

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 863

H. P. 604

House of Representatives, January 25, 1961

Referred to the Committee on Legal Affairs. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Plante of Old Orchard Beach by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT to Grant a New Charter to the Town of Old Orchard Beach.

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

Town Charter of Old Orchard Beach.

Article I.

Grant of Powers to the Town.

Sec. 1. Corporate existence retained. The inhabitants of the Town of Old Orchard Beach, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal corporation by the name of the "Town of Old Orchard Beach, Maine."

Sec. 2. Powers of the town. Except as otherwise herein provided, the town shall have, exercise and enjoy all rights, immunities, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations provided for under the Constitution and general laws of the State of Maine governing municipal corporations.

In this charter, no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the town would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the town may have all the powers the town may assume pursuant to state laws and to the provisions of the State Constitution.

Article II.

Establishment of Districts and Election of Officers.

Sec. 1. Division of town into districts. The town shall be divided into 5 councilor districts as follows:

Councilor District 1.

Ocean Park: Bordered on the south by Goose Fare Brook; on the north by Boston & Maine Railroad; on the northwest by the center line of Tunis Avenue projected to the Boston and Maine Railroad; and on the southeast by the beach.

Councilor District 2.

Halfway Section: Bordered on the west and southwest by the Saco City line; on the south by the Boston & Maine Railroad and on the east by a line beginning at a point where Tunis Avenue projected intersects the Boston & Maine Railroad; thence in a straight line through Jameson School to the Saco City line.

Councilor District 3.

Beach Front: Bordered on the northwest by the Boston & Maine Railroad; on the southeast by the beach; on the southwest by the center line of Tunis Avenue projected to the Boston & Maine Railroad, and on the northwest by the Scarborough Town line.

Councilor District 4.

Camp Ground Section: Bordered on the south by the Boston & Maine Railroad; on the west by the easterly sideline of District No. 2, the line projected from Tunis Avenue through Jameson School; on the northwest by the Saco City line and on the east, by a line beginning where the center line of Heath Street intersects First Street, thence northerly along the center of Heath Street to the center of Saco Avenue, thence easterly along the center line of Saco Avenue, thence northerly along the center line of School Street projected to the Saco City line.

Councilor District 5.

Downtown Section: Bordered in the southeast by the Boston & Maine Railroad; on the northeast by the Scarborough line; on the northwest by the Saco city line and on the southwest by the easterly boundary of District No. 4, Heath Street, Saco Avenue and School Street projected.

On or before November 1, 1961 the selectmen shall file with the town clerk a map or maps and descriptions of each of the councilor districts as hereinbefore described, and cause a copy of such map or maps and descriptions to be posted at the town hall; and they shall, in at least one public and conspicuous place within each district, post a map or description of the district.

On or before the first day of November, 1961 the selectmen shall certify to the town clerk the total number of registered voters in each district on October 1st and the total number of town meeting members each district is entitled to elect at the next annual election, and thereafter, the council shall annually, in the month of August, revise the list of voters in each district and shall, on or before the 15th day of September, certify to the town clerk the total number of registered voters in each district as of the 20th day of August next preceding, and the number of town meeting members which each district is entitled to elect at the next annual town meeting, and such certification shall be final.

The selectmen for the year 1961 shall, between the dates of September 1, 1961 and October 1, 1961, call for a registration and party enrollment of all of the voters of said town, and they shall, on or before October 10, 1961 certify to the town clerk a revised voting and enrollment list in accordance with said new registration and enrollment. Upon completion of said new registration and party enrollment, all registrations and party enrollments prior thereto shall then be void; provided however that the election officials for the years 1961 and 1962 may permit registration and party enrollment at the voting places on any election day during said years of any person qualified to vote in town affairs as of January 1, 1961.

Sec. 2. District voting. It shall not be necessary that the voting place for district voting be within the district; and 2 or more districts may vote at the same voting place. The voting of each district shall be conducted independently of that of any other district and under separate election officials. The selectmen, prior to November 15, 1961, shall appoint the election officials provided for in precinct voting under the general law to act until December 1, 1962; and thereafter, the councilmen shall annually, in the month of November, appoint election officials to act for one year from the first day of December following their appointment.

Sec. 3. Terms of incumbent officers and termination thereof. The terms of office for all persons whose terms would expire under the general law the first Monday of March, 1962 shall expire on December 31, 1961. The terms of office for all persons holding office which would expire under the general law on the first Monday of March 1963 shall expire December 31, 1962. The terms of office for all persons holding office which would expire under the general law on the first Monday of March, 1964, shall expire December 31, 1963.

