

MAINE STATE LEGISLATURE

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



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

ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 790

S. P. 248

In Senate, February 12, 1969

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

JERROLD B. SPEERS, Secretary

Presented by Senator Letourneau of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Creating a Council-Manager Form of Government for the City of Saco.

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

COUNCIL-MANAGER CHARTER OF SACO

ARTICLE I

ESTABLISHMENT OF CITY

Section 1.01. Corporate existence retained.

The inhabitants of the City of Saco, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal corporation by the name of "City of Saco."

Section 1.02. Powers of the city.

The city shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation; and may enact bylaws, regulations and ordinances not inconsistent with the Constitution and laws of the State of Maine, and provide therein for punishment by fine or by imprisonment for violation thereof, and whoever violates any provision of such bylaws, ordinances and regulations shall be punished by a fine of not more than \$100, payable to the court for the use of the City of Saco, or by imprisonment for not more than 30 days, or by both.

The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, de-

wise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers, not inconsistent with the provisions hereof, which are granted to municipalities by the Revised Statutes of 1964, as amended, and as they may from time to time be amended, and which, under the Constitution of this State, it would be competent for this charter specifically to enumerate.

Section 1.03. Inter-governmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states or subdivisions or agencies thereof, or the United States or any agency thereof.

Section 1.04. Wards.

The said city shall continue to be divided into 7 wards with the now existing boundaries; except that it shall be the duty of the city council each 10th year commencing with the year 1970 to review, and if needful to alter by ordinance, the ward lines in such manner as to preserve as nearly as may be convenient, consistent with well-defined boundaries, an equal number of voters in each ward.

**ARTICLE II
CITY COUNCIL**

Section 2.01. Composition.

There shall be a city council of a chairman and 6 councilmen.

Section 2.02. Eligibility.

The councilman shall be a resident of the ward from which he is elected and a qualified voter of the city.

Section 2.03. Election and term.

a. Nomination. The councilmen shall be nominated by caucus according to law or by any other provision provided herein.

b. Election. The chairman of the council shall be elected by and from within the membership of the 7 councilmen and the councilmen shall be elected by the voters of their respective wards.

c. Term. The councilmen shall be elected for 2-year terms commencing on the first Monday of November in the odd-numbered year.

d. Date of election. The city election shall be the 2nd Monday of October in each odd-numbered year. The chairman of the council shall be elected on or before the first Monday of November in each odd-numbered year.

Section 2.04. Duties of the chairman of the council.

The chairman shall preside at meetings of the council; shall be recognized as head of the city government but shall have no administrative duties. The chairman shall be a voting member of the council. In the temporary absence or disability of the chairman, the city council may elect a chairman pro tempore from among its members and he shall exercise all the powers of the chairman during such temporary absence or disability of the chairman.

Section 2.05. General powers and duties.

All powers of the city shall be vested in the city council, except as otherwise provided by this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The powers and duties of the city council shall include the legal custody of all the city public buildings and land, but the care and maintenance thereof shall be under the administrative direction of the city manager.

Section 2.06. City council constituted municipal officers.

The chairman and members of the city council shall constitute the municipal officers of the city for all purposes required by statute and, except as otherwise herein specifically provided, shall have all the powers and authority given to, and perform all duties required of, municipal officers under the laws of the State.

Section 2.07. Prohibitions—chairman of the council and city council.

a. Holding other office. Except where authorized by law, no chairman of the council or councilman shall hold any city office or employment during the term for which he was elected to the council, except for call fireman, and no former chairman of the council or councilman shall hold any compensated appointive city office or employment until one year after the expiration of the term for which he was elected to the council.

b. Appointments and removals. The city council or any of its members shall not in any manner direct the appointment or removal of any city administrative officers or employees whom the manager or any his subordinates are empowered to appoint, but the chairman and council may express their views and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.

c. Interference with administration. Except for the purpose of inquiries and investigations under section 2.08, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager. The city council or its members shall not give orders to any such officer or employee either publicly or privately.

