

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 859

H. P. 609

House of Representatives, February 14, 1967

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

BERTHA W. JOHNSON, Clerk

Presented by Mr. Drigotas of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Grant a New Charter to the City of Auburn.

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

ARTICLE I

Grant of Powers to the City

Sec. 1. Corporate existence retained. The inhabitants of the City of Auburn shall continue to be a municipal corporation under the name of "City of Auburn" and as such shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation; and may enact ordinances, bylaws and regulations not inconsistent with the Constitution and laws of the State of Maine.

ARTICLE II

City Council

Sec. 1. Powers and duties. All the powers granted to the city by this charter and by the laws of this State, except as otherwise provided by this charter, are hereby vested in the city council, which shall exercise its powers in the manner hereinafter provided. The members of the city council shall be the municipal officers of the City of Auburn for all purposes required by statute or ordinance. The city council is hereby constituted overseers of the poor of the City of Auburn.

Sec. 2. Composition, election, compensation, tenure of office, etc. The council shall be composed of the mayor and 5 other members. The members other

than the mayor shall be elected one from each ward by and from the qualified voters thereof. The mayor shall be ex officio president of the council. The members of the council shall hold office for a term of 4 years or until their successors are elected and qualified, provided however, that at the first election under this charter, councilmen from even numbered wards shall be elected for a term of 2 years.

Each member of the council shall receive \$15 for attending each regular or special meeting, but no councilman shall receive in excess of \$500 in any one fiscal year. A councilman absent from a meeting shall receive no compensation for that meeting.

Sec. 3. Vacancies; forfeiture of office. A vacancy in the council shall be filled for the remainder of the unexpired term, if any, at the next regular municipal election following not less than 30 days after the occurrence of the vacancy, provided however, that when a vacancy in the council occurs less than 30 days before the next regular municipal election, the remainder of the unexpired term, if any, shall be filled by a special election in the ward in which the vacancy occurs, which shall be held within 60 days after the occurrence of the vacancy. The warrants for said special election shall be issued by the mayor. The council, by majority vote of its remaining members, shall appoint a qualified representative from the ward in which the vacancy occurs to serve until the person elected to fill the vacancy takes office.

A council member shall forfeit his office if he:

1. Lacks at any time during his term of office any qualifications for the office prescribed by this charter or by law,
2. Violates any express prohibition of this charter,
3. Is convicted of a crime involving moral turpitude, or
4. Fails to attend 3 consecutive regular meetings of the council, or of any board or authority to which he may have been appointed by the mayor under Article III, section 3, without being excused by the council.

Sec. 4. Regular meeting and qualifications. The council shall meet at the call of the mayor at the usual place for holding meetings, or at such other public hall within the city as the mayor may designate, on the first Monday in October following the regular city election, at which time the mayor-elect and the councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk. Thereafter, the council shall meet at such time and place as may be prescribed by ordinance or resolution except that it shall meet regularly twice each month.

Sec. 5. Special meetings. Special meetings may be called by the mayor, or shall be called by the mayor or city manager on the written request of a majority of the voting members of the council addressed to the mayor or the city manager. Notice of such meeting shall be served in person upon, or left at the usual dwelling place of, each member of the council, the mayor, the city manager, the administrative assistant, the city solicitor and the city clerk.

Sec. 6. Quorum. A majority of the voting members of the council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or compel attendance of absent members.

Sec. 7. Rules and procedure. The council shall keep a record of its proceedings and shall be the judge of the qualification and election of its own members. The council may determine its own rules of procedure and punish members for misconduct. The meetings of the council shall be open to the public. The council shall act only by oral motion or written ordinance, order or resolve, except that all acts by the council whereby funds of the city are appropriated or expended shall be by written ordinances, order or resolve; and all ordinances, orders and resolves, except resolves making appropriations, shall be confined to one subject which shall be clearly expressed in the title. The appropriation resolves shall be confined to the subject of appropriations. No ordinance, no order for the issue of serial bonds or notes, and no appropriation resolve shall be passed until it has been read on 2 separate days, except when the requirement of a reading on 2 separate days has been dispensed with by a 4/5 yeas or nays vote of the voting members of the council. The yeas and nays shall be taken upon the passage of any order or resolve when called for by any member of the council. Every ordinance shall require, on final passage, the affirmative vote of a majority of the voting members of the council. Every ordinance shall be published in full within 10 days after its final passage, by posting a copy of the same in 2 public places in the City of Auburn, unless some other method of publication is provided by general law, and shall take effect and be in force from and after the date of said publication, unless otherwise specifically provided in the ordinance.

