

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(Transmitted by Director of Legislative Research pursuant to joint order.)

N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 1383

H. P. 2000

House of Representatives, March 18, 1949.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Williams of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Amending the Charter of the City of Auburn.

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

Sec. 1. P. & S. L., 1917, c. 201, Art. II, § 1-A, additional. Article II of chapter 201 of the private and special laws of 1917 is hereby amended by adding thereto a new section to be numbered 1-A, to read as follows:

‘Sec. 1-A. Regulations of persons and businesses. The city council is hereby authorized to enact ordinances regulating the following classes of persons, business and purposes and may authorize the city clerk to grant licenses and permits therefore for such periods of time and in accordance with such rules and regulations, not inconsistent with law, upon payment by the licensee of such fees, and filing of such bonds as said city council may establish and make provisions for by ordinance, to wit: Auctioneers, the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other volatile inflammable liquids for fuel or power, the manufacture, storage, sale, transportation, disposition and use of explosives and inflammable liquids, billiard tables, pool tables, bowling alleys, roller skating rinks, junk dealers, dealers in second-hand parts and salvage of automobiles, dealers in second-hand merchandise, hawkers and peddlers, employment agencies,

itinerant vendors, public automobiles, taxi-cabs and motor buses, public wagons and trucks, amusements, exhibitions and performances, theatres, moving picture houses, inns and innholders, victualers, pawn-brokers, lodging houses of 10 lodging rooms or more, rooming houses, nursing homes, boarding houses, luncheonettes, soda fountains, public shooting galleries, the manufacture, storage, sale, disposition and use of fireworks, dance halls, circuses, and the erection and maintenance of signs, flags, banners, awnings, marquees and all other things within the limits of the sidewalk, roads, ways and streets of said city, and no such objects placed within said limits, in accordance with such ordinances shall be deemed defects in such sidewalk, roads, ways and streets.

The city council may by ordinance assign the duty of approving the issuing of licenses to appropriate city officials.'

Sec. 2. P. & S. L., 1917, c. 201, Art. V, § 8, amended. The 1st paragraph of section 8 of Article V of chapter 201 of the private and special laws of 1917 is hereby amended to read as follows:

'The names of the candidates nominated as provided in the preceding section shall be arranged according to lot under the title of the office to be filled. Lot shall be drawn by the city clerk, at which drawing the candidates or their representatives shall be entitled to be present. The ballots shall be without party mark or designation. The full name and residence of each candidate shall be given. At the ~~left~~ right of each name shall be a square within which the voter shall place a cross or a check mark to designate his choice. Blank spaces shall be left at the end of the list of the candidates for each office, in which the voter may insert the name of any person not printed on the ballot, for whom he desires to vote.'

Sec. 3. P. & S. L., 1917, c. 201, Art. V, § 8, amended. The 2nd paragraph of section 8 of Article V of chapter 201 of the private and special laws of 1917 is hereby repealed and the following enacted in place thereof:

'The ballot shall be printed substantially as follows:

CITY OF AUBURN

WARD —

Regular (or Special) City Election

(Date)

OFFICIAL BALLOT

INSTRUCTIONS TO VOTERS

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

If you wrongly mark, tear or deface the ballot, return it and obtain another.

FOR MAYOR

John Doe	Res.
Richard Roe	Res.
_____	Res.

FOR COUNCILMAN AT LARGE

John Brown	Res.
Richard Black	Res.
_____	Res.

FOR COUNCIL

Henry Smith	Res.
Richard White	Res.
_____	Res.

FOR SUPERINTENDING SCHOOL COMMITTEE

John Jones	Res.
William Jackson	Res.
_____	Res.

FOR WARDEN

Richard Doe	Res.
Charles Roe	Res.
_____	Res.

FOR WARD CLERK

John McCanty	Res.
William Brown	Res.
_____	Res.