Sec. 4. Annual election date. The annual election date for each year following the year 1961 shall be the first Monday after the first Tuesday in December of the preceding year. Except as otherwise provided, all elected officials shall be sworn by the town clerk or a justice of the peace to the faithful discharge of their duties and shall assume their offices on the first day of January following their election.

Sec. 5. Officers, how elected. The town shall elect by Australian Ballot annually, 5 district councilmen, one by each councilor district, who shall reside in the district from which he is chosen. The town shall elect in the same manner 2 councilmen-at-large who may reside in any councilor district. For the year 1962 the candidate for councilman-at-large receiving the largest number of votes shall be elected for a 2-year term; and the candidate for councilman-at-large receiving the second largest number of votes shall be elected for a one-year term. Thereafter, when the term of councilman-at-large expires, one councilman-at-large shall be elected for a 2-year term.

Whenever the office of district councilman shall become vacant by death, resignation or other disability, the town meeting members from within that district may meet, and by a majority vote of those present, elect a councilor to complete the unexpired term.

Whenever the office of a councilman-at-large becomes vacant by death, resignation or other disability the town meeting membership may meet, and by a majority vote of those present, elect a councilman-at-large to fill the vacancy for the unexpired term.

Except as otherwise provided by this charter all elections shall be held in accordance with the general law, and all candidates for offices must qualify to have their names placed on the official ballot in the following manner:

Candidates for town meeting membership and candidates for district councilman must obtain the signatures of at least 25 qualified registered voters from within their district.

Candidates for all other public office must obtain the signatures of at least 75 qualified registered voters of the town.

Sec. 6. Officers elected under the general law. The offices of town clerk, member of superintending school committee, member of civil service commission, member of park commission and constables shall be filled in accordance with general law by Australian Ballot, except insofar as the election dates and tenures of office are modified by the terms of this charter.

Article III.

Councilmen—Powers and Duties

Sec. 1. Powers and duties, general. The councilmen shall have the same powers and duties which are now vested in the selectmen of towns under the general laws of the State of Maine.

Sec. 2. Powers and duties, additional. Except as otherwise provided by this charter it shall also be the duties of the councilmen to:

- a. Appoint by a majority vote of its members a town manager for an indefinite term, and to remove him, for cause by a vote of at least $\frac{2}{3}$ of its members. The town manager shall hold the office of tax collector, Director of Public Welfare and Director of Public Works.
- b. Appoint by a majority vote of its members a chief assessor, to serve for an indefinite term, and to be removed only for cause and by a vote of $\frac{2}{3}$ of its members.
- c. Appoint by a majority vote of its members, and remove for cause by a majority vote of its members, the following officers:
 1. Two assistant assessors, each for a term of one year.
 2. A town treasurer, for a term of one year.
 3. Chief of police for a term of one year.
 4. Health officer for a term of 3 years.

No two offices of tax collector, treasurer or assessor may be held by the same person simultaneously; and the town manager shall not be a member of the town council.

- d. Inquire into the conduct of any office, department or agency of the town, and make investigation as to its municipal affairs.
- e. Adopt plans.
- f. Adopt and modify the official map of the town.
- g. Provide for a semiannual audit.

Sec. 3. Councilmen; qualifications. The councilmen shall be qualified voters of the town and shall remain inhabitants of the town during their terms of office. They shall be restricted in their contractual relations with the town and in matters where they are pecuniarily interested in the same manner as prescribed by the general law relating to municipal officers. Removal from office for failure to maintain the aforesaid qualifications shall be in accordance with the general law.

Sec. 4. Compensation. Each councilman for the year 1962 shall receive the sum of \$250. Each year thereafter, the compensation of the councilmen shall be fixed by the town meeting membership. Subject to the right of the town meeting membership to fix salaries and wage scales, the town council shall fix the salaries of all other town officials and employees, except those employees coming under the jurisdiction of the superintending school committee and the park commission.

Sec. 5. Induction of council into office. The town council shall meet the first business day in January following the regular town election, and at said meeting, councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk.

Sec. 6. Council: regular meetings. The town council shall, at its first meeting or as soon thereafter as possible, establish a place and time for holding its regular meetings, and shall hold such regular meetings at least once a month. The regular meetings of the council shall be open to the public.

Sec. 7. Council: special meetings. Special meetings of the council may be called on 24-hours' actual personal notice by the chairman, and in the case of his absence, disability or refusal, may be called by a majority of the town council in the same manner.