Sec. 8. Standard codes. The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance, provided however that such adopting ordinance shall state the title, date of issuance and issuing authority of the standard code or amendment thereto which is so adopted.

Sec. 9. Review of charter, ordinances, etc. The council shall review in their entirety at least once every 15 years the city charter, the city ordinances and the property valuation records of the tax assessor's office, and, following each such review, shall take such action as may be in the best interests of the city.

Sec. 10. Offices incompatible. No member of the city council shall during the term for which he was chosen be eligible for any other office, the salary of which is payable by the city, or shall during such term hold any such office.

ARTICLE III

Mayor

Sec. 1. Eligibility, election and tenure of office. A mayor shall be elected by and from the qualified voters of the city. He shall hold office for a term of 2 years or until his successor is elected and qualified, except that when elected to fill a vacancy he shall hold office only for the unexpired term or until his successor is elected and qualified. The annual salary of the mayor and his expense account, if any, shall be established by majority vote of the council at its meeting on the first Monday in October following the regular city election, provided,

however that the salary voted to the mayor shall not be less than the maximum annual compensation which may be received by individual members of the council under Article II, section 2.

Sec. 2. Vacancy. In case of the death, resignation or removal from office of the mayor more than 6 months prior to the next regular election, the unexpired term shall be filled by a special election, the warrants for which shall be issued by the council. Whenever the office of mayor becomes vacant within 6 months prior to a regular city election, whenever the office of mayor is vacant pending an election, or whenever the mayor, for any reason, is unable to attend to the duties of his office, the council shall appoint one of its members to perform the duties of mayor.

Sec. 3. Powers and duties. The mayor shall be a voting member of the superintending school committee, a voting trustee of the Auburn Water District, and a voting trustee of the Auburn Sewerage District. He shall report to the council at its regular meetings on matters affecting city business which are discussed at meetings of such boards, and shall coordinate the functions of such boards as they relate to each board in the administration of the affairs of the city. The mayor may appoint members of the city council to serve in his stead on such boards and his appointees shall have the same powers and duties as would the mayor with respect to the boards to which they are appointed. No councilman shall serve concurrently as the mayor's appointee on more than one board under this section.

The mayor shall preside at all meetings of the council but he shall have no veto and no vote except in case of a tie. He shall communicate, from time to time, to the council such information and recommend such measures as the business and interests of the city may, in his opinion, require. He shall be recognized as the official head of the city for ceremonial purposes, and for all purposes of military law. He shall perform such other duties, as the council may impose, or as are conferred by the general laws of the State which are not inconsistent with his office or the provisions of this charter.

ARTICLE IV

Superintending School Committee

Sec. 1. Composition, eligibility, election, tenure of office. The superintending school committee shall consist of the mayor and 10 other members elected 2 from each ward by and from the qualified voters thereof. Five members, one from each ward, shall be elected at each biennial election. They shall hold office for a term of 4 years or until their successors are elected and qualified.

Sec. 2. Organization, qualification, quorum. The superintending school committee shall meet for organization on the first Monday in October following the regular city election. The members-elect shall be sworn by a justice of the peace to the faithful discharge of their duties. A majority of the whole number of the committee shall be a quorum.

Sec. 3. Powers and duties. The superintending school committee shall have all the powers, and shall perform all duties in regard to the care and manage-

ment of the public schools of this city which are conferred and imposed upon the superintending school committee by the laws of this State, except as otherwise provided in this charter. The committee shall accomplish its duties within the financial limitations established by the city council in its annual appropriation resolve and such supplemental appropriations as may be available from time to time.

Sec. 4. Vacancies. Whenever a vacancy in the superintending school committee shall occur, the city council by a majority vote of all its members shall appoint for the unexpired term, a resident of the ward where the vacancy exists.

