
FORTY-SEVENTH LEGISLATURE.

HOUSE.

No. 40.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT.

AN ACT to incorporate the city of Auburn.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. The inhabitants of the town of Auburn, 2 in the county of Androscoggin, shall continue to be a 3 body politic and corporate by the name of the City of 4 Auburn, and as such shall have, exercise and enjoy 5 all the rights, immunities, powers, privileges and 6 franchises, and be subject to all the duties and obliga- 7 tions now appertaining to or incumbent upon said 8 town as a municipal corporation, or appertaining to or 9 incumbent upon the inhabitants or selectmen thereof; 10 and may ordain and publish such ordinances, by-laws 11 and regulations, not inconsistent with the constitution

12 and laws of this state, as shall be needful to the good
13 order of said body politic ; and impose fines and pen-
14 alties for the breach thereof, not exceeding twenty
15 dollars for any one offence, which may be recovered
16 to the use of said city by action of debt, or on com-
17 plaint before any trial justice therein.

SECT. 2. The government of said city, and the ad-
2 ministration of all its fiscal, prudential and municipal
3 affairs, shall be vested in one principal magistrate, to
4 be styled the mayor, and one council of five, to be
5 denominated the board of aldermen, and one council
6 of fifteen, to be denominated the common council,
7 which boards shall constitute and be called the city
8 council.

SECT. 3. The mayor shall be an inhabitant of said
2 city, and shall be elected from the citizens at large,
3 by the inhabitants thereof voting in their respective
4 wards. One alderman and three common councilmen
5 shall be elected by each ward, and shall be residents
6 of the wards for which they are elected. All of said
7 officers shall be elected by ballot, by a majority of the
8 votes given, and shall hold their offices for one year
9 from the third Monday of March, and until others
10 shall be elected in their places, and shall be sworn to
11 the faithful performance of the duties of their respec-
12 tive offices.

SECT. 4. The selectmen of the town of Auburn, as
2 soon as may be after this act shall have been accepted,
3 as hereinafter provided, shall cause a division of said
4 town to be made into five wards, in such manner as
5 to include as nearly as conveniently may be consis-
6 tantly with well defined ward limits, an equal number
7 of inhabitants to each ward, and appoint a warden to
8 preside at the first meeting until a warden is elected.

SECT. 5. For the purpose of organizing the system
2 of government hereby established, and putting the
3 same in operation in the first instance, the selectmen
4 of said town for the time being shall seasonably, before
5 the second Monday in March next after the acceptance
6 of this charter, issue their warrants calling meetings
7 of the legal voters of the respective wards of said town,
8 at such place and hour upon said day as they shall
9 deem expedient, for the purpose of choosing a warden
10 and clerk for each ward, and also to give in their votes
11 for a mayor of said city, and one alderman and three
12 common councilmen for each ward. The first business
13 in order in each ward shall be to choose a warden and
14 clerk for the ward, who shall be sworn to the faithful
15 discharge of their duties. At said meeting a list of
16 the voters in each ward, prepared and corrected by the
17 selectmen of the town of Auburn for the time being,
18 shall be delivered to the clerk of each ward when

19 elected, to be used as provided by law in town meet-
20 ings. The voters of each ward shall then give in their
21 votes for mayor, one alderman and three common coun-
22 cilmen. All the votes given for said officers shall be
23 sorted, counted, declared and registered as is provided
24 in section six. A transcript of the records of each
25 ward, specifying the votes given for mayor, aldermen
26 and common councilmen, certified by the warden and
27 clerk of such ward, shall at said first election be re-
28 turned to the selectmen of said town of Auburn, who
29 shall examine and compare the same, and give notice
30 thereof to the several persons elected ; and in case said
31 election shall not be completed at the first election,
32 then to issue a new warrant, until such election shall
33 be completed, according to the provisions of this act.
34 The aldermen and common councilmen elect shall on
35 the third Monday of March following such election, at
36 ten o'clock in the forenoon, meet in convention at the
37 town hall in Auburn, when the oath required by the
38 third section of this act shall be administered to the
39 mayor by a justice of the peace and to the members of
40 the two boards by the mayor. The city council in
41 convention shall then elect a city clerk, and thereupon
42 the two boards shall separate, and the board of com-
43 mon council shall be organized by the election of a
44 president and clerk.

