

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND FIRST LEGISLATURE

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**Legislative Document**

**No. 582**

H. P. 383

House of Representatives, January 23, 1963

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

HARVEY R. PEASE, Clerk

Presented by Mr. Baldic of Waterville.

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## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-THREE

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### **AN ACT Providing for a New Charter for the City of Waterville.**

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

#### **ARTICLE I**

##### **Grant of Powers to the City**

**Sec. 1. Incorporation.** The inhabitants of the City of Waterville in the County of Kennebec, within the corporate limits as now established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity, under the name of the City of Waterville.

**Sec. 2. Form of government.** The municipal government provided by this charter shall be known as the Mayor-Council Form of Government. All powers of the city, subject only to the limitations imposed by the Constitution and statutes of the State of Maine and by this charter, shall be vested in the mayor, who shall execute the laws and administer the government of the city, and an elective council, which shall enact local legislation and determine policies. The mayor shall be aided by an administrative assistant who, in the performance of his duties, shall be responsible to the mayor.

**Sec. 3. Powers of city.** The city shall have and exercise all powers, functions, rights and privileges possessed by the City of Waterville prior to the adoption of this charter; also all powers, functions, rights and privileges granted to municipal corporations by the Constitution and statutes of the State of Maine together with all the implied powers necessary to carry into execution all the powers granted; also, except as prohibited by the Constitution or statutes of this State or restricted by this charter, all municipal power, functions,

rights, privileges and immunities of every name and nature whatsoever. The city may acquire property, real or personal, for any city purpose, in fee simple, or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interests may require.

## ARTICLE II

### The Mayor; the Administrative Assistant

**Sec. 1. Qualifications.** The mayor shall be an inhabitant of the city and a registered voter therein.

**Sec. 2. Election and term.** The mayor shall be elected by the inhabitants of the city, voting in their respective wards, as provided in Article IX of this charter. His term of office shall be 2 years commencing with his induction into office on the first Tuesday of January next following his election and until his successor is elected and inducted.

**Sec. 3. Salary.** The salary of the mayor shall be \$3,500 per year unless and until changed by ordinance. The council shall not change the salary of any mayor, except prior to the general municipal election to take effect at the beginning of the next term of office for mayor.

**Sec. 4. Vacancy in office of mayor.** The office of mayor shall be deemed vacant in case of failure to qualify within 14 days after notification of election or by reason of death, resignation, removal from office, removal from the city, continuous absence from the city for more than 3 months, conviction of a felony or violation of any of the duties of office which, by the provisions of this charter, render the office vacant.

If any such vacancy occurs, the chairman of the council shall exercise all the powers and perform all the duties of the office until a special municipal election shall be called for the purpose of electing a mayor. Such election shall be called within 30 days of such vacancy, unless the vacancy occurs within the 6 months prior to the next regular municipal election. The chairman of the council shall continue to have a vote in the council, but he shall not have the veto power.

**Sec. 5. Powers.** The mayor shall be the chief executive officer and head of the administrative branch of the city government. The mayor shall:

**I.** Preside at the meetings of the council and recommend to the council such measures as the business and interest of the city, in his opinion, require but he shall vote only in case of tie.

**II.** Have the power to veto any ordinance, order or resolution, excepting rules or orders of a parliamentary character and an ordinance revising ward boundaries; also shall have power to veto any severable portion of any appropriation order, without affecting the validity of the remainder of the order. If the mayor disapproves of any such measure, he shall return it with his written objections, at the next meeting of the council, which shall pro-

ceed to reconsider the same. If upon such reconsideration, it shall be passed by a vote of not less than 5 members of the council, it shall have the same validity as if signed by the mayor.

**III.** Call special meetings of the council, when necessary, by notice in a newspaper having general circulation in the city, or by causing a summons or notification to be given in hand, or left at the usual dwelling place of each member thereof.

**IV.** See that the provisions of this charter, the ordinances of the city and all laws are enforced.

**V.** Exercise directly, or with the assistance of the administrative assistant, supervision of all of the executive and administrative work of the city and provide for the coordination of administrative activities. Neither the council, nor any of its members, shall direct or request the appointment of any person to, or his removal from office by the mayor or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city, except as otherwise provided in this charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the mayor, and neither the council, nor any member thereof, shall give orders to any subordinate of the mayor either publicly or privately. Any councilman violating the provisions of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councilman.

**VI.** Appoint the administrative assistant and remove him by written notice submitted to the administrative assistant at least 30 days prior to the termination of his appointment.

**VII.** Appoint, with the approval of a majority of the council, the city solicitor, the city auditor and the members of all boards and commissions established by ordinance pursuant to the provisions of this charter, Article IV, section 8.

**VIII.** Remove, at his pleasure, all officers appointed by him, without council confirmation, except the city solicitor, city auditor and members of boards and commissions who have been appointed for a definite term.

**IX.** Submit annually to the council for its consideration and approval an operating and a capital budget.

**X.** Sign contracts, bonds or other instruments requiring the assent of the city, except those which other officers are authorized to sign.

**XI.** See that the terms and conditions of all contracts are faithfully executed.

**XII.** Upon service of notice, summons or process upon him, in any action or proceedings against the city, notify the city clerk and forthwith inform the council thereof in writing.

**XIII.** Exercise such other powers and perform such other duties as may be prescribed by this charter, by ordinance or by applicable state law.

