

Meeting of June 19, 2017

South Portland City Council
Position Paper of the City Clerk

Subject:

ORDINANCE #20-16/17 – Amending Chapter 6, “Elections,” to add provisions regarding the citizen initiative process. Passed first reading 6/5/17. ROLL CALL VOTE. Passage requires majority vote.

Position:

This item is brought forward to address a Charter issue that arose last summer related to the citizen initiative petition process: there is no specific time period set forth in the Charter for the circulation of citizen initiative petitions. The proposed amendments to Chapter 6 (Elections) are made pursuant to Section 1115 of the Charter, which provision authorizes the City Council to enact regulations by ordinance to carry out the provisions of Article XI of the Charter related to citizen initiative and referendum. A forty-five (45) day circulation time period with no opportunity for a filer to amend or supplement the petition was initially proposed by staff for citizen initiative petitions.

After discussion of the proposed amendments at the May 8, 2017 City Council workshop, the Council indicated that the filer ought to be given one chance to amend or supplement a citizen initiative petition after being notified by the City Clerk that the initial petition was insufficient. In light of the Charter provision that gives the City Clerk twenty (20) days to review a petition for sufficiency, the Council indicated that it thought a sixty (60) day circulation time period with one opportunity for a filer to amend or supplement the initial citizen initiative petition was appropriate. These requested changes are reflected in Secs. 6-32, 6-34 and 6-35 of the ordinance.

The Council may wish to consider and discuss a question raised by Councilor Rose regarding the language proposed in Sec. 6-33 and the definition of "qualified electors" (see also Charter Sec. 1101, "Power of initiative"). The historical and present understanding of the term "qualified electors" from the Clerk's office is registered voters, not the number of voters who voted. The point in time reference, "at the last regular municipal election", is proposed in Sec. 6-33 to match the language and standards set forth in Sec. 1102 of the Charter ("Power of referendum").

Requested Action:

Council passage of Ordinance #20-16/17.



City Clerk



CITY OF SOUTH PORTLAND

PATRICIA A. SMITH
Mayor

SCOTT MORELLI
City Manager

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

EMILY F. SCULLY
City Clerk

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
SUSAN J. HENDERSON

IN CITY COUNCIL

ORDINANCE #20-16/17

THE COUNCIL of the City of South Portland hereby ordains that Chapter 6, "Elections," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (deletions are ~~struck through~~; additions are underlined):

Chapter 6

ELECTIONS

• • •

Secs. 6-24 to 6-29. Reserved.

ARTICLE III. IN GENERAL

Sec. 6-30. Purpose.

This article is enacted pursuant to Section 1115 of the Charter, which provision authorizes the City Council to enact regulations by ordinance to carry out the provisions of Article XI of the Charter related to citizen initiative and referendum.

Sec. 6-31. Petition form.

The petition form used to invoke the initiative or the referendum power shall be prepared by the City Clerk. The form shall include space for the City Clerk to note the issuance and return dates. Upon issuance, the City Clerk shall record the issuance date on each blank form.

Sec. 6-32. Petition circulation.

An initiative petition may be circulated for up to sixty (60) calendar days from the date of the City Clerk's issuance of the petition and must be returned to the City Clerk no later than sixty (60) calendar days from the issuance date.

A referendum petition must be circulated and returned to the City Clerk within twenty (20) days after the date of the enactment by the City Council of any ordinance that is subject to a referendum.

Sec. 6-33. Number of signatures.

The petition shall be signed by at least 5% of the qualified electors of the City of South Portland at the last regular municipal election.

Sec. 6-34. Filing of the petition.

Upon return, the City Clerk shall record the return date on each form that comprises the petition. The City Clerk shall also record the name and contact information of the person filing the petition so that the City Clerk may contact the filer once the examination and certification of the petition is complete.

Sec. 6-35. Examination and certification of the petition.

Examination and certification of the petition shall be conducted by the City Clerk in accordance with Section 1105 of the Charter.

An initiative petition certified by the City Clerk as insufficient may be amended once to correct deficiencies in the original by the filing of a supplemental initiative petition, which supplemental initiative petition shall, in form and content, comply with the requirements for an original petition, including the requirement that the supplemental initiative petition be filed no later than sixty (60) calendar days from the issuance date of the original petition. Upon the City Clerk's certification of an original initiative petition as insufficient, the City Clerk shall notify the filer as soon as possible of the insufficiency, return the original petition to the filer, and keep a copy of the original initiative petition. Any supplemental initiative petition must be returned to the City Clerk no later than sixty (60) calendar days from the issuance date of the original petition. A supplemental initiative petition certified by the City Clerk as insufficient may not be amended or supplemented.

A referendum petition certified by the City Clerk as insufficient may not be amended or supplemented.