SECT. 6. On the first Monday of March, annually, 2 after the first election, the qualified voters of each 3 ward shall ballot for a mayor, one alderman and three 4 common councilmen, warden and clerk; all the votes 5 given for said several officers, respectively, shall be 6 sorted, counted, declared and registered in open ward 7 meeting, by causing the names of the persons voted 8 for, and the number of votes given for each, to be 9 written on the ward record at length. The ward 10 clerk within twenty-four hours after such election, 11 shall deliver to the persons elected alderman and com- 12 mon councilmen certificates of their election, and shall 13 forthwith deliver to the city clerk a certified copy of 14 the record of such election; *provided*, that if the choice 15 of alderman and common councilmen cannot be con- 16 veniently effected on that day, the meeting may be 17 adjourned from day to day to complete such election. 18 If on the second balloting for any alderman, common 19 councilman, warden or clerk, a choice shall not be ef- 20 fected by a majority vote, then the persons receiving 21 the highest number of votes for any of those offices at 22 the subsequent trial shall be declared elected; if no 23 one shall then have such highest number, the balloting 24 shall be continued from day to day until a choice is 25 thus effected.

26 The board of aldermen shall, as soon as conveniently

27 may be, examine the copies of the records of the sev-
28 eral wards certified as aforesaid, and shall cause the
29 person who shall have been elected mayor by a major-
30 ity of the votes given in all the wards to be notified in
31 writing of his election ; but if it shall appear that no
32 person shall have been elected, or if the person elected
33 shall refuse to accept the office, the said boards shall
34 issue their warrants for another election ; and in case
35 the citizens should fail on a second ballot to elect a
36 mayor, the said boards shall again issue their warrants
37 for a third election, to be held not less than three nor
38 more than seven days thereafter, at which election the
39 candidate having the greatest number of votes shall be
40 declared elected and notified as aforesaid ; if no one
41 shall then have such number, further elections shall in
42 the same manner be ordered till a choice shall be made
43 by some one having the highest number of votes ; and
44 in case of a vacancy in the office of mayor by death,
45 resignation or otherwise, it shall be filled for the re-
46 mainder of the term by a new election in the manner
47 herein before provided for the choice of said officer ;
48 and in the meantime the president *pro tempore* of the
49 board of aldermen shall perform the duties of mayor.
50 The oath prescribed by this act shall be administered
51 to the mayor by any justice of the peace in said city.
52 The aldermen and common councilmen elect shall an-

53 nually, on the third Monday of March, at ten o'clock
54 in the forenoon, meet in convention, when the oath
55 required by this act shall be administered to the two
56 boards present by any justice of the peace, and there-
57 upon the two boards shall separate, and the board of
58 common council shall be organized by the election of a
59 president and clerk.

SECT. 7. The warden and ward clerk, chosen as
2 provided in the preceding section, shall hold their
3 offices until Tuesday next after the first Monday of
4 March of the succeeding year, and until others have
5 been chosen and qualified in their stead. Said warden
6 and clerk shall be sworn to the faithful performance of
7 their duties by the person presiding in said meeting
8 or by the clerk thereof, and a certificate of such oath
9 shall be entered by the clerk on the records of said
10 ward. The wardens shall preside at all ward meet-
11 ings, with the powers of moderators of town meetings,
12 and if at any meeting the warden shall not be present,
13 the clerk of the ward shall call the meeting to order
14 and preside till a warden *pro tem.* shall be chosen.
15 If neither the warden nor the clerk shall be present,
16 any legal voter in the ward may preside till a clerk
17 *pro tem.* shall be chosen and qualified. The clerk shall
18 record all the proceedings and certify the votes given,
19 and deliver over to his successor in office all such