**Sec. 6. Administrative assistant.** There is hereby established the office of administrative assistant, who shall be appointed by the mayor for an indefinite term and may be removed by the mayor at his pleasure. The administrative assistant shall be the mayor's principal assistant. He shall be appointed solely on his ability to perform the duties and functions of his office, as set forth in this charter, and shall have had, during the 10 years immediately preceding his appointment, at least 5 years of successful experience as an executive or administrator such as would qualify him for the performance of these duties. He shall possess special knowledge and skills in the fields of administration, accounting and personnel. Should the mayor fail to appoint an administrative assistant within 90 days of the effective date of this charter, or within 90 days of the occurrence of any vacancy in the position, the council shall make the appointment of an individual meeting the qualifications set forth in this charter. The mayor may assign any other officer or employee of the city to perform the duties of the administrative assistant during the vacancy of that office or absences or disability of that officer. The administrative assistant shall, during his tenure of office, reside within the city.

**Sec. 7. Salary of administrative assistant.** The appointed administrative assistant shall be paid a salary of not less than \$8,000 per year, and in an amount to be fixed by the mayor with the approval of the council. The council shall not decrease the salary of any incumbent administrative assistant.

**Sec. 8. Powers and duties of administrative assistant.** The administrative assistant, under the supervision of the mayor and subject to direction by the mayor, shall:

- I.** Supervise the heads of all departments, except the city auditor and city solicitor.
- II.** Appoint and remove, with the approval of the mayor, the heads of all departments and administrative officers of the city, except the city auditor and city solicitor.
- III.** Inform himself and keep the mayor advised concerning the activities of all offices, departments and boards and make, or cause to be made, investigations and studies of the internal organization and procedure of any office or department, and may require such reports from any of them which he deems necessary.
- IV.** Prescribe accepted standards of administrative practice to be followed by all offices and departments.
- V.** Recommend to the council, through the mayor, a pay plan and a municipal civil service program as specified in Article V, for all officers and employees.
- VI.** Prepare the annual operating and capital budgets and supervise the execution of budget ordinances.
- VII.** Make information available to the mayor, the council and the public concerning the current status of the financial affairs of the city and all offices, departments and boards receiving appropriations from the city.

**VIII.** Attend meetings of the council at its request, and make available such information as it may require.

**IX.** Perform all other duties required of him by this charter, or by ordinance, or assigned to him in writing by the mayor. The mayor, by prior written notice directed to the administrative assistant, may relieve the administrative assistant of any duties, powers or responsibilities granted him by the terms of this charter. Such written notice, signed by the mayor, shall be filed with the city clerk as a document of public record.

**Sec. 9. Limitation of political activity of administrative assistant.** The administrative assistant is forbidden to use his official authority or influence for the purpose of interfering with an election or a nomination for municipal office or affecting the result thereof, or directly or indirectly to coerce, attempt to coerce, command or advise any other appointed municipal officer or servant or employee, to pay, lend or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency or person for political purposes. The administrative assistant is forbidden to make any such contributions for political purposes. The administrative assistant is forbidden to take any active part in political management or in political campaigns.

The sole ground for removal of the administrative assistant and his discharge from office by the council shall be the finding by the council, based on due proof submitted to the council upon a public hearing held upon notice for that purpose, that the administrative assistant has violated these terms of the charter restricting his political activity.

### ARTICLE III

#### The Council

**Sec. 1. Number; term.** The council shall have 7 members, one elected from each ward, as provided in Article IX of this charter. They shall serve for a period of 2 years and until their successors are elected and qualified.

**Sec. 2. Qualifications.** Councilmen shall be inhabitants of the city and registered voters therein and shall be at the time of their election residents of their respective wards. During their term of office, councilmen shall not hold any other public office the salary of which is payable by the city.

**Sec. 3. Salary.** Councilmen shall be paid \$10 for each council meeting actually attended, but in no case shall they receive more than \$500 in one year. The salary of councilmen may be changed by ordinance, provided that such ordinance is passed prior to the general municipal election and to take effect at the beginning of the next term of office for councilmen.

**Sec. 4. Vacancies.** The office of councilmen shall be deemed vacant in case of failure to qualify within 14 days after notification of election, or by reason of death, resignation, removal from the city, continuous absence from the city for more than 3 months, conviction of a felony, or violation of any of the duties of office which, by the provisions of this charter, render the office

vacant. If, during his term of office, a councilman should move his residence outside the ward from which he was elected, his office shall not be declared vacant on that account, provided he continues to reside within the city. Vacancies in the council shall be filled by special election in the ward as provided in Article IX of this charter, unless such vacancy occur during the 3 months prior to a regular municipal election.

**Sec. 5. Meetings of council.** The first meeting of each newly elected council, for induction into office, shall be held at 7 P.M. of the first Tuesday of January next following its election, after which the council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than twice each month. All meetings of the council shall be open to the public. It shall keep a journal of its proceedings which shall be a public record.

**Sec. 6. Organization.** The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts. After the organization of the council and the induction of a mayor and when a quorum of the council shall be present, the council, with the mayor presiding, shall proceed to elect a chairman. The chairman shall preside at all meetings of the council in the absence of the mayor. In the absence of the mayor and the chairman, the council shall choose a chairman, pro tempore, who shall exercise the powers of a permanent chairman. The council shall determine its own rules and order of business.

At any meeting of the council 5 members shall constitute a quorum, but a less number may adjourn from time to time. The council shall provide, by ordinance, a means by which a minority may compel the attendance of absent members. Special meetings of the council may be called by the mayor or, in his absence, by the chairman of the council, and shall be called by the chairman upon petition of a majority of all members of the council.

All councilmen, including the chairman, shall be entitled to vote in the council at all times. Any administrative officer of the city in matters relating to the functions of his office, and the mayor at all times shall have the right to attend any meeting of the council, of any of its committees, and may express his views on matters pending before the council, but he shall have no right to introduce any motion, resolution or ordinance, or amendments thereto, nor to vote thereon. The manner in which each member of the council votes upon all propositions shall be entered upon the journal of the proceedings.

