

# MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

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Legislative Document

No. 478

H. P. 326

House of Representatives, January 18, 1961

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Berry of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-ONE

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AN ACT Providing for a Revised Charter for the City of Portland.

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Be it enacted by the People of the State of Maine, as follows:

Sec. 1. Charter for the City of Portland revised.

CHARTER OF THE CITY OF PORTLAND

ARTICLE I

Grant of Powers to the City

**Sec. 1. Corporate existence retained.** The inhabitants of the City of Portland shall continue to be a body politic and corporate by the name of the City of Portland, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to or incumbent upon said city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof, not exceeding \$100 in any one case, to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

**Sec. 2. Powers and duties.** The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, except the general management, care, conduct and control of the schools of said city which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this charter, shall be and are vested in one body of

9 members, which shall constitute and be called the city council, all of whom shall be inhabitants of said city, and shall be sworn in the manner hereinafter prescribed.

The members of the city council shall be and constitute the municipal officers of the City of Portland for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state.

All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this charter, except as herein otherwise provided, shall be vested in said city council.

## ARTICLE II

### City Council

**Sec. 1. City to be divided into election districts.** For the purpose of electing members of the city council, the city, including its islands, shall be divided into 6 districts to be defined by ordinance. The districts shall be as nearly equal in population as is practicable in the judgment of the city council. Within one year after the publication of the findings of each decennial census, the city council shall make such adjustments in district lines as may be necessary to equalize the population of the districts. The city council may by ordinance divide the districts into wards and precincts for voting purposes.

**Sec. 2. Composition, election, tenure of office.** The city council shall be composed of 9 members, each of whom shall be elected by the registered voters of the entire city and who shall hold office for a term of 3 years and until their successors are elected and qualified. Three shall be elected at large from the registered voters of the city, and one shall be elected from each of the 6 districts heretofore provided for from the registered voters of each district. Each member shall be entitled to receive as salary the sum of \$750 per year, payable quarterly, for all services rendered, and shall not be eligible during the term for which he was elected for any other office, the salary of which is payable by the city, nor to hold the office of city manager, nor to act as city manager, nor shall he during such term hold any such office.

**Sec. 3. Chairman.** At the first meeting after the regular municipal election, or as soon thereafter as possible, the city council shall elect one of its members as chairman of the council for the ensuing year, and until his successor is elected and qualified, and the city council may fill for the unexpired term any vacancy as chairman that may occur.

If the chairman shall fail from sickness, disability, absence from the city or other cause to attend to and perform the duties incumbent on him as such chairman, the remaining members of the city council may by unanimous vote, after notice and hearing, terminate the term of office of said chairman and remove him therefrom and thereupon by majority vote may elect some other member

of said city council chairman and such newly elected member shall thereupon and thereafter hold the office and perform the duties of chairman for the balance of that year, and until his successor is elected and qualified.

The chairman shall preside at all meetings of the council, and shall perform such other duties, consistent with this office, as the council may provide. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. The chairman shall be recognized as the official head of the city for ceremonial purposes, and shall have the powers and authority given to and perform the duties required of mayors of cities for all purposes of military law, and shall act in lieu of the mayor insofar as representation is provided for the city by the mayor upon any board or commission by any statute. In the temporary absence or disability of the chairman, the council may select a chairman pro tempore from among its number and he shall exercise all the powers of the chairman.

**Sec. 4. Vacancies, forfeiture of office.** In case of a vacancy caused by death, resignation, removal from a district or removal from the city, or removal from office as hereinafter provided, of any member of the city council more than 6 months prior to the next regular municipal election, the vacancy shall be filled by a special election, the warrant for which 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.

Any member of the city council who shall be convicted of a felony or a misdemeanor involving moral turpitude while in office shall, after due notice and hearing before the city council and the production of the records of such conviction, forfeit his office.

**Sec. 5. Meetings of the council.** The city council shall meet at the usual place for holding meetings at 10:00 A. M. on the 2nd Monday in December following the regular municipal election, and at said meeting the councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace, or by the city clerk. The city council shall at such meeting, or as soon thereafter as possible, establish by resolution a regular place and time for holding its meetings, and shall meet regularly at least twice each month.

