown by ~~strikeouts~~; new language is underlined.

*Amend ARTICLE VIII., MISCELLANEOUS PROVISIONS, by adding a new Section 1-A., Ethics Commission and Code of Ethics, as follows*

#### **Section 1-A. Ethics Commission and Code of Ethics**

**Ethics Commission and Code of Ethics Ordinance.** The city council shall enact and maintain an ordinance that establishes an ethics commission and, with input from the ethics commission, shall enact a code of ethics ordinance to be administered by the ethics commission. Upon the effective date of the code of ethics ordinance, the existing code of ethics resolution adopted by the city council shall be repealed. The ethics commission shall provide impartial oversight and render decisions and advisory opinions to ensure that standards of ethical conduct are observed by elected and appointed City officials and City employees.

#### **(a) Ethics Commission Ordinance.**

The city council shall enact an ordinance directing it to create an ethics commission, appointed by the city council and consisting of seven (7) members who are residents of the City, serving for three (3) year terms, to undertake the following duties:

1. Prepare and recommend a code of ethics ordinance to the city council for enactment as provided in subsection (b) below;
2. Review the ethics commission and code of ethics ordinances not less than once every three (3) years and make recommendations for any amendments to the city council;

3. Hear complaints and render written decisions with findings of fact regarding alleged violations of the City’s code of ethics ordinance, provided that complaints regarding City employees’ ongoing or prior alleged violations or misconduct shall be referred to the City for appropriate action under its personnel policies;
4. Hear and render advisory opinions regarding questions of prospective application of the City’s code of ethics ordinance;
5. Hear and render advisory opinions regarding questions of compliance with the City charter;
6. Hear and render advisory opinions regarding adherence to council and board rules and procedures;
7. On receipt of requests from a majority of the city council or of any board or committee, procure a second legal opinion from outside legal counsel; and
8. Design and oversee program evaluations.

Elected City officials, candidates for any City elected office, and their immediate family members are not eligible to be appointed as members of the ethics commission.

The ethics commission shall meet as needed, but no less than annually.

The ethics commission ordinance shall establish the process for filing, hearing and deciding complaints and for soliciting advisory opinions. Complaints may be filed by any official, employee, or resident of the city, by the accountability officer, or may be initiated by the ethics commission, in accordance with that process. Requests for advisory opinions may be filed by any official or employee of the city, in accordance with that process. Receipt of a complaint or request shall be acknowledged by the ethics commission. If the ethics commission finds any complaint filed with it to have been based upon allegations it determines to be frivolous, scurrilous, libelous, unsubstantiated, unfounded, of nuisance, or with malice, it may so determine and may dismiss the complaint without deciding the merits of the complaint.

The ethics commission ordinance and complaint process shall protect the identity and rights of complainants, whistleblowers, and persons complained against in accordance with and as required by all State and federal laws, regulations, codes, municipal ordinances, and policies, including but not limited to the Maine Freedom of Access Act, the Maine Whistleblowers’ Act, and the City of Portland’s personnel policies. The ethics commission shall refer any complaint alleging corruption, fraud, or abuse of a criminal nature to the appropriate law enforcement agency.

The ethics commission shall be an independent body, free from interference from any City elected and appointed officials and employees. The ethics commission may request funding from the city council for independent investigations, legal services, staffing, or other demands pertinent to its mission.

**(b) Code of Ethics.**

The city council shall, with the recommendation of the ethics commission, enact and maintain a code of ethics ordinance defining the code of ethical conduct for elected and appointed

City officials and City employees. At a minimum, such code of ethics ordinance shall include and address:

1. Standards of Conduct;
2. Conflicts of Interest;
3. Confidential Information; and
4. Disclosure Forms for City elected and appointed officials to complete and file with the city clerk and update as appropriate.

**(c) Appointment of Accountability Officer.**

The ethics commission may recommend that the city council appoint an accountability officer and fund that position. The accountability officer shall: serve as an ombudsperson to members of the public; provide City information to the public and officials to educate them about government accountability, integrity, and transparency; provide training for public officials on ethical matters; and undertake such other duties as may be requested by the ethics commission and authorized by the city council. The accountability officer may provide administrative support for the civilian police review board. The accountability officer also shall receive complaints from the public about alleged government waste, favoritism, mismanagement, and violations of the public trust; the accountability officer will refer matters that are within the scope of the ethics commission’s duties to the ethics commission, and vice versa.

**(d) Violations of the Code of Ethics.**

Violations of the code of ethics ordinance shall be addressed as set out in that ordinance, provided, however, that any city councilor or mayor found by the ethics commission to be in violation of or to have violated the ethics code may be reprimanded or censured by the city council.