The city clerk shall be secretary of the council unless the council by a vote of not less than 5 shall determine to elect and employ another as secretary of the council, who shall not be selected from its own membership. The clerk shall give notice of council meetings, shall keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances, orders and resolutions and shall perform such other duties as shall be required by this charter or by ordinance.

**Sec. 7. Powers.** All legislative powers of the city shall be vested in the city council and shall be exercised by it in the manner and subject to the lim-

itations set forth in this charter. Without limitation to the foregoing, the council shall have power to:

- I.** Adopt the annual budget of the city and appropriate money for all city purposes.
- II.** Authorize the issuance of bonds by a bond ordinance.
- III.** Establish administrative departments pursuant to the provisions of this charter, establish appropriate minimum qualifications for department heads, and revise the administrative code by ordinance.
- IV.** Adopt, upon recommendation of the mayor, a pay plan for all persons employed by the city, except those whose compensation is fixed by this charter or by state statute, and adopt the rules and regulations of a municipal civil service program pursuant to the civil service provisions of this charter.
- V.** Provide, by ordinance, for appropriate boards or commissions as it shall deem advisable to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances.
- VI.** Confirm, by a majority vote, all appointments made by the mayor to such boards or commissions and the appointment of the city solicitor and the city auditor.
- VII.** Conduct investigations of the operation of any office or department administering the affairs of the city, or on any subject upon which it may legislate. In conducting investigations the council shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers pertinent thereto.
- VIII.** Authorize, by ordinance, executive and administrative officers of the city to issue licenses and permits.
- IX.** Authorize, by ordinance, executive and administrative officers of the city to make contracts involving less than \$2,000 pursuant to duly enacted appropriation orders.
- X.** Establish, by ordinance, fines and penalties for the violation of its ordinances.

**Sec. 8. Ordinances, orders and resolutions.** The council may act by ordinance, order or resolution. All acts making regulations of a general, permanent nature shall be by ordinance. All acts appropriating money or legislation of a limited or temporary nature shall be by order. Except as in this charter otherwise provided, all legislation and appropriations of money shall be by ordinance or by order save that where obligations have been incurred by ordinance or order, payment thereof may be ordered by resolution, and save also that licenses may be granted by resolution, and the powers conferred by Article VII hereof exercised by resolution. All amendments and repeals of ordinances shall be by ordinance. Every ordinance, order and resolution shall be in writing, and read in full at a council meeting before a vote is taken there-



of; and upon every such vote the ayes and nays shall be recorded. The subject of every ordinance and order shall be set out clearly in the title thereof, and no ordinance or order, except one making appropriations, shall contain more than one subject. Orders making appropriations shall be confined to the subject of appropriations. The enacting clause of all ordinances shall be in the words, "Be it enacted by the City Council of the City of Waterville, as follows:."

**Sec. 9. Procedure for passage of ordinances.** Every ordinance or order, other than emergency ordinances, shall have 3 public readings, not more than 2 of which shall be on the same day. An emergency ordinance is an ordinance for the immediate preservation of the public peace, health or safety, in which the emergency is defined and declared in a preamble thereto, separately voted on, and receiving the affirmative vote of all members of the council. After the 3rd public reading, the council may finally adopt an ordinance or order by the affirmative vote of a majority of the entire membership of the council.

Ordinances, orders and resolutions adopted by the council shall be submitted to the mayor and he shall, within 10 days, either approve the same by affixing his signature thereto, or return it to the secretary of the council with his written objections, and at the next meeting the council shall proceed to reconsider the same. No ordinance, order or resolution shall take effect without the mayor's approval unless the mayor fails to return the ordinance, order or resolution to the secretary of the council within 10 days after it has been presented to him, or unless the council upon reconsideration thereof at the next meeting following its return by the mayor, shall by a vote of not less than 5 of the members thereof resolve to override the mayor's veto. The mayor may veto in like manner any individual item of expenditure in any appropriating ordinance and approve the balance of such appropriating ordinance.

**Sec. 10. Publication of ordinances.** Every ordinance shall be published at least once in a newspaper having general circulation in the city within 10 days after its passage and approval, except that in the case of a lengthy ordinance, the council may by the affirmative vote of 5 members order a summary of the ordinance to be made by the solicitor and said summary shall be published instead, provided that the publication contain notice that copies of the full document are available at the clerk's office upon request. Every ordinance, after its enactment, shall be recorded in a book kept for that purpose, which record shall be preserved in the office of the city clerk.

**Sec. 11. Effective date of ordinances.** Ordinances or orders making the annual tax levy, ordinances or orders relating to local improvements and assessments, and emergency ordinances, shall take effect immediately upon their passage and approval. All other ordinances shall take effect 10 days after the date of their publication, as required by Article III, section 10, of this charter, unless a later date is fixed therein, in which event they shall take effect at such later date.

**Sec. 12. Independent annual audit.** Prior to the end of each fiscal year the council shall designate qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report

to the council. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

## ARTICLE IV

### Administrative Organization

**Sec. 1. Departments.** The administration of the city shall be distributed among the following departments: Finance, Records, Personnel, Public Works, Public Health and Welfare, Public Safety or such other departments as may be established by ordinance of the city council.

**Sec. 2. Heads of departments.** Each department shall be headed by a director or appropriate city officer, who shall have control and direction of the department, subject to the general supervision of the administrative assistant. The head of each department shall, with the approval of the administrative assistant, have the power to appoint and remove all officers and employees of the department, subject to the civil service provisions of this charter.

Two or more departments may be headed by the same individual, and the administrative assistant may head one or more departments, provided that one officer always be designated as city clerk and one officer as tax assessor, who may or may not be heads of departments.