ARTICLE V

Nominations and Elections

Sec. 1. Date of elections and procedure as to determining results. On the 2nd Monday of September in odd numbered years, the qualified voters of each ward shall ballot for a mayor, a member of the superintending school committee, a warden and a ward clerk. At the first election under this charter, the qualified voters of odd numbered wards shall also ballot for a member of the city council for a term of 4 years, and the qualified voters of even numbered wards shall also ballot for a member of the city council for a term of 2 years. Thereafter, the qualified voters of the several wards shall regularly ballot to fill the positions of those councilmen whose terms expire, and all councilmen shall be elected for terms of 4 years. All the votes cast for the several officers shall be sorted, counted, declared and registered in open ward meeting, by causing the names of the persons voted for and the number of votes given for each to be written on the ward record at length. The ward clerk shall forthwith deliver to the persons elected warden and ward clerk certification of their election, and shall forthwith deliver to the city clerk a certified copy of the record of such election.

Thereafterwards, the city council shall, as soon as conveniently may be, examine the copies of the records of the several wards certified as aforesaid, and shall cause the persons who shall have been elected mayor, councilmen and members of the superintending school committee to be notified in writing of their election; but if it shall appear that no person shall have been elected to any office, or if the person elected shall refuse to accept the office, warrants for another election shall be issued forthwith. At any election, the person receiving the highest number of votes for an office shall be deemed and declared elected to such office.

Sec. 2. Warden and ward clerk; eligibility; tenure, qualification, powers and duties; vacancies, ward meeting; how called. The warden and the ward clerk chosen as provided in the preceding section shall be residents of the wards for which they are elected, and shall hold their offices for 2 years from the first Monday in October following the regular city election, or until others have been chosen and qualified in their stead. The warden and the ward clerk shall be sworn to the faithful performance of their duties by the persons presiding in the ward meeting, or by the clerk thereof, and a certificate of such oath shall be entered by the clerk on the records of said ward. The warden shall preside at all ward meetings with the powers of moderators of town meetings, and if, at any meeting, the warden shall not be present, the clerk of the ward shall call

the meeting to order and preside until a warden pro tempore shall be chosen. If neither the warden nor the clerk shall be present, any legal voter in the ward shall preside until a clerk pro tempore shall be chosen and qualified. The clerk shall record all proceedings and certify the votes given, and deliver over to the successor in office all such records and journals together with all documents and papers held by him in the capacity of clerk. All ward meetings shall be notified and called by the city council in the manner provided in the laws of this State for notifying town meetings by the selectmen of the several towns.

Sec. 3. Nominations for elective offices to be made by petition. The nomination of all candidates for elective offices provided by this charter shall be by petitions. The petition of candidates for mayor shall be signed by not less than 100 qualified voters of the city. The petitions of candidates for councilman, for the superintending school committee, for warden and for ward clerk shall be signed by at least 25 qualified voters of the ward wherein the candidates are to be elected. No voter shall sign petitions for more than one candidate for each office to be filled at the election, and should he do so, his signature shall be void as to the petition or petitions last filed.

Sec. 4. Form of nomination paper. The signatures to the nomination petition need not all be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

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

Name Street and Number

(Space for signatures.)

..... being duly sworn, deposes and says that he is the circulator of the foregoing petition paper containing signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

(Signed)

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

..... Justice of the Peace (or Notary Public).

This petition, if found insufficient by the election authorities, shall be returned to at No. Street.....

Sec. 5. Filing of nomination paper; must be accompanied by acceptance. The nomination papers comprising a petition shall be assembled and filed with the city clerk, as one instrument, not earlier than 28 nor later than 14 days, exclusive of Sundays, before the day of the election. No nomination shall be valid unless the candidate shall file with the city clerk in writing his acceptance of the nomination, not later than 14 days before the day of the election.

Sec. 6. List of candidates to be published. The city clerk shall certify the list of candidates, and shall cause to be published in one or more newspapers, circulating in the city, the names and residences of the candidates who have duly filed the above-mentioned petitions.

Sec. 7. Ballots, etc., to be furnished by city clerk. Specimen ballots and official ballots for use in all city elections shall be provided by the city clerk.

Sec. 8. Form of ballot; candidates' names to be arranged by lot. 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 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.