**Sec. 6. Special meetings.** Special meetings may be called by the chairman, and in case of his absence, disability or refusal may be called by a majority of the members of the city council. Notice of such meeting shall be served in person or left at the residence of each member of the city council at least 24 hours before the time for holding said special meeting.

**Sec. 7. Quorum.** A majority of the members of the city council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

**Sec. 8. Procedure.** The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public. The city council shall act only by ordinance, order or resolve. All ordinances, orders and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. An appropriation order or resolve shall be confined to the subject of appropriations only. No ordinance and no appropriation order or resolve shall be passed until it has been read on 2 separate days, except when the requirement of a 2nd reading on a separate day has been dispensed with by the vote of 7 members of the city council. The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance, order and resolve shall require on final passage the affirmative vote of 5 members of the city council. No ordinance shall take effect until 30 days after its passage and no order or resolve shall take effect until 10 days after its passage, except as herein otherwise provided for emergency ordinances, orders and resolves.

The city council may, by vote of 7 of its members, pass emergency ordinances, orders or resolves to take effect at the time indicated therein, but such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

### ARTICLE III

#### Superintending School Committee

**Sec. 1. Composition, election, tenure of office.** The superintending school committee, hereinafter called the school committee, shall consist of 7 members elected at large from the registered voters of the city. They shall hold office for a term of 3 years and until their successors are elected and qualified. No member of the committee shall receive any compensation for his services.

**Sec. 2. Chairman.** At the first meeting after the regular municipal election, or as soon thereafter as possible, the superintending school committee shall elect one of its members as chairman for the ensuing year and until his successor is elected and qualified, and may fill for the unexpired term any vacancy as chairman that may occur. The city council shall designate one of its members to serve with the superintending school committee and he shall have the right to vote only in case of a tie.

**Sec. 3. Organization.** The school committee shall meet for organization at 4:00 P. M. on the 2nd Monday in December following the regular municipal election. The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk, and a record made thereof. The members shall at such meeting, or as soon thereafter as possible, establish

a regular place and time for holding meetings and shall meet regularly at such place and time. A majority of the whole number elected shall be a quorum.

**Sec. 4. Powers and duties.** The school committee shall have all the powers, and perform all the duties in regard to the care and management of the public schools of said city, which are now conferred and imposed upon school committees by the laws of this state, except as otherwise provided in this charter. They shall annually, and whenever there is a vacancy, elect a superintendent of schools for the current municipal year, who shall have the care and supervision of said public schools under their direction and act as secretary of their board; they shall fix his salary at the time of his election. The school committee shall not later than one month before the end of the fiscal year submit to the city council budget estimates of the various sums required for the support of public schools for the ensuing fiscal year and shall thereafter provide the city council with such information relating to such estimates as the city council shall require. A budget hearing on such budget estimates shall be held together with the hearing on the budget estimates of the city manager. The city council in its appropriation resolve for the ensuing year shall, in addition to amounts appropriated for other general city purposes, appropriate one gross amount for the support of public schools, which amount shall not be less than the sum required to be appropriated for such purposes by the general laws of the State. Such appropriation shall be expended under the direction and control of the school committee, but no such appropriation shall be exceeded except by consent of the city council.

**Sec. 5. Vacancies.** Whenever, from any cause, a vacancy in the school committee shall occur, the vacancy shall be filled at the next regular municipal election for the unexpired term, if any, by election in the usual manner, or the city council may call a special election to fill such vacancy in the manner provided for filling a vacancy in the city council.

## ARTICLE IV

### Elections

**Sec. 1. Continuity in office.** The terms of office of members of the city council and members of the superintending school committee as existing on the effective date of this charter shall not be terminated and each shall continue in office until the end of his term and until his successor is duly elected and qualified as provided herein. In the event redistricting of the city, as herein provided, shall cause a then council member to reside in a district other than that from which he was elected, the office of such member shall not thereby be considered vacated, but such member shall continue in office until his successor is duly elected and qualified.