Sec. 8. Chairman. At its first meeting, or as soon thereafter as practicable, the council shall elect by a majority vote one of its members as chairman for the ensuing year, and the town council may fill, for an unexpired term, any vacancy in the office of chairman in the same manner. The chairman shall preside at meetings of the council and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for the purpose of military law.

Sec. 9. Quorum. A majority of the town council shall constitute a quorum for the transaction of business.

Sec. 10. Vote, how taken. In all meetings of the town council, the vote on all matters passed upon shall be taken by "Yeas" and "Nays", and such individual "Yea" and "Nay" votes shall be entered upon the records of the meeting of the council, which records shall be open to the public.

Sec. 11. Officers and employees of the town. Except as otherwise herein provided it shall be the duty of the town manager to appoint department heads and other employees of the town, subject to confirmation by the town council.

Sec. 12. Budget and financial reports. It shall be the duty of the council to prepare a budget to present to the town meeting members on the first Monday in March, and it shall contain:

- a. Exact statement of the financial condition of the town as of December 31st of the preceding year.
- b. An 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 by a separate column therefor.
- c. An 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 town meeting.

Sec. 13. Town manager, duties. It shall be the duty of the town manager to:

- a. Prepare and submit to the council as of the end of the fiscal year, a complete report on the finances and administrative activities of the town for the preceding year, as well as a cumulative monthly report of the condition of all appropriation accounts showing appropriations, income and anticipated income to each account, expenditures to date, balance remaining, and anticipated expenditures for the remainder of the year.
- b. Make such recommendations as may seem to him desirable after consultation with respective department heads.
- c. Perform such other duties as may be prescribed by this charter or required of him by the council not inconsistent with this charter.

Sec. 14. Department of public welfare. The director of public welfare shall exercise all of the powers and perform all of the duties conferred or imposed by law upon overseers of the poor.

Sec. 15. Department of public works. The director of public works shall exercise all of the powers and perform all the duties conferred or imposed by law upon road commissioners.

Sec. 16. Health officer. The town council shall appoint for a term of 3 years a health officer, who shall exercise such powers and perform such duties as may be conferred or imposed by law. The health officer shall meet such qualifications as may be specified for such positions by the State Commissioner of Health and Welfare.

Sec. 17. Fiscal year. The fiscal year shall begin January 1st and end December 31st.

Sec. 18. Appropriations lapse at end of fiscal year. Except as otherwise provided by law, all appropriations shall lapse at the end of the fiscal year; and all surpluses shall be appropriated at the next annual town meeting.

Sec. 19. Borrowing in anticipation of other revenues. In any fiscal year, in anticipation of the collection or receipt of taxation and of other revenues of that fiscal year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the town, each of which shall be designated "Special Revenue Note for the year.". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year in which the original note shall have been issued.

Sec. 20. Town treasurer, powers and duties. The powers and duties of the town treasurer shall be the same as provided for town treasurers under the general laws of the State of Maine.

Article IV.

Division of Assessment.

Sec. 1. Assessors. There shall be established a Division of Assessment, which shall consist of a chief assessor and 2 assistant assessors, whose appointments have hereinbefore been provided for; who shall exercise the same powers and be subject to the same duties and liabilities as assessors under the general laws of the State of Maine, subject to those powers hereinafter vested in the town council as a Board of Assessment Review.

Sec. 2. Board of assessment review. The members of the town council shall constitute a board of assessment review with the following powers and duties:

- a. The board shall adopt regulations regarding the procedure of assessment review, administering of oaths, taking of testimony and holding of hearings.
- b. On written request by any property owner, stating therein a grievance concerning an assessment by the assessors, the board shall, within 30 days after receipt of said written request, hold a hearing to receive evidence concerning said grievance, and wherever, in the opinion of a majority of its members, the evidence shall warrant the same, they shall recommend a review and revision of said assessment by the assessors in accordance with their findings. The board may require such information regarding the values of the properties in question as they deem necessary, and in such form as they deem fit.

Any aggrieved taxpayer desiring to appeal from the decision of the board of assessors or the Board of Assessment Review must qualify and proceed under the general laws of the State of Maine.

Article V.

Purchasing.

The town council shall act as purchasing agent for the town and shall have under its supervision and management the purchase of all supplies, materials

and equipment for the use of the town in the operation and maintenance of its several departments; provided however, that all such purchases for the school department shall be made in accordance with the general law.