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 any candidate mark a cross (X) or a check mark (V) in the square at the right of the name.

- | | |
|---------------|--------|
| For MAYOR | |
| John Doe | (Res.) |
| Richard Roe | (Res.) |
| For COUNCIL | |
| John Smith | (Res.) |
| William White | (Res.) |

For SUPERINTENDING SCHOOL COMMITTEE

Charles Brown	(Res.)
Joe James	(Res.)

For WARDEN

William Doe	(Res.)
Charles Doe	(Res.)

For WARD CLERK

John Jones	(Res.)
Charles White	(Res.)

Mark a cross (X) or a check mark (V) in the square at the right of your choice.

Yes	Shall
No	
Yes	Shall
No	

Sec. 9. Specimen ballot to be published and posted. The city clerk shall cause specimen ballots to be posted in public places and advertised in the newspapers not later than 10 days prior to the city election. Such specimen ballots shall be printed on colored paper and marked specimen ballot, and shall contain the names of the certified candidates with the residence of each, instruction to voters, and such measures as may be submitted to the voters. Such ballots shall be without party mark or designation.

Sec. 10. State laws not inconsistent applicable. The provisions of the laws of the State of Maine relating to the qualification of electors, registration, the manner of voting, the duties of election officers, and all other particulars in respect to the management of elections, so far as they may be applicable, shall govern all municipal elections except as otherwise provided in this charter.

ARTICLE VI

Administrative Officers and Boards

Sec. 1. Title and appointments. The administrative officers of the City of Auburn shall be appointed in the following manner:

1. The city manager shall be appointed by ballot of the majority of the voting members of the city council.

2. With the confirmation of a majority of the voting members of the council, the city manager shall appoint the following city officers: city auditor, city clerk, city solicitor, city treasurer, tax collector and tax assessor.

3. The city manager shall appoint all other department heads and other officers or employees responsible directly to the manager. Subject to the approval of the State Commissioner of Health and Welfare, the city manager shall also appoint a health officer for a term of 3 years.

Appointments of minor officers and employees shall be made by the heads of the various municipal departments subject to the approval of the city manager.

Sec. 2. Trustee of Auburn Water District and Auburn Sewerage District. The city council shall annually, in the month of March, elect by ballot by a majority vote of the voting members of the council, a trustee of the Auburn Water District to serve for a term of 6 years, and a trustee of the Auburn Sewerage District to serve for a term of 6 years. Trustees holding office when this charter takes effect shall continue to serve until the expiration of their terms.

Sec. 3. Civil Service Commission. The civil service commission shall consist of 3 members, who shall hold no other elective or appointive office under this charter. Members of the commission shall be appointed by the mayor with confirmation by the council to serve for a term of 3 years, with one member appointed each year. Members of the commission holding office when this charter takes effect shall continue in office until the expiration of their terms.

The commission shall supervise and control, under this charter and the city ordinances, the selection for appointment and promotion, lay-off, reinstatement, suspension and removal of the members of the police department and the fire department, the police chief, the fire chief and the city electrician. The commission shall examine all applicants for appointment as policemen, firemen, police chief, fire chief and city electrician. All appointments to such positions shall be made from eligible lists prepared by the commission.

The commission shall, annually, elect from its membership a chairman, and shall meet on call of the chairman at the city council chamber in the city building.

Sec. 4. City planning board. There shall be a planning board. The membership of said board and appointments thereto shall be consistent with state statutes regulating municipal planning boards. Members of the planning board holding office when this charter takes effect shall continue in office until the expiration of their terms.

Sec. 5. Powers and duties of the planning board. The planning board shall consider and report to the council upon the designs and their relation to the city plan, of all new public ways, lands, buildings, bridges and all other public places and structures, of additions to and alterations of those already existing, and of the layout or plotting of new subdivisions of the city. All acts of the council or of any branch of the city government affecting the city plan shall be submitted to the board for report and recommendation. Each element of the city plan shall be reviewed completely by the planning board at intervals not to exceed 5 years and, following such review, the board shall take such action as may be necessary.

Any matter referred by the council to the board shall be considered by the board at its next regular meeting following the day of reference unless otherwise specified by the council.