**Sec. 2. Regular municipal election.** At the regular municipal election to be held on the first Monday in December following the effective date of this charter, and thereafter on the first Monday in December of each year, the qualified voters of the city shall ballot for a councilman to fill the unexpired term of any

councilman, whose office is then vacant and whose term would not then have normally expired, and for 3 councilmen to fill the offices of the councilmen whose term would then expire, and for such members of the superintending school committee as may be necessary to fill the office of those whose term would then expire and to fill any vacancy in an unexpired term of office. The qualified voters of each ward shall, at the same time, ballot for a warden, a ward clerk and two constables for each ward, and in case there is more than one voting precinct or island ward in any ward, then the qualified voters of each such precinct and island ward shall also vote for a warden and ward clerk for each such precinct and island ward, as well as for said 2 constables from the ward at large.

**Sec. 3. Wardens and ward clerks, qualifications, powers, duties, vacancies, calling of ward meetings.** The warden and ward clerk, chosen as provided above, shall be and remain residents of the ward and precinct for which they are elected and shall hold their office for one year from the 2nd Monday in December following their election, and until others have been chosen and qualified in their stead. The warden and the ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the State to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of said ward. The warden shall preside at all ward meetings, with the powers of moderators of town meetings, and if at any meeting the warden shall not be present, the clerk of the ward shall call the meeting to order and preside until a warden pro tempore shall be chosen. Such warden shall have all rights and powers now held by the warden of such ward. If neither the warden or the ward clerk shall be present, any legal voter in the ward may preside until a ward clerk pro tempore shall be chosen and qualified. Immediately following the election of a ward clerk pro tempore, a warden pro tempore shall be chosen.

The ward clerk shall record all the proceedings and certify the votes given and deliver over to his successor in office all such records and journals in his possession or under his control, together with all documents and papers held by him in his capacity as ward clerk. The ward clerk shall have and perform all rights and duties now held and performed by the ward clerk of such ward so far as consistent with this charter.

All ward meetings shall be notified and called by the city council in the manner provided by the statutes of this state for notifying and calling town meetings by the selectmen of the several towns.

**Sec. 4. Nominations.** The nomination of all candidates for elective offices provided for by this charter shall be by petition. The petition of a candidate for councilman or school committeeman shall be signed by not less than 300 nor more than 500 qualified voters of the city. The petition of candidates for warden, ward clerk and for constable shall be signed by not less than 25 nor more than 100 qualified voters of the ward wherein the candidate is to be elected. No voter shall sign petitions for more than one candidate for each office to be filled at the election, and should any voter sign more than one such

petition, his signature shall be counted only upon the first petition filed and shall be held void upon all other petitions.

**Sec. 5. Form of nomination petition.** The signatures to nomination petitions need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers on each petition, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or their description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

To the city clerk of the City of Portland:

We, the undersigned voters of the City of Portland, hereby nominate .....  
....., whose residence is ..... for  
the office of ..... to be voted for at the election to  
be held in the City of Portland on the ..... day of .....,  
19...., and we individually certify that we are qualified to vote for a candidate  
for the above office and that we have not signed more nomination petitions of  
candidates for this office than there are persons to be elected thereto.

Name ..... Street and Number .....  
....., being duly sworn, deposes and says that he is the cir-  
culator of the foregoing nomination petition containing ..... signatures,  
and that the signatures appended thereto were made in his presence and are  
the signatures of the persons whose names they purport to be.

(Signed) .....

Subscribed and sworn to before me this ..... day of ....., 19....  
.....

Justice of the Peace  
Notary Public

If this petition is deemed insufficient by the city clerk, he shall forthwith notify  
by mail ..... at .....

**Sec. 6. Filing of nomination petitions, and acceptance of nomination.** The nomination petitions for any one candidate must be assembled and united into one petition and filed with the city clerk not earlier than 30 nor later than 21 days before the day of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing, not later than 16 days before the day of election, his consent accepting the nomination, agreeing not to withdraw and, if elected, to qualify.