Each department head shall possess the necessary qualifications to ensure efficient administration of such department. The director of public works shall be, or shall appoint to his department, a registered civil engineer to serve as city engineer. The director of public health and welfare shall be, or shall appoint to his department, a Doctor of Medicine or Osteopathy licensed to practice in the State of Maine, to serve as health officer. The council may by ordinance establish further minimum qualifications for department heads.

**Sec. 3. City clerk.** The city clerk shall be the secretary of the council, unless the council shall elect to appoint a separate officer as secretary of the council under the provisions of Article III, Section 6 of this charter, and shall perform such duties as are usually performed by clerks of municipal corporations, and all such as are required by the laws of the State, and by this charter, and, in addition, shall perform all such other duties as are required of him by the council. He shall be the custodian of the official seal of the city.

**Sec. 4. Tax assessor and board of assessment review.** There shall continue to be under the provisions of this charter a tax assessor and a board of assessment review as provided in the private and special laws of 1887, chapter 195, sections 8-A to 8-G, as enacted by section 2 of chapter 146 of the private and special laws of 1957.

**Sec. 5. City solicitor.** The mayor, with the approval of a majority of the members of the council, shall appoint a city solicitor. The city solicitor shall be the legal advisor of the council and of the officers of the city. He shall,

under the direction of the council, prosecute all suits for, and defend all suits brought against, the city, and shall prosecute all persons accused of any violation of the city ordinances. He shall perform such other and further duties as are required by the laws of the State, by the provisions of this charter, or by the council. In special cases, the council may authorize or require him, at the expense of the city, to secure the advice or service of such additional counsel as may be deemed best. The solicitor and each of his assistants shall be attorneys admitted to practice in all the courts of the State of Maine.

**Sec. 6. City auditor.** The mayor, with the approval of a majority of the members of the council, shall appoint a city auditor. The auditor shall have knowledge of accounting, and shall make a monthly report to the council. He shall audit and approve before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government. He shall inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government. He shall perform all other duties imposed upon him by the council, by the laws of this State, or by the provisions of this charter.

**Sec. 7. Salaries of officers and employees.** All persons employed by the city, whether officers or otherwise and paid either in part or in whole by appropriations made by the council, except those under the supervision of the board of education and those whose compensation is fixed by this charter or by statute, shall be compensated only in accordance with a pay plan or plans recommended by the mayor and adopted by ordinance. For employees subject to the civil service provisions of this charter, such pay plan shall conform to the classification established thereunder.

**Sec. 8. Boards and commissions.** The council may provide, by ordinance, for appropriate boards or commissions, as it shall deem advisable, to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeal in the administration of regulatory ordinances. Members of such boards shall be appointed by the mayor with the approval of a majority of the council, and may be removed for cause, after a hearing, by a 2/3 vote of the council. Members of such boards shall be appointed for definite and overlapping terms. Both political parties shall be represented in the membership of such boards. Appointive members of such boards shall not hold any other public office, the salary of which is payable by the city.

**Sec. 9. Qualification of city officers; bonding.** The clerk shall notify every person elected or appointed to a city office of his election or appointment within 3 days thereafter, requesting him to qualify for office by signifying in writing to the city clerk his willingness so to serve within 14 days from the date of such notification. Every city officer, elected or appointed, shall be duly sworn to the faithful and impartial performance of the duties of his office, by any person authorized to administer oaths, before he enters upon the discharge of same, and a record of such oath shall be made in the office of the clerk. When required, the officer shall give such bond as the council shall determine, unless otherwise provided by law or ordinance.

**Sec. 10. Prohibitions.** No officer or employee of the city shall solicit or receive any pay, commission, money or thing of value, or derive any benefit,

profit or advantage, directly or indirectly, from, or by reason of any improvement, alteration or repair required by authority of the city, or any contract to which the city shall be a party, except his lawful compensation or salary as such officer or employee. A violation of any of the provisions of this section shall disqualify the offender to continue in office or employment of the city, and he shall be removed therefrom. Any contract in which any officer or employee of the city is, directly or indirectly, interested shall become absolutely void; and any money which shall have been paid on such contract by the city may be recovered back from any or all the persons interested therein, by a joint or several action. The provisions of this section shall not apply to contracts made by bid pursuant to Article VI, Section 5 of this charter, or to purchases amounting to less than \$1,000.

## ARTICLE V

### Civil Service

**Sec. 1. Merit basis of appointment.** Appointments and promotions in the administrative service of the city shall be made according to merit and fitness, to be ascertained, so far as practicable, by competitive examination. To carry out this purpose, there shall be a director of personnel, who shall be, or shall be appointed by, the administrative assistant.

**Sec. 2. Rules and regulations.** The director of personnel, within 6 months after the effective date of this charter, shall prepare and recommend to the council such rules and regulations as he may consider necessary, appropriate or desirable to carry out the provisions of this Article and shall provide for the classification of all employees except the following: officers whose salaries are fixed by this charter or by statute, directors of departments and those officers mentioned in Article IV of this charter, administrators and teachers of the public school system, all elective officers and members of non-salaried boards or commissions, special policemen, detectives or other temporary employees. The rules and regulations shall provide for open competitive and free examination as to fitness, for an eligibility list from which vacancies shall be filled; for a period of probation before employment is made permanent, and for promotion on the basis of merit, experience and record. These rules and regulations shall become effective when approved by the council and shall be applied by the director of personnel. Employees whose jobs are classified under the provisions of this Article and who are employed by the city at the time of the adoption of this charter shall retain their positions, unless removed for cause.