Section 2.08. Investigations.

The council may make investigations into the affairs of the city and the conduct of any city department, office, agency, board or commission and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful

order issued in the exercise of these powers by the council shall be guilty of a misdemeanor and punished by a fine of not more than \$100, or by imprisonment for not more than 30 days, or by both.

Section 2.09. Vacancies, forfeiture of office; filling of vacancies.

a. Vacancies. The office of chairman of the council or a councilman shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office.

b. Forfeiture of office. The chairman of the council or councilman shall forfeit his office if he:

- (1) Lacks at any time during his term of office any qualification 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;
- (4) Fails to attend 3 consecutive regular meetings of the council without being excused by the council.

c. Filling of vacancies.

(1) A vacancy in the office of chairman of the council shall be filled until the next regular city election by the majority vote of the council from within its membership.

(2) A vacancy in the office of councilman shall be filled until the next regular city election by a majority vote of the council of all its remaining members. The person so elected shall be qualified for this office as herein required. No vacancy may be filled that would change the political composition of the council prior to the vacancy.

Section 2.10. Judge of qualifications.

The council shall be the judge of the election and qualifications of the chairman, councilmen and board of education members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the council under this section shall be subject to review by the courts.

Section 2.11. Independent audit.

The council shall provide for an independent annual audit of all city accounts and may provide for such more frequent audits as it deems necessary. Such audit shall be made by a certified public accountant or by auditors employed by the State. The council may, without requiring competitive bids, designate who shall do the audits and shall make this designation no later than 30 days after the beginning of the fiscal year.

Section 2.12. Procedure.

- a. Meetings.** The council shall meet regularly at least in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the chairman or of 4 or more members and, whenever practicable, upon no less than 12 hours' notice to each member. All meetings shall be public, except as otherwise provided by State law.
- b. Rules and journal.** The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- c. Voting.** Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. The presiding officer may issue warrants to the city police to compel members of the council to attend meetings when there is not a quorum present.
- d. Action.** The council shall act only by ordinance, order or resolve. All ordinances, orders, resolves, except those pertaining to appropriations, shall be confined to one subject which shall be clearly expressed in the title.

Section 2.13. Action requiring an ordinance.

In addition to other acts required by the law of this State or by specific provisions of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- a.** Adopt or amend an administrative code or establish, alter or abolish any city department, office or agency.
- b.** Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- c.** Authorize the borrowing of money and the issue of bonds, notes and other evidences of indebtedness of the city, except the borrowing of money in anticipation of receipts from taxes for the fiscal year and the issue of tax anticipation notes as evidence thereof.
- d.** Convey or lease or authorize the conveyance or lease of any lands of the city.
- e.** Adopt with or without amendment ordinances proposed under the initiative power.
- f.** Adopt or amend personnel rules.
- g.** Adopt or amend purchasing procedure.
- h.** Adopt or amend regulatory codes.
- i.** Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power.

Section 2.14. Ordinances in general.

a. Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. The enacting clause shall be "The City of Saco hereby ordains". Any ordinance which repeals or amends an existing ordinance or part of the city code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

b. Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to each council member and to the manager, shall file a reasonable number of copies in the office of the city clerk and such other public places as the council may designate and shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least 7 days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it. As soon as practicable after adoption of any ordinance, the clerk shall have it published again together with a notice of its adoption.

c. Effective date. Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

d. "Publish" defined. As used in this section, the term "publish" means to print at least once in one or more newspapers of general circulation in the city:

- (1) The ordinance or a brief summary thereof; and
- (2) The places where copies of it have been filed and the times when they are available for public inspection.

Section 2.15. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in section 6.09, subsection b. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that the emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 5

members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to section 6.09, subsection b, shall automatically stand repealed as of the first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance shall be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 2.16. Codes of technical regulations.

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally, except that :

- a. The requirements of section 2.14 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.
- b. A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to section 2.17, subsection a.

Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price.

Section 2.17. Authentication and recording; codification; printing.