**Sec. 7. Form of ballot.** All official ballots for use in all municipal elections shall be prepared by the city clerk and furnished by the city. Ballots for use in elections under this charter shall contain the names of the various candi-



dates, with their residence, and the office for which they are candidates. The candidates for each office shall be grouped under the title of each office, plainly and distinctly marked. There shall be at least 2 blank lines under the name of each office which may be filled by writing in the name of a candidate. Stickers may be used in lieu of writing in a name of a candidate, but no sticker shall be used save in the blank spaces provided. Such ballots shall also contain such measures as may be submitted to the voters of the city by the Legislature or by the city council and shall be without party mark or designation.

In preparing all ballots for election under this charter the city clerk shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames, except as hereinafter provided. In any case where the names of 4 or more persons appear on one ballot as candidates for the city council or superintending school committee, the city clerk shall have printed as many sets of ballots as there are candidates for any single office. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order after the one that stands first on that set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the first letter represented in the list of names and by the others in regular order. The ballots so printed shall then be combined in blocks of 50 so as to have the fewest possible ballots having the same order of names printed thereon together in the same block.

The face of the ballot shall be substantially in the following form:

CITY OF PORTLAND  
REGULAR (OR SPECIAL) MUNICIPAL ELECTION  
OFFICIAL BALLOT

Candidates for office in the City of Portland at an election held on ..... the ..... day of ..... A. D. ....

To vote for any person, make a cross (X) or check mark (✓) in the square at the right of the name voted for.

To vote for a person whose name is not on the ballot, write in the name or use a sticker in blank space and mark cross (X) or check mark (✓) at the right of the name voted for.

COUNCILMAN

( ) to be chosen  
Vote for ( )

Mark (X) cross or check mark  
(✓) in this column

Name of candidate and residence	
---------------------------------	--

SCHOOL COMMITTEEMAN

( ) to be chosen  
Vote for ( )

Mark (X) cross or check mark  
(✓) in this column

Name of candidate and residence	
---------------------------------	--

WARDEN

1 to be chosen  
Vote for 1

Mark (X) cross or check mark  
(√) in this column

Name of candidate and residence	
---------------------------------	--

WARD CLERK

1 to be chosen  
Vote for 1

Mark (X) cross or check mark  
(√) in this column

Name of candidate and residence	
---------------------------------	--

CONSTABLES

2 from the ward at large  
Vote for 2

Mark (X) cross or check mark  
(√) in this column

Name of candidate and residence	
---------------------------------	--

Portland, Maine, Monday . . . . . A. D.

Official Ballot

Ward . . . . .  
(Facsimile of signature)  
City Clerk

**Sec. 8. Specimen ballots.** The city clerk shall cause specimen ballots to be prepared from the arrangement of the first group of ballots as provided above and to be posted in public places in each ward and voting precinct and advertised in the newspapers not later than 10 days prior to the municipal election and advertised in the newspapers at least twice more prior to said election. Such specimen ballots shall be printed on colored paper and marked "Specimen Ballot," and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the Legislature or by the city council. Such specimen ballots shall also be without party mark or designation.

**Sec. 9. Count of ballots.** As soon as the polls are closed, the warden shall immediately open the ballot boxes, take therefrom the ballots and sort, count and declare them in open meeting in the presence of the ward clerk; and the ward clerk shall make a list of the persons voted for, with the number of votes for each person against his name and shall make a true and fair record thereof in the presence of the warden and in open ward meeting enter the total number of votes for each candidate on a tally sheet provided by the city clerk, which tally sheet shall be duly attested by the warden and ward clerk and forthwith returned to said city clerk.

The ward clerk shall thereupon deliver to each person elected a warden or ward clerk, a certificate of his election, and shall forthwith deliver to the city clerk a certified copy of the record of such election.

**Sec. 10. Canvass of returns.** The city clerk shall present the returns of the several wards to a meeting of the city council held not later than 48 hours after the receipt of said returns by him. At such meeting the city council shall determine and declare the successful candidates as follows: The person or persons, not exceeding the number to be voted for at any one time for any office, having the highest number of votes given at said election, shall be determined and declared to be elected.