20 records and journals, together with all other documents
21 and papers held by him in said capacity. The inhab-
22 itants of each ward may choose two persons to assist
23 the warden in receiving, sorting and counting the
24 votes. The list of the names of the legal voters of
25 each ward shall be prepared by the board of aldermen,
26 assisted by the wardens, in the same manner and un-
27 der the same restrictions as are imposed by the laws
28 of this state on the assessors and selectmen of towns ;
29 and all regular ward meetings shall be notified and
30 called by the mayor and aldermen in the manner pro-
31 vided in the laws of this state for notifying and calling
32 town meetings by the selectmen of the several towns,
33 excepting that ward meetings for the election of mayor
34 after the second trial may be called within the time
35 provided in such cases in this act.

SECT. 8. The mayor of said city shall be the chief-
2 executive magistrate thereof. He shall cause the laws
3 and regulations of the city to be faithfully executed
4 and enforced, exercise a general supervision over the
5 conduct of all subordinate officers, and cause their vio-
6 lations and neglect of duty to be punished. He shall
7 call special meetings of the board of aldermen and
8 common council, or either of them, when in his opin-
9 ion the interest of the city requires it, by causing a
10 summons or notification to be given in hand or left at

11 the usual dwelling-place of each member of the board
12 or boards to be convened. He shall from time to time
13 communicate to both of them such information and
14 recommend such measures as the business and interests
15 of the city may in his opinion require. He shall pre-
16 side in the board of aldermen and in the joint conven-
17 tion of the two boards, but shall only have a casting
18 vote.

SECT. 9. The executive powers of said city gener-
2 ally, and the administration of police, with all the
3 powers of the selectmen of the town of Auburn, shall
4 be vested in the mayor and aldermen as fully as if the
5 same had been herein particularly enumerated. All
6 other powers now vested in the inhabitants of said
7 town, and all powers granted by this act, shall be
8 vested in the mayor and aldermen and common council
9 of said city, to be exercised by concurrent vote, each
10 board to have a negative on the other ; *provided*, that
11 all elections of officers by the city council shall be by
12 joint ballot of the two boards in convention.

SECT. 10. The city council shall annually on the
2 third Monday in March, or as soon thereafter as may
3 be convenient, elect and appoint for the ensuing year,
4 a city clerk, treasurer, collector of taxes, street com-
5 missioner, three assessors, one or more superintendents
6 of schools, a chief engineer and other necessary engi-

7 neers of the fire department, and such other necessary
8 subordinate officers and agents as the town of Auburn
9 is now authorized to elect and appoint by existing
10 laws ; shall define their duties, and may, by concur-
11 rent vote, remove said officers when in their opinion
12 sufficient cause for their removal exists. All of said
13 subordinate officers and agents shall hold their offices
14 during the ensuing year and until others shall be elect-
15 ed and qualified in their places, unless sooner removed
16 by the city council, and shall exercise the same powers
17 and duties and be subject to the same liabilities that
18 similar officers in the several towns of this state may
19 exercise and are subject to by existing laws.

SECT. 11. The compensation of the officers of said
2 city, including the salary of the mayor, shall be annu-
3 ally fixed by the city council ; *provided* that the alder-
4 men and common councilmen shall not receive any
5 salary or compensation for any services by them per-
6 formed as such.

SECT. 12. The board of aldermen may, in the ab-
2 sence of the mayor, choose a president *pro tempore*,
3 who shall preside at the joint meetings of the two
4 boards. Each board shall keep a record of its pro-
5 ceedings, and judge of the election of its own mem-
6 bers, and in case of failure of election, or vacancy by

7 death, resignation or otherwise, may order new elec-
8 tions. A quorum for the transaction of business, shall
9 in each board consist of a majority of the members
10 thereof. All meetings of the aldermen and common
11 council and all meetings of the two boards in conven-
12 tion, shall be open and public, and the presiding officer
13 in each of them shall have the power of moderators of
14 town meetings. At either of said meetings when any
15 two members shall request it, the vote shall be taken
16 by yeas and nays, which shall be recorded by the
17 clerk.