The planning board shall present to the city council and the city manager, at least 90 days prior to the time for adoption of the annual appropriation resolve, a capital improvements program together with the board's recommendation as

to the method of financing each improvement contained in said program which is scheduled for the next fiscal year.

Sec. 6. Scope of ordinance or resolve. The council shall have power by ordinance or resolve:

1. To create any new appointive office or board;
2. To abolish any appointive office or board which has been created by ordinance or resolve;
3. To assign, or authorize the city manager to assign, the duties of 2 or more officers to one officer, except that the duties of 2 or more officers shall not be assigned to one officer when said duties are incompatible by nature by law.
4. To divide the duties of any office between 2 or more offices.
5. To authorize the appointment of assistants or deputies in any office.

Sec. 7. Appointive officers; tenure, removal. Except as otherwise provided by this charter or by ordinance, 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, except that any such person, may demand written charges and a public hearing prior to such removal.

Sec. 8. Salaries. The council shall fix by order the salary of the city manager. Salaries of other administrative officers and employees shall be fixed by the city manager, subject to the approval of the council.

Sec. 9. City manager; eligibility. The city manager shall be chosen by the council solely on the basis of his executive and administrative qualifications, and need not be a resident of the City of Auburn or the State of Maine at the time of his appointment, but shall be a resident of the City of Auburn during his tenure of office.

Sec. 10. Power and duties of city manager. The city manager shall be the administrative head of the city government, and shall be responsible to the council for the administration of all departments. The powers and duties of the city manager shall be as follows:

1. To see that the laws and ordinances are enforced;
2. To exercise control over all departments and divisions created herein, or that may hereafter be created;
3. To make appointments and removals as provided in this charter;
4. To attend meetings of the council, except when his removal is being considered, and recommend for adoption such measures as he may deem expedient;
5. To keep the council fully advised as to the business, financial condition and future needs of the city.
6. To perform such other duties as may be prescribed by this charter or required by ordinance of the council.

Sec. 11. Removal of city manager. The council may remove the city manager from office in accordance with the following procedures:

1. The council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may **suspend the manager** from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.

2. Within 5 days after a copy of the resolution is delivered to the manager, he may file with the council a written request for a public hearing. This hearing shall be held at a council meeting not earlier than 15 days nor later than 30 days after the request is filed. The manager may file with the council a written reply not later than 5 days before the hearing.

3. The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after 5 days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

4. The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the council in suspending or removing the manager shall not be subject to review by any court or agency.

Sec. 12. Vacancy in office of city manager. During a vacancy in the city manager's office, and during the absence or disability of the manager, the council may designate a properly qualified person to perform the duties of manager and fix his compensation.

Sec. 13. Duties of administrative officers prescribed by council. Duties of administrative officers, other than the manager, may be prescribed by the council. Such duties shall not be inconsistent with the provisions of this charter.

Sec. 14. City officers and employees not to be personally interested in city contracts. No officer or employee of the city, elected or appointed, shall be interested directly or indirectly in any contract for work or materials or the purchase thereof to be furnished or performed for the city.

ARTICLE VII

Business and Financial Provisions

Sec. 1. Accounts to be audited; report to be submitted. Accounts shall be kept by the city auditor showing the financial transactions of all departments of the city. Forms for all such accounts shall be prescribed by the auditor 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 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, and the total unexpended balance to the credit of each department.

Sec. 2. Annual audit. All accounts of the city, including school department and school activity accounts, shall be audited annually by a qualified accountant to be selected by the council. The auditor selected shall be independent of the city government and any board or agency thereof.

Sec. 3. Auditor to publish monthly statement, reports of other administrative officers. The auditor shall publish each month a statement of the financial condition of the city.

Each of the administrative officers and boards shall annually, on such 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 summary of the services rendered by the various departments the report shall show:

1. **Expenditures classified by sources.** 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 books;
3. **Balance sheets.** Balance sheets;
4. **Other financial information.** Such other financial information as may be required by the council.

Sec. 4. Budget estimates to be submitted by city manager. Not later than 4 months before the end of the fiscal year, the city manager shall submit to the council budget estimates for the ensuing fiscal year. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks, the forms of which shall be designated by the city manager, and shall contain:

1. **Financial condition.** Exact statement of the financial condition of the city;
2. **Appropriations itemized.** 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;
3. **Estimated revenues.** Itemized statement of estimated revenue from all sources other than taxation; and a statement of taxes required, with comparative figures from the current and the next preceding year;
4. **Other information.** Such other information as may be required by the council.