**Sec. 11. State laws applicable.** The laws of this State relating to the qualifications of electors, registration, the manner of voting, the duties of election officials and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Portland, except as otherwise provided herein.

## ARTICLE V

### Recall

**Sec. 1. Applicability.** Any member of the city council or the superintending school committee may be recalled and removed therefrom by the qualified electors of the City of Portland as herein provided.

**Sec. 2. Petitions for recall.** Any voter of the city may make and file with the city clerk an affidavit containing the name or names of the member or members whose removal is sought and a general statement of the reasons why such removal is desired. The clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks for such removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council; shall contain the name of the persons to whom issued, the number of blanks so issued, and the name of the person or persons whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk.

The recall petition to be effective must be returned and filed with the city clerk within 45 days after the filing of the affidavit. The petition, before being returned and filed, shall be signed by voters of the city to the number of at least 10% of the registered voters as determined at the time of the last preceding regular municipal election and to every such signature shall be added the place of residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of 3 persons designated as filing the same.

**Sec. 3. Examination and amendment of petition.** Within 10 days after the filing of the petition, the city clerk shall ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto his certifi-

cate showing the result of such examination. If his certificate shows the petition to be insufficient, he shall forthwith so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within the 10 days after the giving of said notice by the filing of a supplementary petition upon additional papers, issued, signed and filed as provided herein for the original petition. The city clerk shall within 10 days after such amendment make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment is made, he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of that fact. The final ending of the insufficiency of the petition shall not prejudice the filing of a new petition for the same purpose.

**Sec. 4. Calling of recall election.** If the petition or amended petition shall be certified by the city clerk to be sufficient, he shall submit the same with his certificate to the city council at its meeting and shall notify the member or members whose removal is sought of such action. The city council shall thereupon, within 10 days of the receipt of the city clerk's certificate, order an election to be held not less than 40 nor more than 60 days thereafter; provided that, if a regular municipal election is to occur within 90 days after the receipt of said certificate, the city council may in its discretion provide for the holding of the recall election on the date of such other municipal election. The recall election shall be called and held and nominations made as in other elections under this charter except for the specific limitations of this section.

**Sec. 5. Form of ballot.** Unless the member or members whose removal is sought shall have resigned within 10 days after the receipt by the city council of the city clerk's certificate, the form of the ballot at such election shall be as nearly as may be: "Shall A be recalled? Shall B be recalled?", etc., the name of the member or members whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates nominated in place of the men recalled, as follows: "Candidates for the place of A, if recalled; Candidates for the place of B, if recalled," etc., but the men whose recall is sought shall not themselves be candidates upon such a ballot. If the person or persons sought to be removed shall have resigned within 10 days after the receipt by the city council of said certificate, the form of ballot at said election shall be the same, as nearly as may be, in the form and arrangement in use at a regular municipal election.

**Sec. 6. Count of ballots.** In case of a majority of those voting for and against the recall of any official shall vote in favor of recalling such official, he shall be thereby removed, and in that event the candidate to succeed him for the balance of the unexpired term shall be determined as provided for regular municipal elections.

**Sec. 7. Election may be ordered.** Should the city council fail or refuse to order an election as herein provided, such election may be ordered by any Justice of the Supreme Judicial Court.

**ARTICLE VI****Administrative Officers**

**Sec. 1. Appointments.** (a) The following officers and boards shall be appointed by ballot by vote of 5 members of the city council: City manager, city clerk, corporation counsel and 2 members of the board of registration under the statutes of the State of Maine, and they may elect 9 constables at large.

(b) All department heads shall be appointed by the city manager, subject to confirmation by the city council.

(c) All other employees shall be appointed by the city manager upon recommendation of the heads of their department.

**Sec. 2. Organizational powers.** The city council shall have power to provide by ordinance for the organization, conduct and operation of the departments, agencies, offices and boards of the city; for the creation of additional departments, agencies, offices and boards and for the division of any such departments, agencies, offices and boards; and for the alteration, abolition, assignment or reassignment of all such departments, divisions, agencies, offices and boards.