SECT. 13. Every law, act, ordinance, or bill appro-
2 priating money, having passed both branches of the
3 city council, shall be presented to the mayor, and if
4 he approves the same he shall sign it, if not he shall
5 return it within seven days, with his objections, to
6 that branch of the city council in which it shall have
7 originated, which branch shall enter the objections at
8 large on its journals and proceed to reconsider the law,
9 act, ordinance or bill. If upon such reconsideration,
10 a majority of the whole number of that branch shall
11 agree to pass it, it shall be sent, together with the
12 objections, to the other branch, by which it shall be
13 reconsidered, and if approved by a majority of that
14 branch, it shall have the same effect as if signed by

15 the mayor, and it shall be the duty of the mayor to
16 sign any warrant necessary for the execution of such
17 law, act, ordinance or bill, and in case of his refusal,
18 such branches may order the treasurer to pay the same,
19 and their order shall be a sufficient authority and
20 voucher to the treasurer therefor.

SECT. 14. All moneys received and collected for or
2 on account of the city, by any officer or agent thereof,
3 shall forthwith be paid into the city treasury. No
4 money shall be paid from the city treasury, unless the
5 same be appropriated by the city council, and upon a
6 warrant signed by the mayor, which warrant shall
7 state the appropriation under which the same is drawn.
8 The city council shall secure a prompt and just accoun-
9 tability by requiring bonds with sufficient sureties,
10 from all persons trusted with the collection, custody or
11 disbursement of the public money ; shall have the care
12 and superintendence of all the city property, with
13 power to let or sell what may be legally let or sold and
14 to purchase in the name of the city such real and
15 personal estate as they deem of public utility ; and
16 shall, as often as once a year, cause to be published,
17 for the information of the inhabitants, an account of
18 receipts and expenditures and a schedule of city
19 property.

SECT. 15. All taxes shall be assessed, apportioned
2 and collected in the same manner prescribed by the
3 laws of this state relative to town taxes ; *provided* that
4 it shall be lawful for the city council to establish fur-
5 ther and additional provisions for the collection thereof;
6 *provided further*, that the city council may appoint one
7 person in each ward, whose duty it shall be to furnish
8 the assessors with all necessary information relative to
9 persons and property taxable in his ward, and who
10 shall be sworn to the faithful performance of his duty.

SECT. 16. The city council shall have the same
2 power and authority to lay out, widen, alter and dis-
3 continue ways and streets in said city, and be subject
4 to the same rules and restrictions relating thereto,
5 that the town of Auburn now has and is subject to,
6 by the existing laws of this state ; and shall also
7 have power and authority to establish the grade of
8 any way, county road, or street in said city ; and any
9 person aggrieved by the decision of the city council
10 in laying out, widening or altering any way or street,
11 or in establishing the grade of any way, county road
12 or street, may, so far as relates to damages, have
13 them assessed by a committee or jury, as is now by
14 law provided, respecting the laying out and altering
15 of highways.

SECT. 17. The city council shall have power to appropriate, set off, and reserve as sidewalks, such portion of the several streets in said city, now or hereafter established, as to said council appears necessary for the safety, convenience and accommodation of foot passengers, and may direct or permit posts or trees to be placed along the edge of sidewalks, next to the travelled part of the street, for hitching places, or for shade or ornament. So much of the several streets in said city as shall be appropriated and reserved as sidewalks, agreeable to the provisions of this act, shall be taken and deemed to be reserved exclusively for the accommodation, convenience and use of persons travelling on foot; and said city shall not be liable to damages for any injury done or occasioned in consequence of any cart, carriage, wagon or other vehicle, or any team or animal, striking against any of said sidewalks, or the posts or trees set or placed there for the purposes aforesaid. The several sidewalks on the streets in said city, as at present used, shall be taken and deemed to be the proper and lawful reservation for that purpose, until altered or otherwise established by proper authority.