**Sec. 3. Civil service board.** There is hereby established a civil service board, which shall consist of 3 members, and shall serve without compensation, and whose term of office shall be for 6 years, except that of the members first appointed one shall be appointed to serve for 4 years, and one for 2 years. Appointments shall be made by the mayor with the approval of a majority of the council, and vacancies in an unexpired term shall be filled by appointment for the remainder of the term. A member of the board may be removed only for cause by a vote of not less than 5 members of the council, after a public hearing.

Each member of the civil service board shall be a qualified elector of the city, shall be known to be in sympathy with the merit principle as applied to the civil service, shall during his term of office neither hold nor be a candidate for any other public office or position, and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization.

The board shall advise the director of personnel and the council on matters pertaining to personnel administration within the scope of this Article; make any investigation which it may consider desirable concerning the administration of personnel in the municipal service; recommend to the council any amendments to the rules and regulations mentioned in section 2 of this Article; report to the council at least once each year its findings, conclusions and recommendations; hear appeals in case any officer or employee in the classified service is suspended, reduced or removed, and report in writing to the mayor its findings and recommendations; and perform such other duties with reference to the provisions of this Article as the council may require by ordinance.

## ARTICLE VI

### City Finances

**Sec. 1. Director of finance.** There shall be a department of finance, the head of which shall be the director of finance, who shall be, or be appointed by, the administrative assistant. The director of finance shall provide a bond with such surety and in such amount as the council may require by ordinance. The director of finance shall be the treasurer and custodian of the funds of the city.

**Sec. 2. Powers and duties of director of finance.** The director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:

**I.** Compile the current expense estimates and the capital estimates for the budget.

**II.** Supervise and be responsible for the disbursements of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded.

**III.** Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city to be made daily or at such intervals as he may deem expedient.

**IV.** Submit to the council through the mayor a monthly statement of all receipts and disbursements.

**V.** Keep all books, papers and vouchers belonging to his department at all times open and readily accessible to the city auditor.

**VI.** Prepare annually, as of the end of the fiscal year, a complete financial statement and report.

**VII.** Collect all taxes, special assessments, license fees and other revenues of the city and receive all money receivable by the city.

**VIII.** Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government.

**Sec. 3. 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 daily 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 to be chosen by the council. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city.

**Sec. 4. Disbursement of money; prohibitions.** All disbursements, except principal and interest on bonds and certificates of indebtedness, shall be made only upon the order of the director of finance, countersigned by the mayor, duly authorized by a resolution of the council and approved by the auditor. Every such order shall specify the purpose for which the disbursement is made and the fund out of which it is to be paid. No such order shall be issued unless the director of finance shall certify that there in an unencumbered balance of money sufficient to pay the same in the fund out of which it is to be paid. The director of finance shall examine all payrolls, bills and other claims against the city and shall issue no order for payment until he finds that the claim is in proper form, correctly computed and legally due and payable. Any order or resolution for the payment of money violating any provision of this section shall be void, and any officer of the city violating any provision of this section shall be personally responsible for the amount of such payment if any is made contrary to the provisions hereof. Nothing in this section, however, shall prohibit the council from authorizing interdepartmental transfers of funds previously appropriated.

**Sec. 5. Making of bids and letting of contracts.** The council shall regulate the making of bids and the letting of contracts by ordinance subject to the following conditions:

**I.** In all cases of work to be done by contract or the purchase of property of any kind amounting to more than \$1,000, or the rendering of any service to the city other than professional services amounting to more than \$1,000, competitive bids shall be secured before any purchase is made or any contract awarded.

**II.** When the amount involved is \$1,000 or less, bids may be solicited by notice posted on a public bulletin board for at least 3 days and by mail to known prospective bidders.

**III.** When the amount is more than \$1,000 bids shall be advertised by a notice to be published in at least 2 issues of a newspaper printed within the city.

**IV.** All bids shall be sealed when received and shall be opened in public at the hour stated in the notice; and all original bids, together with all documents pertaining to the award of the contract, shall be retained and made a part of the permanent file or record and shall be open to public inspection.

**V.** The awarding of contracts of \$2,000 or less may, by ordinance, be delegated to administrative officers. Contracts involving more than \$2,000 shall be awarded only after authorization by the council.

**VI.** The council may reject, or by ordinance authorize administrative officers to reject, any and all bids.

**VII.** Contracts shall be let to the lowest responsible bidder and purchases shall be made from the responsible bidder who offers to furnish the article desired for the lowest sum.

**VIII.** In determining the lowest responsible bidder, in addition to price, the following may be considered:

**A.** The ability, capacity and skill of the bidder to perform the contract or provide the service required.

**B.** Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.

**C.** The character, integrity, reputation, judgment, experience and efficiency of the bidder.

**D.** The quality of performance of previous contracts or services.

**E.** The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

**F.** The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.

**G.** The quality, availability and adaptability of the supplies or contractual services to the particular use required.

**H.** The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

**I.** The number and scope of conditions attached to the bid.

**IX.** Specifications shall not be so prepared as to exclude all but one type or kind but shall include competitive supplies and equipment, and competitive bids shall be secured before purchase by contract or otherwise is made, provided, however, that unique or non-competitive articles which are determined by the director of finance, subject to the approval of the council, to be sufficiently superior for the service intended by the city, may be purchased without regard to other bids.

**Sec. 6. Borrowing in anticipation of taxes, and bond issues.** During any fiscal year the council may by resolution authorize the borrowing of money in anticipation of receipts from taxes, but the aggregate amount of such borrowing at any one time shall not exceed 80% of the revenue received from taxes during the preceding fiscal year. All such money borrowed shall be repaid out of receipts from taxes for the fiscal year in which the money is borrowed. 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 money borrowed shall be repaid within one year and shall be subject to the provisions of the laws of the State of Maine in relation thereto.