**Sec. 3. Civil service rules.** The city council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension and removal of the members of the police department and of the fire department, other than the chiefs of said departments, and for a civil service commission to administer the same.

**Sec. 4. Compensation and tenure of offices.** The city council shall fix by order the salaries of the appointees of the city council. Salaries of the appointees of the city manager shall be fixed by the city manager, subject to the approval of the city council. All appointive officers shall hold office during the pleasure of the appointing power.

**Sec. 5. Appointment; qualifications; powers and duties of city manager.** The city manager shall be chosen by the city council solely on the basis of his character and his executive administrative qualifications, and may or may not be a resident of the City of Portland or of the State of Maine at the time of his appointment. He shall give bond for the faithful discharge of his duties to the City of Portland in such sum as the city council shall determine and direct, and with surety or sureties to be approved by the city council. The premium on his bond shall be paid by the city. He shall be the administrative head of the city and shall be responsible to the city council for the administration of all departments. His powers and duties shall be as follows:

(a) To see that the laws and ordinances are enforced, but he shall delegate to the chief of the police department the active duties connected therewith regarding criminal misdemeanors.

(b) To exercise control over all departments, divisions, agencies, offices and boards created herein or that may be hereafter created.

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

(d) To attend meetings of the city council, except when his removal is being considered, and recommend for adoption such measures as he may deem expedient.

(e) To keep the city council fully advised as to the business and financial condition and future needs of the city and to furnish the city council with all available facts, figures and data connected therewith when requested.

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

**Sec. 6. Vacancy in office of city manager.** During any vacancy in the office of city manager, and during the absence or disability of the city manager, the city council may designate a properly qualified person to perform the duties of manager and fix his compensation. While so acting, he shall have the same powers and duties as those given to and imposed on the city manager. Before entering his duties, he shall give bond to the City of Portland in a sum and with surety or sureties to be approved by the city council. The premium on said bond is to be paid by the city.

**Sec. 7. Assessor of taxes.** There shall be an assessor of taxes who shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the State may exercise, and may now or hereafter be subject to under the laws of the State. The assessor may appoint temporary assistant assessors, if the city council so direct, whose duty it shall be to furnish the assessor with all the necessary information relative to persons and property taxable. The compensation of such assistant assessors shall be fixed by the city council, but such assistant assessors shall hold office during the pleasure of the assessor.

**Sec. 8. Director of public welfare.** The director of public welfare shall be the overseer of the poor and shall have and exercise all powers and perform all the duties conferred or imposed by law upon overseers of the poor.

**Sec. 9. Director of finance.** The director of finance shall have and exercise all powers and perform all the duties conferred or imposed by law upon treasurers and collectors of taxes.

**Sec. 10. Purchasing agent.** The purchasing agent shall purchase all supplies for the city and for the several officers and boards thereof, excepting supplies for the city schools, which school supplies he shall purchase only upon requisition by the superintending school committee.

The purchasing agent shall see to the delivery of supplies to each officer and department to whom they belong, and take and file receipts therefor. He shall conduct all sales of property belonging to the city which are unfit or unnecessary for the city's use, but only after such sale has been authorized by the city council, and subject to such restrictions as the city council may by ordinance provide.

**Sec. 11. Duties of administrative officers.** Duties of administrative officers shall be prescribed by the appointive power, but such duties shall not be inconsistent with this charter or any ordinance enacted by the city council as provided herein.

**Sec. 12. Continuity in office.** Any and all officers, department heads and employees of the City of Portland on the effective date of this charter shall continue in such capacity until a successor is appointed and qualified as provided herein, unless sooner removed by the appointive power designated herein.

## ARTICLE VII

### Business and Financial Provisions

**Sec. 1. Accounts and records.** Accounts shall be kept by the director of finance, showing the financial transactions of all departments of the city. The general accounting system shall be recommended by the director of finance and prescribed by the city manager, with the approval of the city council. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The director of finance shall furnish to the city manager each month a report containing in detail the receipts and disbursements of the city on all accounts, and for each appropriation item, the expenditures made and the obligations incurred during the preceding calendar month and the total unencumbered balance. All the accounts of the city shall be audited annually by a qualified accountant to be chosen by the city council.