- a. **Authentication and recording.** The city clerk shall authenticate by his signature, and record in full, in a properly indexed book for the purpose, all ordinances, orders and resolves adopted by the council.
- b. **Codification.** Within 3 years after adoption of this charter and at least every 10 years thereafter, the council shall provide for the preparation of a general codification of all city ordinances having the force and effect of law. The general codification shall be adopted by the council by ordinance and shall be published promptly in bound or loose-leaf form, together with this charter and any amendments thereto and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Saco City Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.
- c. **Printing of ordinances.** The council shall cause each ordinance having the force and effect of law to be printed promptly following its adoption and the printed ordinances shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Saco City Code and at all times thereafter, the ordinances shall be

printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein.

Section 2.18. Compensation; expenses.

The council may determine the annual salary of the chairman of the council and councilmen by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of chairman of the council and councilmen elected at the next regular election, provided that such election follows the adoption of such ordinance by at least 6 months. The annual salary of the chairman of the council shall not be greater than twice the annual salary of a councilman. The chairman of the council and councilmen shall receive their actual and necessary expenses incurred in the performance of their duties of office.

**ARTICLE III
CITY MANAGER**

Section 3.01. Appointment; qualification; compensation.

The council shall appoint a city manager for an indefinite term and fix his compensation. The manager shall be appointed solely on the basis of his executive and administrative qualifications, with special reference to his actual experience in or his knowledge of, accepted practice in respect to the duties of city manager as herein set forth. He need not be a resident of the city or State at the time of his appointment but may reside outside the city while in office only with the approval of the council.

Section 3.02. Removal.

The council may remove the manager from office in accordance with the following procedure:

- a. The council shall adopt by affirmative vote of the 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.
- b. 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.
- c. 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.

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.

Section 3.03. Acting city manager.

a. Vacancy in the office of city manager. Whenever a vacancy exists in the office of city manager, the council, by a majority vote of its members, may designate some person to be acting city manager until such vacancy is filled. This person shall not be the chairman of the council, a councilman, or former chairman of the council or councilman unless he has been out of office for at least a year.

b. Acting city manager in the absence or disability of the city manager. By a letter filed with the city clerk the manager shall designate, subject to approval by the city council, a qualified city administrative officer to exercise the powers and perform the duties of manager during his temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or his disability shall cease.

Section 3.04. Powers and duties of the city manager.

The city manager shall be the chief administrative officer of the city. He shall be responsible to the council for the administration of all city affairs placed in his charge by or under this charter. He shall have the following powers and duties :

a. He shall appoint and, when he deems it necessary for the good of the service, suspend or remove **any** city employee and appointive administrative officer provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

b. He shall direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter.

c. He shall attend all council meetings and shall have the right to take part in discussion but may not vote.

d. He shall see that all laws, provisions of this charter and acts of the council, subject to enforcement by him or officers subject to his direction and supervision, are faithfully executed.

e. He shall prepare and submit the annual budget and capital program to the council.

f. He shall submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.

g. He shall make such other reports as the council may require concerning the operation of city departments, offices and agencies subject to his direction and supervision.

h. He shall keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he deems desirable.

i. He shall perform such other duties as are specified in this charter or may be required by the council.

ARTICLE IV BOARDS AND COMMISSIONS

Section 4.01. Board of education.

a. **Composition and election.** The board of education shall consist of 5 members. The members of the board of education shall be elected by the voters of the entire city for 4-year terms with 3 and 2 members being elected alternately every other year. The nomination procedure shall be the same as for the councilmen. Vacancies on the board of education shall be filled by the council until the next regular city election, at which time vacancies for the unexpired term shall be filled in the same manner as for a regular term.

b. **Qualifications of the board of education.** Members of the board of education shall be residents and qualified voters of the city.

c. **Organization.**

(1) The board of education shall take office the first Monday in November in the odd-numbered year.