Mark a cross (X) or a check mark (✓) in the square at the right of your answers. Shall
 Yes
 No

Sec. 4. P. & S. L., 1917, c. 201, Art. VI, § 1, sub-§ (a), repealed and replaced. Subsection (a) of section 1 of Article VI of chapter 201 of the

private and special laws of 1917, as repealed and replaced by section 8 of chapter 47 of the private and special laws of 1943, is hereby repealed and the following enacted in place thereof:

‘(a) The following officers shall be appointed by ballot by a majority of the voting members of the council at the meeting for organization of the council following the regular city election or as soon thereafter as may be, who shall hold their offices for an indefinite term: City manager and city treasurer, who shall possess the qualifications and perform the duties set forth in the charter for their respective offices, and as are now or may hereafter be prescribed by ordinance. Said city manager and city treasurer shall be subject to removal for cause as hereinafter specifically provided. No voting member of the council shall be eligible to appointment as city manager or city treasurer during the term for which he has been elected, nor shall any member of the council temporarily act in either of said capacities.

At the same meeting and in like manner the following officers shall be appointed by ballot by a majority of the voting members of the council: Clerk, city solicitor and tax collector, who shall hold office for a term of 2 years; assessor of taxes for 3 years, and a health officer for 3 years, whose appointment shall be subject to approval of the state commissioner of health and welfare. Said health officer shall appoint plumbing inspectors for the term of 1 year subject to the approval of said commissioner, as now provided by general law.’

Sec. 5. P. & S. L., 1917, c. 201, Art. VI, § 3, sub-§ (3), amended. Subsection (3) of section 3 of Article VI of chapter 201 of the private and special laws of 1917, as repealed and replaced by section 10 of chapter 47 of the private and special laws of 1943, is hereby amended by adding at the end thereof 2 new paragraphs to be lettered (a) and (b), to read as follows:

‘(a) Any member of the police or fire department who is promoted to the office of city marshal or chief of the fire department whose promotion is not made permanent, after having served his probationary period, shall be immediately restored to the position in the department by him held at the time of his promotion with the same rank or grade without the loss of pension or seniority rights or privileges; and any member holding office under him at the time of promotion shall continue to hold the same position except that he shall be considered as acting substitute in the position next above. The last man added to the force shall hold the appointment as an acting substitute and in case of demotion of the member of the force

then said acting substitute shall again be placed at the head of the waiting list.

(b) In the event of a vacancy in the office of the chief of the fire department or city marshal, the city manager shall designate or appoint an officer of the department as acting chief, or acting city marshal, who shall have the power, authority and duties of the regular chief, or city marshal, and shall serve as such acting chief, or city marshal, until such time as the office of chief, or city marshal, is filled in accordance with the charter regulations.

Sec. 6. P. & S. L., 1917, c. 201, Art. VI, § 4, amended. Section 4 of Article VI of chapter 201 of the private and special laws of 1917, as amended by section 11 of chapter 47 of the private and special laws of 1943, is hereby further amended to read as follows:

Sec. 4. Appointive officers; tenure; removal. All appointive officers and boards whose terms are not specified in this charter shall hold office at the pleasure of the appointing power. Appointive officers and boards, whose terms are specified in this charter, may be removed by the council upon written charges, of which the accused shall have notice, and after a public hearing on the same, at which the accused may be present and be heard thereon. This section shall not apply to the city manager and the city treasurer, the manner of whose appointments, terms and removals are otherwise provided herein.

The city manager or city treasurer may be suspended or removed for just cause and for reasons specifically given in writing to such city manager or city treasurer within 48 hours of his suspension or removal. Sickness or other physical incapacity of sufficient severity to permanently render either of them physically unfit to ever adequately perform the duties of his office shall be considered as cause for removal but in every such case, such officer shall be entitled to an honorable discharge.