**Sec. 7. Bond issues.** Money may be borrowed, within the limits fixed by the Constitution and statutes of the State of Maine now or hereafter applying to the City of Waterville, by the issue and sale of bonds or notes pledged on the credit of the city, the proceeds to be used for the payment of indebtedness of the city contracted for the acquisition of land, the construction and equipment of buildings, and other permanent public improvements, including schools, and the payment or 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 publishing said notice in a newspaper having general circulation in the city at least 2 weeks before final action by the council.

**Sec. 8. Public Debt Amortization Fund.** A Public Debt Amortization Fund as provided in chapter 67 of the private and special laws of Maine of 1927 and amended in chapter 137 of the private and special laws of Maine of 1961 shall continue under the terms of this charter.

## ARTICLE VII

### Eminent Domain, Discontinuance of Streets, Public Improvements

**Sec. 1. Powers granted.** The council shall have power:

- I. To acquire in fee, or any lesser estate, property by right of eminent domain, for the purpose of laying out, widening or altering any street, public way, parking lot, schoolhouse lot, airport or flight paths adjacent thereto without petition therefor;
- II. To discontinue streets, sidewalks and public ways;
- III. To levy an assessment upon real estate abutting premises taken by eminent domain for the construction or widening of any street, sidewalk or public way.

**Sec. 2. Notice to be given.** The council shall give notice of its intention to exercise its power of eminent domain, discontinuance or assessment by giving notice to all parties whose title or interest in and to the affected premises is recorded in the Kennebec County Registry of Deeds, by registered mail, return receipt requested, and by publishing a copy of the notice in a newspaper having a local circulation at least 7 days before the city council makes a determination of public convenience and necessity. The notice shall contain a description of the premises which the city council intends to take by eminent domain, discontinue or improve; the time and place of the meeting at which



the city council shall determine public convenience and necessity; the purpose of the taking by eminent domain, discontinuance or improvement.

**Sec. 3. Determination of damages and assessments.** The council shall determine and adjudge whether the public convenience requires the taking by eminent domain, the discontinuance or the assessment for public improvements; it shall determine the amount of damages allowed or assessment levied in each instance and it shall make a written return of its proceedings containing the vote of the council, the description of the premises taken, discontinued or improved, a listing of all persons affected and entitled to damages and the awards allowed or assessment levied to each, which shall be filed with the city clerk. A copy of the council's report insofar as it affects each individual having an interest in the premises affected shall be forwarded to such individuals by registered mail, return receipt requested. The assessment levied shall, within 3 months after its imposition, be committed to the director of finance and he shall proceed to collect the same in the same manner and by the same means as provided for the collection of taxes on real estate.

Any person aggrieved by the award of damages for taking by eminent domain, discontinuance or assessment for improvements may appeal in accordance with the Revised Statutes of 1954, Chapter 96, Section 34, and amendments thereto.

## ARTICLE VIII

### Administration of Schools

**Sec. 1. Board of education.** A board of education, composed of 7 members elected from the wards as provided in Article IX of this charter and serving for a term of 4 years, shall have all the duties, rights and powers granted to such boards by the Constitution and statutes of the State of Maine, and all the duties, rights and powers invested in the board of education of the City of Waterville before the adoption of this charter. The board shall elect a chairman annually, and appoint some suitable person, not a member of the board, superintendent of schools, and may adopt such rules and regulations for the management of the schools as are not inconsistent with the laws of the State. The superintendent shall be the secretary and executive agent of the board, which shall fix his salary, to be paid from the city treasury, and may remove him for good cause and appoint a successor. The members of the board shall receive no compensation for their services. They shall be registered voters and at the time of election each shall be a resident of the ward from which he is elected. Members of the board of education shall not hold any other public office or receive any pay, commission, money or thing of value directly or indirectly from or by reason of their office, except that the preceding prohibition shall not apply to contracts made by bid pursuant to the provisions of Article VI, section 5 of this charter or to purchases amounting to less than \$1,000.

**Sec. 2. School budget, hearings, appropriations, audit of accounts.** The board of education shall have the right to direct the expenditure of all school moneys and shall annually prepare a report of the affairs and condition of the city schools as at the end of the fiscal year preceding and a detailed estimate

in the form of a budget of the amount needed for school purposes for the current year and shall submit a copy of said report and estimate to the mayor and to each member of the council 2 weeks before the date set for the budget hearing. There shall be held at such time as shall be fixed by the mayor, a joint meeting of the board of education and the council, due notice of which shall be given by the clerk, to consider such estimate, and said board of education shall give full information with reference to said estimate and their reasons for fixing the items thereof at the amounts therein stated. The council shall have the power to raise moneys for the support of public schools in the city and shall appropriate for the current fiscal year such sum, not less than the amount required by State statute, as they may deem necessary for that purpose. Such sum shall be included with and assessed like other city taxes. It shall be the duty of the auditor, under the direction of the mayor and council, to audit the books of the board of education from time to time and as directed by the council.

## ARTICLE IX

### Elections

**Sec. 1. Wards.** For the purpose of holding elections, the city shall continue to be divided into 7 wards, and until revised by ordinance of the council shall continue to be divided along the boundary lines adopted by ordinance and public referendum in 1959.