(2) Three members shall constitute a quorum ;

(3) The board of education shall elect from their membership a chairman ;

(4) The superintendent of schools shall be secretary to the board of education.

d. **Powers and duties.** The board of education shall have such powers and duties as are conferred by law upon superintending school committees in regard to the care, management, and operation of the public schools, except as otherwise provided in this charter, including the appointment, removal and setting of compensation for the superintendent of schools. The board of education shall, when requested by the city manager, furnish budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and shall make such financial and activity reports in writing whenever and in such form to the city manager as he may require.

e. **Procedure.** The procedure of the board of education for meetings, rules, journal and voting shall be the same as required for the council. The journal or authenticated copy thereof shall be on file at the office of the city clerk.

Section 4.02. Personnel Board.

There shall be a personnel board consisting of 3 members appointed by the council for terms of 3 years from among the qualified voters of the city, and at no time shall the members of the board be all of one political party. One member of which shall be appointed each year. Members of the board shall hold no other city office. The personnel board shall review any proposed personnel rules and shall submit, through the manager, to the city council any recommendations concerning these proposed personnel rules. The powers and duties of the personnel board shall be as herein provided and as provided in the personnel rules as adopted by the city council.

Section 4.03. Planning board.

The planning board shall continue as established by law.

Section 4.04. Zoning board of appeal.

The zoning board of appeal shall continue as provided by law.

Section 4.05. Board of assessment review.

There is hereby established a board of assessment review. The composition, powers and duties are as established by law. The council may, by ordinance, grant additional powers and duties not inconsistent with the law.

Section 4.06. Other boards and commissions.

Other boards and commissions shall be established as authorized or required by law.

Section 4.07. Advisory committees.

Advisory committees may be established by the council or manager and the members to these committees appointed by the establishing power.

ARTICLE V

DEPARTMENTS, OFFICES AND AGENCIES

Section 5.01. City manager, chief administrative officer.

All departments, offices and agencies, except for the functions of the education department under the supervision of the board of education, shall be under the direction and supervision of the manager. Each department, office or agency shall be administered by an officer appointed by and subject to the direction and supervision of the manager, except as otherwise provided by this charter. With the consent of council, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of 2 or more of them.

Section 5.02. Council power.

The council may establish city departments, offices or agencies in addition to those created by this charter and may prescribe the function of all departments, offices or agencies except that no functions assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other.

Section 5.03. Necessary departments, offices or agencies.

The following departments, offices and agencies shall be provided for:

- a. Tax collector ;
- b. Assessor ;
- c. Civil defense director ;
- d. City clerk ;
- e. Building inspector ;
- f. Treasurer ;
- g. City attorney ;
- h. Welfare officer ;
- i. Health officer ;
- j. Police chief ;
- k. Fire chief ;
- l. Public works director ; and
- m. Purchasing agent.

The city council may combine 2 or more of the above departments, offices and agencies into a single department, office or agency, with the exception that the police department and the fire department shall be separate departments.

Section 5.04 Administrative code.

The manager shall prepare and submit to the council, within one year after the effective date of this charter, a proposed administrative code. Within 18 months of the effective date of this charter, the council shall pass an administrative code. This administrative code may be revised and amended as necessary. The administrative code shall establish the departmental organization and the functions of the various departments, offices and agencies of the city and shall not be inconsistent with provisions of this charter.

Section 5.05. Personnel system.

All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence. Within 18 months of the effective date of this charter, the council shall pass an ordinance establishing personnel rules which shall provide for:

- a. The classification of all city positions, based on duties, authority and responsibility of each position, with adequate provisions for reclassification of any position whenever warranted by changed circumstances ;
- b. A pay plan for all city positions ;

- c. Methods for determining the merit and fitness of candidates for appointment or promotion ;
- d. The policies and procedures regulating reduction in force and removal of employees ;
- e. The hours of work, attendance regulations and provisions for sick and vacation leave ;
- f. The policies and procedures governing persons holding provisional appointments ;
- g. The policies and procedures governing relationships with employee organizations ;
- h. The policies regarding in-service training programs ;
- i. Grievance procedures, including procedures for the hearing of grievances by the personnel board, which may render advisory opinions based on its findings to the city manager with a copy to the aggrieved employee.
- j. Other practices and procedures necessary to the administration of the city personnel system.

