

MAINE STATE LEGISLATURE

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Sixty-Fourth Legislature.

HOUSE.

No. 51.

STATE OF MAINE.

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

AN ACT to incorporate the City of Brewer.

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

SECTION 1. The inhabitants of the town of Brewer, in
2 the county of Penobscot, shall continue to be a body
3 politic and corporate by the name of the city of Brewer,
4 and, as such, shall have, exercise and enjoy all the rights,
5 immunities, powers, privileges and franchises, and be
6 subject to all the duties and obligations now appertaining
7 to, or incumbent on said town as a municipal corporation,
8 or appertaining to or incumbent upon the inhabitants or
9 selectmen thereof; and may ordain and publish such acts,
10 ordinances, laws and regulations not inconsistent with the
11 constitution and laws of this State, as shall be needful to
12 the good order of said body politic; and impose fines and
13 penalties for the breach thereof, not exceeding twenty

14 dollars for any one offense, which may be recovered to
15 the use of said city, by action of debt.

SECT. 2. The administration of all fiscal, prudential
2 and municipal affairs of said city, together with the
3 government thereof, shall be vested in one principal
4 magistrate, to be styled the Mayor, and one council of
5 ten, to be denominated the Board of Aldermen; all of
6 whom shall be inhabitants of said city, and legal voters
7 therein; which board shall constitute and be called the
8 city council, all of whom shall be sworn to the faithful
9 performance of the duties of their respective offices;
10 *provided*, the city council shall not vote, assess or appro-
11 priate any money for any object or purpose for which the
12 town of Brewer is not authorized to vote, assess or ap-
13 propriate money, except for such purposes as are
14 authorized by this Act. *And provided, further*, that
15 neither the city council, nor any agent or officer of the
16 city, shall borrow or hire any money for or on account of
17 the city or inhabitants thereof, except for the purposes
18 for which the town of Brewer is now authorized by law
19 to raise money; and all notes, bonds, obligations, scrip
20 or orders given by the city council or any officer or agent
21 thereof, for money or property obtained for any other
22 purposes shall be void.

SECT. 3. The mayor of said city shall be chief executive
2 magistrate thereof. It shall be his duty to be vigilant
3 and active in causing the laws and regulations of the city
4 to be executed and enforced, to exercise a general super-
5 vision over the conduct of all subordinate officers, and to
6 cause their violation of neglect of duty to be punished.
7 He may call special meetings of the board of aldermen

8 when in his opinion the interests of the city require it,
9 by causing a summons or notification to be given by mail,
10 or left at the usual dwelling place of each member of the
11 board. He shall from time to time, communicate to the
12 city council such information, and recommend such
13 measures as the business and interest of the city may in
14 his opinion require. He shall preside in the board of
15 aldermen, but shall have only a casting vote. The salary
16 and compensation of the mayor shall be one hundred
17 dollars per year, which shall not be increased or
18 diminished during his continuance in office, unless by
19 vote of the qualified electors in ward meetings called for
20 the purpose. Nor shall he receive from the city any
21 other compensation for any services by him rendered in
22 any other capacity or agency; provided, however, the
23 city council may elect the mayor to any city office, and
24 allow him a reasonable compensation for such services;
25 but the aldermen shall receive no compensation for their
26 services as such.

SECT. 4. Every law, act, ordinance, resolve or order,
2 requiring the consent of the city council, excepting rules
3 and orders of a parliamentary character, shall be pre-
4 sented to the mayor for approval. If not approved by
5 him, he shall return it with his objections at the next
6 stated session of the city council to the board of aldermen
7 which shall enter the objections at large on its journal,
8 and proceed to reconsider it. If upon such reconsidera-
9 tion it shall be passed by a vote of two-thirds of all the
10 members of the board of aldermen it shall have the same
11 effect as if signed by the mayor. If not so returned, or
12 in case of vacancy in the office of mayor, when said law,

13 act, ordinance resolve or order be finally passed, the
14 same shall be valid without approval.

SECT. 5. The executive powers of said city generally
2 and the administration of police and health departments,
3 and overseers of the poor, with all the powers of select-
4 men, except as modified by this act, shall be vested in the
5 mayor and aldermen. All the powers of establishing
6 watch and ward, now vested by the laws of the State in
7 the justices of the peace and municipal officers, or inhabi-
8 tants of towns, are vested in the mayor and aldermen so
9 far as relates to said city; and they are authorized to unite
10 the watch and police departments into one department and
11 establish suitable regulations for the government of the
12 same. The officers of police shall be one chief, to be
13 styled the city marshal, and so many watchmen and police-
14 men as may, from to time, be appointed. All other
15 powers now, or hereafter vested in the inhabitants of said
16 city, and all powers granted by this act, as well as all
17 powers relating to the fire department, shall be vested in
18 the mayor and alderman. The city council shall keep a
19 record of its proceedings, and judge of the election of its
20 members; and in case of vacancies, new elections shall
21 be ordered by the mayor and aldermen. A quorum for
22 the transaction of business shall consist of a majority
23 thereof; all meetings of the aldermen shall be open and
24 public; and the presiding officer shall have the powers of
25 moderator of town meetings. At said meetings, when any
26 two members shall request it, the votes shall be taken by
27 yeas and nays, which vote shall be recorded by the clerk.