**Sec. 2. Revision of ward boundary lines.** On the first Monday of December in 1964 and on the same date at 4-year intervals afterward, the city clerk shall make an examination of the voters register of the city and if the number of registered voters in any one ward exceeds the number of registered voters in any other ward by 30%, it shall be the duty of the city clerk to notify the council thereof. Within 6 months after receiving such notification from the clerk, it shall be the mandatory duty of the council to redistrict the city by ordinance. Each ward shall consist of contiguous territory and contain as nearly as possible a number of registered voters equal to the factor obtained by dividing by 7 the total number of registered voters of the city, and within each ward a convenient voting place shall be designated. If at the expiration of the 6-month period the council has failed to redistrict the city as herein required, the members of the council shall not receive any salary until the council shall have adopted such ordinance, which may not be vetoed by the mayor. If, in any such redistricting, the residence of any councilman is placed outside of the ward from which he was elected, the office shall not be deemed vacant on that account and he shall continue to serve out the term for which he was elected.

**Sec. 3. Time and place of elections.** On the first Monday in December in odd-numbered years, the qualified electors of each ward, in the voting places appointed for that ward, shall ballot for mayor, one councilman from the ward in which they are voting, a warden, ward clerk and ward constable likewise from the same ward, and in those wards in which the term of the member of the board of education is about to expire, one member of the board of educa-

tion. Each officer elected under this charter shall assume the duties of the office to which he is elected on the first Tuesday in January succeeding his election.

**Sec. 4. Registration of voters.** No person shall be allowed to vote at any municipal election unless his name be registered on the voting list of his ward. A person may register as a voter by appearing before the board of registration when it is in session and by proving himself qualified to vote as required by the laws of Maine. The board of registration shall publish in a newspaper having general circulation in the city notice of the time schedule for registration before each regular or special municipal election. When the board of registration is not in session, the clerk shall accept applications for registration, except during the week immediately preceding any election. The board of registration shall prepare a printed list of voters for each ward and shall keep the list current at all times. Registration proceedings shall be conducted in the same manner as provided by the election laws of Maine, the Revised Statutes of 1954, chapter 3-A, as enacted by chapter 360 of the public laws of 1961, and amendments thereto.

**Sec. 5. Notice of elections; preparation of ballots.** The council shall notify a regular or special municipal election by issuing a warrant signed by a majority of councilmen, containing a statement of the purpose of the election, the date, and the time of opening and closing the polls. Such warrant shall be served by any constable of the city by posting attested copies of said warrant at all appointed voting places at least 7 days before the date of the election. Such warrant, with the officer's return of service thereon, shall be returned to the clerk at least 4 days before the date of the election. The clerk shall also cause notice of the election to be published in a newspaper having general circulation in the city at least 7 days before the date of the election. Special ward elections shall be notified in a similar manner within each ward where an election is to be held. Ballots for all regular or special municipal or ward elections shall be prepared by the clerk and shall be in substantially the same form as required by the election laws of Maine. At least 7 days before any municipal election the clerk shall post a specimen ballot, prepared according to the regulations for state elections, at the voting place in each ward.

**Sec. 6. Election officials, counting of ballots, notification of elected officers.** The warden of each ward elected at the last previous municipal election shall supervise the voting place in his ward on election day. The ward constable shall, on request of the warden, remove, confine or arrest a person who creates a disturbance or otherwise violates the law at a voting place. Four election clerks, and additional clerks, if necessary, nominated by the city committee of each major political party and appointed by the council as required by the election laws of Maine, shall assist the warden in distributing, receiving and counting ballots. All regular and special municipal elections shall be conducted in the same manner as provided by the election laws of Maine, the Revised Statutes of 1954, chapter 3-A, as enacted by chapter 360 of the public laws of 1961, and amendments thereto. As soon as the polls are closed, the election officials shall count the ballots publicly under the supervision of the warden. The ward clerk shall record upon a tally sheet, procured therefor from the city clerk, the results of the balloting, certify the votes given, have the tally

sheet attested by the warden, and deliver it to the city clerk forthwith. The council of the City of Waterville shall constitute the canvassing board for the canvass of the votes and the determination of the result of every general or special municipal election held under the provisions of this charter. The council shall meet as such canvassing board as soon as convenient after each election, at which time they shall receive the returns from the wards and shall by resolution certify and determine the result of such election as to each officer and matter voted upon at the election. The candidate for mayor having a plurality of the votes cast in all the wards shall be elected. The clerk shall deliver certificates of election to all municipal and ward officers elected, within 3 days of their election. If it shall appear that one or more of the offices to be filled by an election has not been so filled, or if any person elected shall fail to qualify within 14 days of notification of his election, warrants for another and special election to fill such vacancy shall be issued forthwith, in substantially the same manner as provided in section 5 of this Article.

**Sec. 7. Recount and title to office.** On the written application of a candidate in any municipal election, within 10 days after the election, the clerk shall permit the candidate or his counsel to recount the ballots under protective regulations substantially the same as provided in the election laws of Maine, the Revised Statutes of 1954, chapter 3-A, section 127, as enacted by chapter 360 of the public laws of 1961, and amendments thereto. A person who claims title to any municipal or ward office may proceed against another who claims title to the office by proceeding in the manner provided in said chapter 3-A, section 138, as enacted by the public laws of 1961, chapter 360, and amendments thereto.

**Sec. 8. Absentee voting.** Absentee voting shall be permitted in all regular or special municipal elections, provided that such voting conform to the regulations governing absentee voting provided in the Revised Statutes of 1961, chapter 3-A, as enacted by chapter 360 of the public laws of 1961 and amendments thereto. All absentee ballots, in order to be valid, must be delivered to the city clerk before 1 P.M. on election day.