ARTICLE VI

FINANCIAL PROCEDURES

Section 6.01. Fiscal year.

The fiscal year of the city shall begin on the first day of January and end on the last day of December.

Section 6.02. Submission of budget.

On or before the 15th day of December of each year, the manager and board of education shall submit to the council their respective sections of the budget for the ensuing fiscal year and accompanying messages.

Section 6.03. Budget messages.

The manager's and board of education's messages shall explain the budget both in fiscal terms and in terms of work programs. They shall outline the respective proposed financial policies of the city for the ensuing fiscal year; describe the important features of the budget, indicate any major changes from the current year in fiscal policies, expenditures, revenues, together with the reasons for such changes, summarize the city's debt position and include such other materials as the manager deems desirable.

Section 6.04. Budget.

The budget shall be submitted to the council in 2 parts, one by the city manager and one by the board of education. The section of the budget submitted by the board of education shall include their estimated cost for the operation of the schools for the ensuing fiscal year including capital expenditures and debt cost. The budget, including the section submitted by the board of education, shall be in such form as the manager deems desirable or the council

may require, except as otherwise required by law or this charter. On or before the first day of January of each year the manager shall submit to the council a summary of the 2 parts of the budget previously submitted to the council by the board of education and the manager, which shall show proposed expenditures, estimated income and proposed property tax levy for school and other city purposes.

Section 6.05. Capital program.

a. Submission to council. The manager shall prepare and submit to the council a 5-year capital program on the first Monday of November of each year.

b. Contents. The capital program shall include :

- (1) A clear general summary of its contents ;
- (2) A list of all capital improvements which are proposed to be undertaken during the 5 fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements ;
- (3) The cost estimates, methods of financing, and recommended time schedules for each such improvement ;
- (4) The estimated annual cost for operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

Section 6.06. Council action on budget.

a. Notice and hearing. The council shall publish at least once in one or more newspapers of general circulation in the city a notice stating :

- (1) The time and place where copies of the messages and budget are available for inspection by the public ;
- (2) The time and place, not less than 2 weeks after such publication, for a public hearing on the budget.

b. Amendment before adoption. After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law, or for debt service or for estimated cash deficit.

c. Adoption. The council shall adopt the budget on or before the first day of March. Until the budget is adopted, the amounts appropriated for the previous year shall be deemed adopted for the current fiscal year on a month to month basis. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy.

Section 6.07. Council action on capital program.

a. Notice and hearing. The council shall publish at least once in one or more newspapers of general circulation in the city a notice stating:

- (1) The time and place where copies of the capital program are available for inspection by the public.
- (2) The time and place, not less than 2 weeks after such publication, for a public hearing on the capital program.

b. Adoption. The council by resolution shall adopt a capital program with or without amendment after the public hearing and on or before the 15th day of February.

Section 6.08. Public records.

Copies of the budget and capital program as adopted shall be public records and shall be made available to the public at suitable places in the city.

Section 6.09. Amendments after adoption.

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

b. Emergency appropriations. To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 2.15. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which emergency appropriation was made.

c. Reduction of appropriations. If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amounts appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

d. Transfer of appropriations. At any time during the fiscal year, upon written request by the manager, the council may transfer part or all of any unencumbered appropriation balance within a department, office or agency or from one department, office or agency to another.

e. Limitations; effective date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any

amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 6.10. Lapse of appropriations.

Every appropriation, except an appropriation for capital expenditures, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if 3 years pass without any disbursement from or encumbrance of the appropriation.

Section 6.11. Administration of budget.

a. At such time as the manager shall specify each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to section 6.09.

b. **Payments and obligations prohibited.** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Section 6.12. Purchasing.