SECT. 18. The city council shall have power, on such terms and conditions as they think proper, to authorize

3 or empower any person or corporation to place in any
4 street, for such time as may be necessary, any mate-
5 rials for making or repairing any street, side-walk,
6 cross-walk, bridge, water-course or drain, or for erect-
7 ing and repairing any building or fences, also to lay
8 gas pipes in any street; *provided* that not more than
9 one-third of the width of the street shall be so occu-
10 pied; and such materials so placed and excavations
11 made for laying gas pipes, by virtue of any license
12 obtained as aforesaid, shall not be considered an in-
13 cumbrance or nuisance in said street, and the city
14 shall not be liable for any damages occasioned by the
15 same.

SECT. 19. All the power and authority now vested
2 in the inhabitants of the several school districts of the
3 town of Auburn, by virtue of the laws of this state
4 relating to the education of youth, shall be and the
5 same are hereby vested in the city council of said city,
6 and they are authorized to consolidate the several
7 school districts of said city, arrange all the affairs of
8 the same as one district, and also when such consolida-
9 tion shall take place, to assume the liabilities of the
10 several districts, and provide for them in the same
11 manner as if the debts were contracted by the city.

SECT. 20. The city council shall not vote, assess or

2 appropriate any money for any object or purpose for
3 which the town of Auburn is not authorized to vote,
4 assess and appropriate money, except for such purposes
5 as are authorized by this act. Neither the city coun-
6 cil, nor any agent or officer of said city, shall borrow
7 or hire any money for or on account of said city or
8 inhabitants thereof, except for the purposes for which
9 the town of Auburn is now by law authorized to raise
10 money; and all notes, bonds, obligations or orders,
11 given by the city council, or by any officer or agent
12 thereof, for money or property obtained for any other
13 purpose, shall be void.

SECT. 21. General meetings of the citizens qualified
2 to vote in city affairs may from time to time be held
3 to consult upon the public good, to instruct their rep-
4 resentatives, and to take all lawful measures to obtain
5 redress of any grievances according to the right secured
6 to the people by the constitution of this state; and
7 such meetings shall be duly warned by the mayor upon
8 the request of fifty qualified voters.

SECT. 22. This act shall take effect and be in force
2 when the same shall have been accepted by the inhab-
3 itants of said town, qualified to vote in town affairs,
4 at a legal meeting called for that purpose by the
5 selectmen of the town of Auburn; *provided* that it

6 shall be accepted within five years from the passage
7 of this act; but not more than one meeting for that
8 purpose shall be called in any one year. At such
9 meeting the inhabitants of said town shall vote by
10 written ballot, those in favor of accepting this act
11 having on their ballot the word "yes," and those
12 opposed having on their ballot the word "no;" and
13 if a majority of all the ballots received are in favor of
14 accepting the same, it shall then become a law and
15 take effect, and it shall be the duty of the clerk of
16 said town to file a copy of the record of the vote of
17 said town accepting the same, with the clerk of the
18 city of Auburn when elected, who shall transcribe
19 such copy into the records of the city, and such record
20 shall be conclusive evidence that this act has been
21 accepted.

SECT. 23. All acts and parts of acts inconsistent
2 with this act are hereby repealed, from and after the
3 time when this act shall have been accepted as afore-
4 said and the government shall have been organized as
5 herein provided.

SECT. 24. This act shall take effect when approved
2 by the governor, so far as to authorize its submission
3 to the legal voters of the town of Auburn in the man-

4 ner herein prescribed and when accepted by said voters
5 shall be in full force and effect.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 1, 1868. }

Reported from the Committee on Incorporation of Towns, by Mr.
PARCHER of Saco.

S. J. CHADBOURNE, *Clerk.*