The removal or suspension of the city manager or city treasurer shall be by a majority vote of the council. The city manager or city treasurer shall have the right of appeal within 5 days to a justice of the supreme judicial or superior court during term time or vacation, which court shall thereupon appoint a committee of reference composed of three men to be compensated in same manner as provided by revised statutes relative to reference cases. The appellant shall give written notice of his appeal with the city clerk. The court shall assign a date for hearing on said appeal to be held by the committee of reference within 20 days. The appellant shall

also have the right of appeal to the court from the decision of the committee of reference on question of law only.

The council shall, pending the outcome of the hearings on the removal or suspension of the city manager or city treasurer designate a properly qualified person to perform the duties of the officer suspended or removed and fix his compensation. Should the city manager or city treasurer prevail in his appeal, he shall receive his salary from the date of suspension or removal to the date of reinstatement.'

Sec. 7. P. & S. L., 1917, c. 201, Art. VI, § 11, repealed and replaced. Section 11 of Article VI of chapter 201 of the private and special laws of 1917, as repealed and replaced by section 12 of chapter 47 of the private and special laws of 1943, is hereby repealed and the following enacted in place thereof:

'Sec. 11. Planning board; term of office; vacancies. There shall be a city planning board which shall consist of 5 members who shall be appointed by the mayor with the approval of the council, none of whom shall hold any other public office or position in the city. The city manager and mayor shall serve as ex officio members of the board. The board shall elect its chairman from among the appointed members. No compensation shall be paid to any of the appointive members. And no additional compensation shall be paid to the city manager or mayor.

The term of the appointive members of the planning board shall be 5 years, except that, of the members first appointed one shall be appointed for a term of 1 year, one for 2 years, one for 3 years, one for 4 years and one for 5 years. If for any reason, a vacancy occurs in the membership of the planning board, the vacancy shall be filled forthwith by the mayor with the approval of the council for the unexpired term.'

Sec. 8. P. & S. L., 1917, c. 201, Art. VII, §§ 1, 2, 3, 11, amended. Sections 1, 2, 3 and 11 of Article VII of chapter 201 of the private and special laws of 1917 are hereby amended to read as follows:

'Sec. 1. Appointment and qualification of city treasurer; accounts to be kept; record to be submitted. The city treasurer shall be appointed by the city council as heretofore provided, and such appointment shall be based upon his knowledge, ability and training in bookkeeping and accountancy, and he need not be a resident of the city of Auburn or State of Maine at the time of his appointment.

Accounts shall be kept by the ~~auditor~~ city treasurer showing the financial transactions of all departments of the city. Forms for all such ac-

counts shall be prescribed by the ~~auditor~~ **city treasurer** with the approval of the city manager. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The ~~auditor~~ **city treasurer** shall furnish to the manager, prior to the first regular meeting of the council in each month, a report containing in detail the receipts and disbursements of the city on all accounts, the expenditures made and the obligations incurred during the preceding calendar month, and a balance sheet showing the financial condition of the city, of the ~~several funds~~ **appropriations for the several departments**, and the total unexpended balance to the credit of each department.'

'**Sec. 2. Annual audit.** All accounts of the city shall be audited annually by a qualified accountant to be chosen by the council. **In addition hereto the city council by vote may order an independent audit of any or all departments of the city at such other times as it may deem necessary or advisable.**'

'**Sec. 3. City treasurer to publish monthly statement; reports of other administrative officers.** The ~~auditor~~ **city treasurer** 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 council, render to the manager a full report of the transactions of his department for the year. On the basis of these reports, the manager shall prepare and publish an annual report. In addition to ~~a~~ **the** summary of the services rendered by the various departments the report shall show:

1. Receipts classified according to sources.
2. Expenditures classified according to objects. The classification of receipts and expenditures in the report shall conform in general to the classification in the ~~auditor's~~ **city treasurer's** books.
3. Balance sheets.
4. Such other financial information as may be required by the council.'