Purchasing procedure shall be established by ordinance by the council. The manager shall make necessary administrative purchasing rules in accordance with the ordinance as he deems necessary. The purchasing agent, pursuant to rules and regulations, shall contract for and purchase all supplies, materials and equipment required by any office, department or agency of the city. The

board of education shall be solely responsible for the designation of types of educational aids and books.

Section 6.13. Accounting procedure.

The manager shall establish such rules and procedures as he deems necessary for accounting by the offices, departments, agencies, board and commission of the city, except as otherwise provided by this charter or law.

Section 6.14. Borrowing in anticipation of taxes and temporary borrowings.

Money may be borrowed pursuant to order or resolve of the council in any fiscal year in anticipation of receipts from taxes for such fiscal year, but the aggregate amount of such loans outstanding at any one time shall not exceed the total tax levy of the preceding fiscal year. All such loans shall be paid within the fiscal year out of receipts from taxes for the fiscal year in which loans were made.

Money may also be borrowed pursuant to order or resolve of the council in anticipation of money to be received from the issue of bonds or notes to be issued but only if the issue of such bonds or notes has been duly authorized, and all such borrowings shall be paid within one year and shall be subject to the provisions of the laws of the State in relation thereto.

Section 6.15. Borrowing for permanent improvements.

The council by ordinance as heretofore provided may authorize the borrowing of money, within the limits fixed by the Constitution and the laws of the State, by the issue of bonds and notes, the proceeds of the issue to be used for the acquisition of land, the construction or reconstruction of buildings and other permanent public improvements, major improvements, alterations or extraordinary repairs to buildings and other permanent public improvements, the equipment of buildings and other permanent public improvements, the purchase of departmental equipment, and the payment or refunding of bonds or notes previously issued. Each issue of bonds or notes shall be payable within a fixed term of years which shall in no case exceed 30 years. Bonds and notes issued pursuant to this section, after the adoption of this Charter, shall be made payable in annual, serial and approximately equal installments as pertains to principal, and interest shall be payable semiannually.

ARTICLE VII

ELECTION

Section 7.01. City elections.

a. Regular elections. Regular city elections shall be held on the 2nd Monday of October in each odd-numbered year.

b. Qualified voters. All citizens qualified by the Constitution and laws of the State of Maine to vote in the city and who satisfied requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this charter.

c. Conduct of elections. Except as otherwise provided by this charter, the provisions of the general election laws of the State of Maine shall apply to elections held under this charter. All elections provided for by the charter shall be conducted by election authorities as established by law.

Section 7.02. Candidates.

a. Nomination. Candidates for elective office to be filled under the provisions of this charter shall be nominated by caucus under the provisions of the general election laws of the State of Maine. An alternate method of nomination shall be by a petition signed by the qualified voters, not less in number than 5% of the number of persons who voted in the last municipal election for the office concerned.

b. Elective positions. The following officers are to be elected for the City of Saco:

- (1) Seven ward councilmen;
- (2) Five members of the board of education; and
- (3) Necessary ward officials.

Section 7.03. Determination of results.

a. Plurality. The candidate receiving the greatest number of votes shall be deemed elected provided he qualifies as required herein.

b. Certified by council. As required by law, the council shall certify the results of the city election.

c. Appeals. Appeals from action of the council in certifying city elections may be made to the courts in the manner provided by law.

Section 7.04. Ballots for ordinances.

An ordinance to be voted on by the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question:

“Shall the above described ordinance be adopted?” Immediately below such question shall appear in the following order, the words, “Yes” and “No” and to the left of each a square in which by marking a cross (X) or check (V) the voter may cast his vote.

Section 7.05. Voting devices.

The council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with the law.

Section 7.06. Availability of list of qualified voters.

If for any purpose relating to a general or city election or to candidates or issues involved in such an election, any organized group or person requests a

list of qualified voters of the city, the department, office or agency which has custody of that list shall either permit the organization, group or person to copy the voters' names and addresses from the list or furnish a copy of the list for nominal charge as set by the council.