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

Sec. 5. Annual appropriation resolve. Not later than February 1st of each year, the council shall pass an annual appropriation resolve for the fiscal year beginning on the first day of April next following which shall be based upon the budget submitted by the city manager. Said appropriation resolve shall be itemized for each department in at least the following 5 subdivisions: 1. Salaries and wages; 2. Other Services; 3. Supplies and materials; 4. Fixed charges; and 5. Capital outlay.

The total amount appropriated shall not exceed the estimated revenue of the city.

Should the council take no final action to prepare the annual appropriation resolve on or before the time set forth herein for said action, then the budget, as submitted by the manager, shall be deemed to have been finally adopted by the council.

Sec. 6. Reserve fund. The council, in the appropriation resolve, shall provide for a reserve fund from which transfers may be made only by vote of the council to meet an actual emergency, and no transfers of any money shall be made from any fund other than this reserve fund until the end of the fiscal year, at which time, after all warrants have been paid out of the various funds, the auditor shall transfer to this reserve fund any remaining balance or balances in these various funds, except balances in the school fund. The council may then authorize a transfer from the reserve fund to any other fund in which there is an overdraft created by an actual emergency.

The reserve fund shall be an amount equal to at least 1% of the total amount to be appropriated for all other purposes for the then current fiscal year.

Sec. 7. Borrowing power limited; suitable provisions to be made for support of poor. The borrowing of money by and for the city shall be limited as to form and purpose according to sections 8 and 9 of this Article VII. The credit of the city shall not in any manner be loaned to, or in aid of, any individual, association or corporation, except that suitable provisions may be made for the aid and support of the poor of the city.

Sec. 8. Bonds and notes issued. The city may issue bonds and notes, including bond anticipation notes, pledging the credit of the city in the manner prescribed by and subject to the provisions of the general laws of the State of Maine, when authorized by vote of 4/5 of the voting members of the council. No order providing for the issue of bonds or notes shall be passed without public notice by putting a notice of the same in 2 public places, in the City of Auburn and advertising the same in a newspaper published in Androscoggin County at least 2 weeks before final action by the council. The foregoing notice may describe the purpose of the loan in brief and general terms, and the details of the loans, including the amount and other provisions, may be amended without renotification provided the amendment is germane. No order providing for the issue of bonds in excess of \$500,000 shall be passed without the holding of a public hearing thereon following public notice as aforementioned. Every order for the issue of bonds or notes shall provide for a tax levy for each year to meet the annual serial installment of principal and such interest as may accrue in each respective year, and such amounts shall be included in the tax levy for each year until the debt is extinguished.

Sec. 9. Temporary loans. Money may be borrowed in anticipation of receipts from taxes during any fiscal year, but the aggregate amount of such loan at any time shall not exceed 80% of the revenue from taxes received during the preceding fiscal year.

Sec. 10. Supplemental appropriations. If during any fiscal year the city manager certifies to the council that there are available for appropriation revenues in excess of those estimated in the budget for that year, the council by resolve may make supplemental appropriations for the year up to the amount of such excess.

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 and countersigned by the city manager.

The auditor shall examine all payrolls, 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, duly certified and legally payable.

The auditor 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. 12. Bonds to be required of certain officers. The city council shall require bonds, with sufficient sureties, from all persons entrusted with the collection, custody or disbursement of the public moneys.

Sec. 13. All receipts to be paid into city treasury. All moneys received by any officer, employee or agent of the city for, or in connection with, the business of the city shall forthwith be paid into the city treasury, and shall be deposited with such responsible banking institutions as the council may determine. All interest from such deposits shall accrue to the benefit of the city.

Sec. 14. Purchasing agent; powers and duties; city manager to act temporarily. The purchasing agent shall purchase all supplies for the city and for the several officers and boards thereof. Purchases of supplies for the schools shall be made by the purchasing agent upon requisition by the superintending school committee.