'**Sec. 11. Money to be paid out only on warrants; provisions.** Money shall be paid out only on warrants on the city treasury issued by the ~~auditor~~ **city treasurer** and countersigned by the city manager.

The ~~auditor~~ **city treasurer** shall examine all pay rolls, bills and other claims and demands against the city and shall issue no warrant for payment unless he finds that the claim is in proper form, correctly computed and duly certified, and legally payable.

The ~~auditor~~ city treasurer may require any claimant to make oath to the validity of a claim, may investigate any claim, and for such purpose or purposes may examine witnesses under oath.'

Sec. 9. P. & S. L., 1917, c. 201, Art. VII, § 14, repealed and replaced. Section 14 of Article VII of chapter 201 of the private and special laws of 1917, as amended by section 16 of chapter 47 of the private and special laws of 1943, is hereby repealed and the following enacted in place thereof:

'Sec. 14. Purchasing agent; powers, duties; city manager may act. The purchasing agent shall purchase all supplies, materials and equipment of every description or nature for the city for the several officers, boards and departments thereof; except that the council, by ordinance, may authorize the purchasing agent to combine with other units of government or with a state association of municipalities for purchasing purposes. Purchase of supplies, equipment and materials for schools shall be made by the purchasing agent upon requisition by the superintending school committee. Purchases shall be made only on written requisition in such form as said purchasing agent, with the approval of the city manager may require. All such requisitions shall state the quantity, quality, description and other specification of the item or items desired and shall be signed by the head of the department, office or department against which appropriations is to be charged.

The purchasing agent shall see to the delivery of supplies, materials and equipment to each department and take and file receipts therefor. He shall conduct all sales of property unfit or unnecessary for the city's use or for the use of any of the officers, boards or departments after such sales have been authorized by the council. Authorization by the council shall not be required for sale of produce and animals from the city farm.

The city manager shall act as purchasing agent until the council, by ordinance, shall provide differently for the appointment of a purchasing agent.'

Sec. 10. P. & S. L., 1917, c. 201, Art. VII, § 15, amended. Section 15 of Article VII of chapter 201 of the private and special laws of 1917, as enacted by section 17 of chapter 47 of the private and special laws of 1943, is hereby amended to read as follows:

'Sec. 15. Purchase of supplies to be upon bid; exceptions. All supplies, materials and equipment of any description or nature costing ~~\$50~~ \$300 or more, purchased for the city and the several officers ~~and~~, boards or departments thereof, including the overseers of the poor, excepting supplies pur-

~~chased and materials~~ for the superintending school committee, and supplies, **materials and equipment** for emergency purposes, shall be purchased upon sealed bid. The purchasing agent shall maintain a list of all supplies deemed deserving of competitive bid. Suppliers shall be entitled to listing upon written application to the purchasing agent, who shall retain said listing until sales agencies shall have failed to bid on 3 consecutive invitations. All invitations to bid shall specify, so far as possible, the kind and quality of the supplies, **materials and equipment** upon which bids are requested and shall reserve the right to reject any and all bids. If any bid is accepted, it shall be that of the lowest reputable bidder offering to supply the best comparable quality merchandise, material or equipment.'

Sec. II. Referendum. This act shall take effect 90 days after adjournment of this legislature only for the purpose of permitting its acceptance or rejection by the legal voters of the city of Auburn at the next general election therein, or at a special state election, or at any prior city election notified and called by the mayor and council, in the manner prescribed by the charter of said city of Auburn.

The question proposed on said ballot shall be substantially in the following form:

"Shall an act passed by the legislature in the year 1949, entitled, 'An Act Amending the Charter of the City of Auburn,' be accepted?" Otherwise said ballot shall be in form provided by law when a constitutional amendment is submitted to the vote of the people.

If a majority of the qualified voters of the city, present and voting, vote in favor of the acceptance of this act, it shall become operative. The city clerk shall forthwith file with the secretary of state a certificate of the action of the voters thereon.