ARTICLE VIII

INITIATIVE AND REFERENDUM

Section 8.01. General authority.

a. Initiative. The qualified voters of the city shall have the 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 any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

b. 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 any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Section 8.02. 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.

Section 8.03. Petitions.

a. Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least 10% of the total number of qualified voters registered to vote at the last regular city election.

b. 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 considered.

c. 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

personally 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 person 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.

d. 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.

Section 8.04. Procedure after filing.

a. 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 (b) and (c) of section 8.03, 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 (b) 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.

b. 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.

c. 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.

Section 8.05. 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 :

- a. There is a final determination of insufficiency of the petition ;
- b. The petitioners' committee withdraws the petition ;
- c. The council repeals the ordinance ;
- d. Thirty days have elapsed after a vote of the city on the ordinance.

Section 8.06. Action on petitions.

a. 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.

b. 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.

c. 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.

Section 8.07. Results of elections.

a. 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.

b. 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

GENERAL PROVISIONS

Section 9.01. Personal financial interest.

Any city officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the city or in the sale of any land, material, supplies or services to the city or to a contractor supplying the city shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as a city officers or employee in the making of such sale or in the making or performance of such contract. Any city officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the city, shall render the contract or sale voidable by the city manager or the city council.

Section 9.02. Prohibitions.

a. Activities prohibited.

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, sex, political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person who seeks appointment or promotion with respect to any city position or appointive city administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

(4) No person shall orally, by letter or otherwise solicit or assist in soliciting any assessments, subscriptions or contribution for any political party or political purpose whatever from any person holding any compensated appointed city position.

(5) No person who holds any compensated appointed city position shall make, solicit or receive any contribution to the campaign funds of any political party or any candidate for public office or take any part in the management, affairs or political campaign of any political party, but he may exercise his right as a citizen to express his opinions and to cast his vote.

b. Penalties. Any person who by himself or with others willfully violates any of the provisions of paragraphs (1) through (4) shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100, or by imprisonment for not more than 30 days, or by both. Any person who by himself or with others willfully violates any provisions

of subsection (5) shall be guilty of an offense and upon conviction thereof shall be punished by a fine of not more than \$100. Any person convicted under this section shall be ineligible for a period of 5 years thereafter to hold any city office or position and, if an officer or employee of the city, shall immediately forfeit his office or position.

Section 9.03. Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 9.04. Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk: "I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will in all respects observe the provisions of the charter and ordinances of the City of Saco and will faithfully discharge the duties of the office of _____."

Section 9.05. Bonds.

The council shall require a corporate surety bond in such amount as it may specify, from all persons trusted with the collection, custody or disbursement of any of the public moneys, supplies or materials, and may require such bond from such other persons as it may deem advisable. Every bond shall be approved by qualified legal advice as to form and sufficiency of surety prior to its acceptance by the city. The premiums on such bonds shall be paid by the city.

Section 9.06. Short title.

This charter shall be known and may be cited as the "Council-Manager Charter of Saco".

ARTICLE X

TRANSITIONAL PROVISIONS

Section 10.01. Officers and employees.

a. **Rights and privileges preserved.** Nothing in this charter, except as otherwise specially provided, shall affect or impair the rights or privileges of persons who are city officers or employees at the time of its adoption.

b. **Continuance of office or employment.** All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance herewith for the performance of such duties or the discontinuance of such office.

c. **Personnel system.** An employee holding a city position at the time this charter takes full effect, who was serving in that same or a compatible position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position but in all other respects shall be subject to the personnel system provided for in section 5.05.

Section 10.02. Departments, offices and agencies.

a. **Transfer of powers.** If a city department, office or agency is abolished by this charter, the powers and duties given it by law shall be transferred to the city department, office or agency designated in this charter or if the charter makes no provision, designated by the city council.

b. **Property and records.** All property, records and equipment of any department, office or agency existing when this charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records or equipment shall be transferred to one or more departments, offices or agencies designated by the council in accordance with this charter.