**Sec. 9. Nomination of candidates.** Nomination of candidates for ward officers shall be made in the ward caucus of each political party in each ward, and nomination of candidates for mayor shall be made in the city caucus of each political party. Ward caucuses and city caucuses shall be held not less than 16 days prior to the day on which a municipal election is to be held. Notice of a caucus shall be published in a newspaper having general circulation in the city at least 3 and not more than 7 days before it is to be held. The procedure for calling, giving notice, holding and voting at caucuses shall follow the provisions for municipal caucuses in the Revised Statutes of 1954, chapter 3-A, as enacted by chapter 360 of the public laws of 1961, and amendments thereto. Each ward caucus shall nominate candidates for warden, ward clerk, constable, councilman and, in those wards in which the term of the member of the board of education is about to expire, one member of the board of education, who must be residents of the ward which they shall serve. Each city caucus shall nominate one candidate for mayor.

**Sec. 10. Enrollment.** No person shall vote at a ward or city caucus unless he be an enrolled member of the political party holding the caucus. A person may enroll in a political party by filing an application with the board of registration or with the city clerk when he applies for registration as a voter, or he may enroll at any caucus, provided that he apply in person to the caucus chairman and swear before him that he is a qualified voter and has not been enrolled in any other political party for 6 months prior to the date of said caucus. The caucus secretary shall record all enrollments and deliver such records to the city clerk within one week of the date of said caucus. The enrollment of voters shall follow the provisions of the election laws of Maine, the Revised Statutes of 1954, chapter 3-A, as enacted by the public laws of 1961, chapter 360, and amendments thereto.

**Sec. 11. City committee.** Each political party shall hold a ward caucus in each ward during the January immediately following a municipal election to elect the ward committee, and the ward committees so elected shall elect a city committee for each party. Each city committee shall meet within 2 weeks of its election to elect a chairman and other officers and shall adopt rules and regulations for the conduct of its business.

**Sec. 12. Special elections.** Special elections may be called by the council for any purpose permitted by this charter or by statutes. All special elections shall be called by order of the council, authorizing the issuance of a warrant which shall fix the time therefor and shall state the offices to be filled or the questions to be decided thereat, and shall direct the clerk to give the necessary notice and make the necessary preparation for the holding of such election.

## ARTICLE X

### Referendum

**Sec. 1. Provision for referendum.** The electors shall have power to approve or reject at the polls any ordinance or order passed by the council, except an ordinance appropriating money or authorizing the levy of taxes or issuing bonds to finance the improvement or extension of a municipally owned or operated utility or other public service enterprise.

**Sec. 2. Regulations.** Within 20 days after the enactment by the council of any ordinance or order which is subject to a referendum, a petition signed by qualified electors of the city equal in number to at least 15% of the registered voters at the last regular municipal election may be filed with the clerk protesting against the passage of such ordinance or order. The signatures to the petition need not all be appended to one paper, but each signer shall state his place of residence and street number. One of the signers of each such paper shall make oath that each signature to said paper is the genuine signature of the person whose signature it purports to be. Such petition shall be filed with the clerk, who within 10 days from the date of filing shall ascertain from the voters register whether or not said petition is signed by the requisite number of qualified electors. The clerk shall attach to said petition his certificate, showing the result of said examination, and if the petition is deemed sufficient shall submit the same to the council. If by the clerk's certificate the petition is

shown to be insufficient, it may be amended within 10 days from the date of the clerk's certificate and again submitted to the clerk.

**Sec. 3. Submission to voters.** After the clerk has attached his certificate of sufficiency to the petition, said ordinance or order shall be suspended from operation; and it shall be the duty of the council to reconsider such ordinance or order, and if the same be not entirely repealed, the council shall submit the ordinance or order to a vote of the electors of the city either at the next general municipal election or at a special election called for that purpose, and such ordinance or order shall not become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof.

There shall not be held under this section of the charter more than one special election in any period of 6 months; nor shall any such special election be called to be held within 60 days prior to any general municipal election.

## ARTICLE XI

### General Provisions

**Sec. 1. Rules for taking action or filing claims against the city.** No action shall be maintained against the city on account of any injuries or damages to persons or property except under the conditions set forth in the Revised Statutes of 1954, chapter 96, sections 89 to 92.

**Sec. 2. Submission of act to referendum.** This act shall be submitted for approval or rejection to the qualified voters of the City of Waterville at an election to be held on October 7, 1963, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying the qualified voters of said city of the date and purpose of the referendum. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election, and said election shall in all other respects be conducted as municipal elections in said city are now conducted by law, and the results thereof shall be determined in the manner now provided for the determination of the election of a mayor. If a majority of the ballots shall reject, this act shall not go into effect, but if a majority of the ballots shall approve, then this act shall take effect as herein provided. The result of said vote shall be determined as provided by law and due certificate thereof filed by the clerk with the Secretary of State.

**Sec. 3. Effective date of this act.** The provisions of this charter which are essential to the election of the mayor and council provided for herein shall go into effect immediately upon the approval of this charter by a majority of qualified voters, as provided in section 2 of this Article. The remaining provisions of this charter shall go into effect and be in force from and after 7 P.M. on the first Tuesday of January next following the general municipal election at which the mayor and the council are elected.

**Sec. 4. Effect of this charter on existing law.** In the event that this act is approved in the manner herein provided, all acts and parts of acts inconsistent with the provisions of this charter are hereby repealed and superseded. Insofar as the provisions of this charter are the same in terms or in substance

and effect as provisions of law in force when this charter shall take effect, the provisions of this charter are intended to be not a new enactment but a continuation of such provisions of law, and this charter shall be so construed and applied.

**Sec. 5. Effect of this charter on existing ordinances and contracts.** All ordinances in force at the time when this charter takes effect not inconsistent with the provisions of this charter shall continue in force until amended or repealed. All rights, actions, proceedings, prosecutions and contracts of the city pending or executed 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. 6. Separability clause.** If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter, it being the intention that the remaining portions of this charter shall stand, notwithstanding the unconstitutionality and invalidity of any section, sentence, clause or phrase.