**Sec. 2. Reports.** The director of finance shall publish each month a statement of the financial condition of the city.

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

- (a) Receipts classified according to sources.
- (b) Expenditures classified according to objects. The classification of receipts and expenditures in the report shall conform in general to the classification in the director of finance's books.
- (c) Balance sheets.
- (d) Such other financial information as may be required by the city council.

**Sec. 3. Annual budget.** Not later than one month before the end of the fiscal year, the city manager shall submit to the city council budget estimates for the ensuing fiscal year. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks, the forms of which shall be designated by the city manager, and shall contain:

- (a) Exact statement of the financial condition of the city.
- (b) Itemized statement of appropriations recommended for current expenses, and for permanent improvements; with comparative statements in parallel columns of expenditures for the current and next preceding fiscal year. An increase or decrease in any item shall be indicated.
- (c) Itemized statement of estimated revenue from all sources, other than taxation; and a statement of taxes required, with comparative figures from the current and next preceding year.
- (d) Such other information as may be required by the city council.

The budget shall be published not later than 2 weeks after its submission to the city council. The city council shall fix a time and place for holding a public hearing upon the budget, and shall give a public notice of such hearing, which shall be at least 10 days before the final passage of the appropriation resolve.

**Sec. 4. Appropriation resolve.** As early as practicable after the beginning of the fiscal year, the city council shall pass an annual appropriation resolve, which shall be based on the budget submitted by the city manager. The total amount appropriated shall not exceed the estimated revenue of the city.

Before the annual appropriation resolve has been passed, the city council may make appropriation for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force.

The city council may by resolution appropriate to any purpose or object for which there shall have been no appropriation for the current year or for which the appropriation for the current year has proved insufficient any accruing revenue of the city not appropriated as hereinbefore provided and any unencumbered appropriation balance, or portion thereof, remaining after the purposes of the appropriation shall have been satisfied or abandoned.

**Sec. 5. Surpluses.** All appropriations in the annual budget shall lapse at the close of the fiscal year unless specifically continued by order of the city council, and the unencumbered balances shall be transferred to the surplus account.

**Sec. 6. Borrowing.** The borrowing of money by and for the city shall be limited as to form and purpose by section 7 and section 8 of this article. The credit of the city shall in no manner be loaned to any individual, association or corporation.

**Sec. 7. Bond issues.** Money may be borrowed, within the limits fixed by the Constitution and statutes of the State now or hereafter applying to said Portland, by the issue and sale of bonds or notes pledged on the credit of the city, the proceeds to be used for the acquisition of land, the construction, reconstruction, major alteration, extraordinary repairs and equipment of buildings and other permanent public extraordinary repairs and equipment of buildings



and other permanent public improvements, the purchase of departmental equipment, and the payment of refunding of bonds, notes, and certificates of indebtedness previously issued. No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in 2 public places in the City of Portland, and publishing said notice in at least 2 daily newspapers published in said Portland at least 2 weeks before final action by the city council, and the approval of 7 members of the city council. Every issue of bonds shall be payable within a fixed term of years; if said bonds are issued in payment of indebtedness incurred for a permanent improvement the term of such bonds shall not exceed the estimated period of utility of said improvement but the declaration of the city council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made payable shall in no case exceed 30 years. Bonds issued after the adoption of this charter shall be made payable as pertains to interest semi-annually and as pertains to principal in equal, annual, serial installments, except that (1) each year's installments may be adjusted to the nearest multiple of \$5,000 with odd amount coming in first or last year; and (2) the amount of each year's installment may vary provided that it is equal to or greater than the installment due and payable in any succeeding year. Every order for the issue of bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual, serial installment of principal and interest, and such amounts shall be included in the tax levy for each year until the debt is extinguished.