The town council may delegate purchasing powers to the town manager; provided however that any purchase in excess of \$100 must be by the specific authority of the council.

It shall be the duty of the town council to provide ample opportunity for competitive bidding on all purchases or contracts involving a sum in excess of \$500.

Article VI.

Town Meetings.

Sec. 1. Annual town meeting; when held. Annual town meetings shall be held on the first Monday in March.

Sec. 2. Town meeting membership. The town meeting membership shall consist of one member for each 50 registered voters and one for any major portion thereof; but in no case, fewer than 5 from each councilor district.

Sec. 3. Town meeting membership; how elected. At the annual election for the fiscal year 1962, and at each subsequent annual election, each councilor district shall elect by Australian Ballot for a term of one year, the number of town meeting members to which the district is entitled in accordance with the certificate filed with the town clerk as provided for in Article II, section 1 of this charter.

Sec. 4. Town meeting members, compensation. Town meeting members shall serve without compensation.

Sec. 5. Town meeting membership, quorum. A quorum shall consist of a majority of the membership.

Sec. 6. Town meeting membership, powers. The town, after the acceptance of the charter, shall continue to have the capacity to act through and to be bound by its town meeting members, who shall, when convened from time to time as herein provided, constitute representative town meetings; and the representative town meetings shall exercise exclusively, so far as will conform to the provisions of this charter, all powers vested in the municipal corporation. Action in conformity with all provisions of law now or hereafter applicable to the transaction of town affairs in town meeting shall, when taken by any representative town meeting in accordance with the provisions of this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment of representative town meeting government.

The calling of, the warrant for, election of a moderator and all other procedure pertaining to the town meetings, shall be in accordance with the general laws of the State of Maine, provided however that the town meeting membership may, at its annual town meeting, elect a moderator to serve for the term of one year, a budget committee for the term of one year, and such other committees as they deem fit for a term not to exceed one year.

Sec. 7. Power of initiative. The voters of the Town of Old Orchard Beach shall have the power to require the town council to call a special town meeting and to require of the council to insert in the warrant for said special town meeting or any annual town meeting, any article of their choosing by petition to the council requesting the same and containing at least 300 signatures of registered voters of the town. If, after receiving such petition, the council unreasonably refuses to call said special town meeting or insert said article in the warrant for a special town meeting or annual town meeting, the voters may, by petition of not less than 300 registered voters of the town, apply in writing to a justice of the peace in the county, who may issue his warrant for calling such meeting.

Sec. 8. Recall. The power of recall of elective officers shall be in accordance with the Constitution and the general laws of the State of Maine.

Article VII.

General Provisions.

Sec. 1. Ordinances not inconsistent to continue in force. All ordinances and by-laws of the Town of Old Orchard Beach in force at the time this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Sec. 2. Publicity of records. All records and accounts of every office, department or agency of the town shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the town council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish, and except such records as are required by state law to be kept confidential.

Sec. 3. Repealing clause. All acts and parts of acts of the private and special laws of Maine relating to the Town of Old Orchard Beach, inconsistent with the provisions of this charter are hereby repealed.

Sec. 4. Separability clause. If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

Sec. 5. Short title. This charter shall be known and may be cited as the "Town Charter of Old Orchard Beach." The town clerk shall cause it to be printed and made available to the public promptly.

Sec. 6. Referendum; effective date; certificate to Secretary of State. This act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the qualified voters of the Town of Old Orchard Beach at a special meeting to be called by the selectmen and held no later than 30 days after the effective date of this act. Such special meeting shall be called, advertised and conducted according to the law relating to municipal elections; provided however, that the municipal officers shall not be required to prepare for posting, nor the town clerk to post, a new list of voters, and for the purpose of registration of voters said municipal officers shall be in session the 3 secular days next preceding such election, the first and 2nd days thereof to be devoted to registration of voters and the last day to enable the

board to verify the corrections of said lists and to complete and close up its records of said session. The town clerk shall prepare the required ballots on which he shall reduce the subject matter of this act to the following question: "Shall the Act Granting a New Charter to the Town of Old Orchard Beach, passed by the 100th Legislature, be accepted?" The voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said meeting; provided that the total number of votes cast for and against the acceptance of this act at said meeting equaled or exceeded 20% of the total number of votes cast in said town for all candidates for Governor at the next previous gubernatorial election.

The result of the vote shall be declared by the municipal officers of the Town of Old Orchard Beach and due certificate thereof filed by the town clerk with the Secretary of State.