Section 10.03. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and in each case shall be maintained, carried on or dealt with by the city department, office or agency appropriate under this charter.

Section 10.04. Municipal ordinances continue.

All city ordinances, resolutions, orders and regulations which are in force when this charter become fully effective, except to the extent that they are inconsistent with this charter, shall continue in force until amended or repealed.

Section 10.05. Deering bequest.

Chapter 95 of the Private and Special Laws of 1917 relating to the bequest of Lucia Kimball Deering shall be unaffected by the provisions hereof, and is hereby deemed incorporated into this charter by reference.

Section 10.06. Repealing clause.

Chapter 177 of the Private and Special Laws of 1953 and acts amendatory thereof, and all acts or parts of acts relating to the City of Saco inconsistent with the provisions of this charter are repealed.

Section 10.07. Schedule.

a. **Election.** At the election on the 2nd Monday of December in 1969, 7 councilmen shall be elected and shall serve until their successors qualify on the first Monday of November in 1971. The councilmen as elected on the 2nd Monday of December in 1969 shall elect the chairman of the council on or before the first Monday of January in 1970. At the election on the 2nd Monday of December in 1969, one member of the board of education shall be elected and shall along with the members still in office serve until the

first Monday of November in 1971; and 2 members of the board of education shall be elected to serve until the first Monday of November in 1973. Ward officials elected on the 2nd Monday of December in 1969 shall serve the same term of office as the councilmen.

b. Time of taking full effect. This charter shall be in full effect for all purposes on and after the first day of January in 1970.

c. Selection of first city manager. The city council may authorize the city clerk to advertise the vacancy of the position of city manager and accept applications prior to their taking of office on the first of January in 1970. The selection of first city manager cannot be made prior to January 1, 1970.

d. Temporary ordinances. For the purpose of adopting ordinances necessary to effect the transition of government under this charter and to maintain effective city government during that transition, the council shall follow the procedures prescribed in Article II, except that at its first meeting or any meeting held within 60 days thereafter, the council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government and in which the delay incident to the appropriate ordinance procedure would probably cause serious hardship or impairment of effective city government. Every temporary ordinance shall be plainly labelled as such but shall be introduced in the form and manner prescribed for ordinances generally. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal under this subsection as it may specify, and the referendum power shall not extend to any such ordinance. Every temporary ordinance, including any amendments thereto after adoption, shall automatically stand repealed as of the 91st day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by adoption in manner prescribed in Article II for ordinances of the kind concerned.

e. Initial salary of chairman of the council and councilmen. Councilmen shall receive an annual salary in the amount of \$500 until such amount is changed by the council in accordance with the provisions of this charter. The chairman of the council shall receive an annual salary in the amount of \$500 until such amount is changed by the council in accordance with the provisions of this charter.

ARTICLE XI

CHARTER FOR THE CITY OF SACO

Section 11.01. Referendum.

This Act shall be submitted for approval or rejection to the qualified voters of the City of Saco at a special referendum election to be held on the 2nd

Monday of October in 1969, except that it shall be held at the state referendum election in November of 1969, if one is so provided. The vote shall be taken by ballot at said election in answer to the question, "Shall an Act passed by the 104th Legislature entitled 'An Act Creating a Council-Manager Form of Government for the City of Saco,' be accepted?" which shall be printed on the official ballots, and at said election the voters of said city in favor of accepting this Act shall vote "Yes" and those opposed shall vote "No".

Otherwise said ballots shall be in the form provided by law when a constitutional amendment is submitted to the vote of the people. If a majority of the valid ballots deposited as aforesaid shall favor accepting the same, then this Act shall forthwith take effect as herein provided.

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

Section 11.02. Date when effective.

So much of this Act as authorizes the submission of the acceptance of this charter to the voters of the City of Saco shall take effect 90 days after the adjournment of this Legislature, as provided in the Constitution of the State, but it shall not take further effect unless adopted by the voters of the City of Saco as hereinbefore provided. If adopted by the voters of the city, then this Act shall take effect as hereinbefore provided.