**Sec. 8. Temporary loans.** Money may be borrowed in anticipation of receipts from taxes during any fiscal year but the aggregate amount of such loans outstanding at any one time shall not exceed 80% of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of receipts from taxes for the fiscal year in which said loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized. All such loans shall be paid within one year and are subject to the provisions of laws of the State of Maine in relation thereto. This section shall not limit in any way the power granted to towns and cities to borrow money as contained in the Revised Statutes of the State of Maine and acts amendatory thereof and additional thereto.

**Sec. 9. Sinking fund.** The sinking fund shall be applied only to the payment of the bonded indebtedness of the city. The sinking fund shall be invested as provided by the Revised Statutes of the State of Maine and all acts in addition thereto and in amendment thereof.

**Sec. 10. Payments.** Money shall be paid out only on warrants on the city treasury issued by the director of finance.

The director of finance shall examine all payrolls, bills and other claims and demands against the city, and shall issue no warrant for payment until he finds that the claim is in proper form, correctly computed, duly certified and legally due and payable.

The director of finance may require any claimant to make oath to the validity of his claim, may investigate any claim, and for such purpose or purposes may examine witnesses under oath.

**Sec. 11. Bonds of officers.** The city council shall require a bond with sufficient surety or sureties, satisfactory to the city council, from all persons trusted with the collection, custody or disbursement of any of the public moneys; and may require such bond from such other officials as it may deem advisable; the premium charges for said bonds to be paid by the city.

**Sec. 12. Collection and custody of city moneys.** All moneys received by any officer, employee or agent of the city belonging to the city, or for or in connection with the business of the city, shall forthwith be paid by the officer, employee or agent receiving the same into the city treasury, and shall then be deposited by the director of finance with some responsible banking institution or institutions to be chosen by said city council. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city.

## ARTICLE VIII

### Miscellaneous Provisions

**Sec. 1. No personal interest.** No city manager, no member of the city council, no subordinate city officer, no member of any board or commission charged with the expenditure of any money appropriated by the city council or belonging to the city, no officer or employee of the city elected or appointed, shall be interested, directly or indirectly, in any contract entered into by or in behalf of the City of Portland for work performed for the city, and all contracts made in violation thereof are void and the director of finance is expressly forbidden to pay any money out of the city treasury on account of any such contract. The foregoing provision shall not be applicable to the acquisition of any interest in notes or bonds of the City of Portland, or to the execution of agreements by banking institutions for the deposit or handling of funds of the City of Portland or to act as trustee under any trust indentures, or to utility services, the rates for which are fixed or controlled by a governmental agency. No such employee, except a policeman or fireman in the case of public transportation, shall accept or receive from any person, firm or corporation acting under a license from the city, any frank, free pass, free ticket or free service, or accept directly or indirectly from any such person, firm or corporation any service upon terms more favorable than those granted to the public generally.

**Sec. 2. Ordinances and rules and regulations continued.** All ordinances in force at the time that this charter takes effect, not inconsistent with this charter, shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the City of Portland in force at the time that this charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

**Sec. 3. Continuity of actions.** All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when

this charter goes into effect and not inconsistent therewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

**Sec. 4. Summons before city council and civil service commission.** The clerks of the Supreme Judicial and Superior Courts may issue summons for witnesses to attend and to produce books, documents and papers at any meeting of the city council or of the civil service commission of the City of Portland at which a hearing is had in any matter regarding any alleged dereliction, which summons shall be served as summons are required to be served in matters before the Supreme Judicial or Superior Courts.

**Sec. 5. Failure to obey summons.** On complaint of failure to obey summons to the municipal court of the City of Portland, which court is expressly given jurisdiction to hear such complaints, said municipal court, if it finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than \$10 nor more than \$100, or by imprisonment for not more than 30 days, or both fine and imprisonment.

**Sec. 6. Effective date.** This charter shall take effect immediately upon its enactment and all acts or parts of acts inconsistent with the provisions contained herein are repealed.

**Sec. 2. P. & S. L., 1923, c. 109, repealed.** Chapter 109 of the private and special laws of 1923, as amended, is repealed.