The purchasing agent shall see to the delivery of supplies to each department and take and file receipts therefor. He shall conduct all sales of property unfit or unnecessary for the city's use, after such sales have been authorized by the council.

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

Sec. 15. Purchases of supplies to be upon bid; exceptions. All supplies costing \$500 or more purchased for the city and the several officers and boards thereof, including the overseers of the poor, excepting supplies purchased for the superintending school committee and supplies for emergency purposes, shall be purchased upon sealed bid. The purchasing agent shall maintain a list of all suppliers desiring to receive invitations to bid. Suppliers shall be entitled to listing upon written application to the purchasing agent and shall retain said listing

until they shall have failed to bid on 3 consecutive invitations. All invitations to bid shall specify, so far as possible, the kind and quality of supplies 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. 16. Fiscal year. The fiscal year of the city shall commence on the first day of April and end on the 31st day of March of each year.

ARTICLE VIII

Initiative and Referendum

Section 1. General authority.

1. Initiative. The qualified voters of the city shall have power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

2. Referendum. The qualified voters of the city shall have power to require reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Sec. 2. Commencement of proceedings; petitioners committee; affidavit. Any 5 qualified voters may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 3. Petitions.

1. Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least 15% of the total number of qualified voters registered to vote at the last regular city election.

2. Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

3. Affidavit of circulator. Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that he per-

sonally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

4. Time for filing referendum petitions. Referendum petitions must be filed within 30 days after adoption by the council of the ordinance sought to be reconsidered.

Sec. 4. Procedure after filing.

1. Certificate of clerk; amendment. Within 20 days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once, if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (2) and (3) of section 3 and within 5 days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection (2) of this section within the time required, the clerk shall promptly present his certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) Council review. If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within 2 days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

(3) Court review; new petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

Sec. 5. Referendum petitions; suspension of effect of ordinance. When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

1. There is a final determination of insufficiency of the petition, or
2. The petitioners' committee withdraws the petition, or

3. The council repeals the ordinance, or
4. Thirty days have elapsed after a vote of the city on the ordinance.

Sec. 6. Actions on petitions.

1. Action by council. When an initiative or referendum petition has been finally determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

2. Submission to voters. The vote of the city on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of the final council vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

3. Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the city, by filing with the city clerk a request for withdrawal signed by at least 4 members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 7. Results of election.

1. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

2. Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE IX

Miscellaneous Provisions

Sec. 1. Referendum; date of meeting; form of question; procedure. This Act shall be submitted for approval or rejection to the qualified voters of the City of Auburn at the next regular city election on September 11, 1967 or at a special election to be held before December 31, 1967. Warrants for said special election shall be issued in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said city to meet in the

several ward meetings of said city, there to cast their ballot on the approval or rejection of this Act.

The city clerk shall prepare the required ballots, on which he shall reduce the subject matter of this Act to the following question: "Shall 'An Act to Grant a New Charter to the City of Auburn,' passed by the 103rd Legislature, 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 ballots cast shall reject, this Act shall not go into effect, but if a majority of the electors voting shall approve, then this Act shall take effect as herein provided; but only if the total number of votes cast for and against the acceptance of this Act at said election equals or exceeds 10% of the total vote for all candidates for Governor cast in said city at the next previous gubernatorial election.

The result of said vote shall be declared by the municipal officers of the City of Auburn and due certificate thereof shall be filed by the city clerk with the Secretary of State.

Sec. 2. Date when effective. So much of this Act as authorizes the submission of the acceptance of this charter to the electors of the City of Auburn shall take effect as provided in the Constitution of the State, but it shall not take further effect unless accepted by the electors of the City of Auburn as hereinbefore provided. If accepted by the electors of the city, then this Act shall take effect for all purpose upon the date of such acceptance.

Sec. 3. Ordinances not inconsistent continued in force. 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.

Sec. 4. Existing contracts not invalidated unless inconsistent. All rights, actions, proceedings, prosecutions and contracts of the city, or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent therewith, including rights under police department and fire department pension funds heretofore established, shall be enforced, consistent with the provisions of this charter, and shall continue in force hereunder.

Sec. 5. Inconsistent statutes repealed when act becomes effective. In case this Act is approved in the manner hereinbefore provided, all Acts and parts of Acts inconsistent herewith are hereby repealed.