SECT. 6. For election purposes said city shall be divided
2 into five wards, to contain, as near as conveniently may be,

3 an equal number of legal voters ; and it shall be the duty of
4 the city council, once in ten years, and not oftener than
5 five years to review, and, if it be needful, to alter said
6 wards, in such manner to preserve as nearly as may be,
7 an equal number of voters in each ward. All regular
8 ward meetings shall be notified and called by the mayor
9 and aldermen in the manner provided in the laws of this
10 State, for notifying and calling town meetings by the
11 selectmen of the several towns.

SECT. 7. The mayor shall be elected from the citizens
2 at large, by the inhabitants of the city voting in their
3 respective wards. Two aldermen, a warden and ward
4 clerk shall be elected by each ward, being residents in
5 the ward where elected. All said officers shall be elected
6 by ballot, by a plurality of the votes given, and shall
7 hold their office one year from the third Monday in March,
8 except as to wardens and ward clerks, who shall hold
9 their office until others shall be elected and qualified in
10 their places.

SECT. 8. On the second Monday in March, annually,
2 the qualified electors of each ward shall ballot for a mayor,
3 two aldermen and a warden and ward clerk, on one ballot.
4 All the votes given for the said several officers respec-
5 tively, shall be sorted, counted, declared and registered
6 in open ward meeting, by causing the names of the
7 persons voted for, and the number of votes given for
8 each, to be written on the ward records at length. The
9 ward clerk within twenty-four hours after such election,
10 shall deliver to the persons elected aldermen, warden and
11 ward clerk, certificates of their election, and shall forth-
12 with deliver to the city clerk a certified copy of the records

13 of such election ; provided, however, that if the choice of
14 aldermen, warden or ward clerk is not effected on that
15 day, the meeting shall be adjourned from day to day,
16 until a choice shall be effected. The board of aldermen
17 shall, as soon as conveniently may be, examine the copies
18 of the records of the several wards, certified as aforesaid,
19 and shall cause the person who shall have received the
20 greatest number of votes given for mayor in all the wards,
21 to be notified in writing, of his election ; but if it shall
22 appear that no person shall have been so elected, or if the
23 person elected shall refuse to accept said office, the said
24 board shall issue their warrant for another election ; and
25 in case of a vacancy in the office of mayor, by death or
26 otherwise, it shall be filled for the remainder of the term
27 by a new election, in the manner heretofore provided for
28 the choice of said mayor. The oath or affirmation pre-
29 scribed by this act shall be administered to the mayor by
30 the city clerk, or any justice of the peace in said city.
31 The aldermen elect shall, on the third Monday in March,
32 at ten o'clock in the forenoon, meet when the oath or
33 affirmation required by the second section of this act shall
34 be administered to the members present, by the mayor or
35 any justice of the peace.

SECT. 9. The warden and ward clerk shall be sworn or
2 affirmed to the faithful performance of their duty, by any
3 justice of the peace of said city or by the person presid-
4 ing at the ward meeting, as heretofore provided, or by the
5 clerk of said ward, and a certificate of such oath or
6 affirmation having been administered shall be entered by
7 the clerk on the records of said ward. The wardens shall
8 preside at all the ward meetings, with the powers of

9 moderators of town meetings; and if at any meeting the
10 warden shall not be present the clerk of the ward shall
11 call the meeting to order and preside till a warden, *pro*
12 *tempore*, shall be chosen and qualified. The clerk shall
13 record all the proceeding and certify the votes given, and
14 deliver over to his successor in office all such records and
15 journals together with all other documents and papers
16 held by him in said capacity. The inhabitants of each
17 ward may choose two persons to assist the warden in re-
18 ceiving, sorting and counting the votes.

SECT. 10. After the organization of the city govern-
2 ment and the qualification of a mayor, and when a quorum
3 of the board of aldermen shall be present, said board, the
4 mayor presiding, shall proceed to choose a permanent
5 chairman, who, in the absence of the mayor, shall preside
6 at all meetings of the board, and in case of any vacancy
7 in the office of mayor, he shall exercise all the powers
8 and perform all the duties of the office so long as such
9 vacancy shall remain; he shall continue to have a vote in
10 the board, but shall not have the veto power. The board
11 of aldermen in the absence of the mayor and permanent
12 chairman, shall choose a president, *pro tempore*, who shall
13 exercise the powers of a permanent chairman.

SECT. 11. The city council shall annually on the third
2 Monday in March, or as soon thereafter as may be con-
3 venient, by ballot elect for the ensuing year the following
4 officers: a city clerk, a city treasurer, a chief of police,
5 who shall be styled the city marshal, and who shall exer-
6 cise all the powers and perform all the duties of a con-
7 stable; one overseer of the poor, one assessor of taxes, a
8 road commissioner, a collector of taxes, a school agent,

9 one member of the superintending school committee, or a
10 supervisor and one or more city constables. All said
11 officers and agents shall hold their offices during the en-
12 suing year and until others are elected and qualified in
13 their stead unless sooner removed by the city council; and
14 all moneys received and collected for and on account of
15 the city by any agent or officer thereof, shall forthwith be
16 paid into the city treasury. The city council shall take
17 care that moneys shall not be paid from the treasury un-
18 less granted or appropriated, shall secure a prompt and
19 just accountability by requiring bonds with sufficient
20 penalties and sureties from all persons trusted with the
21 receipt or custody of the public money; shall have the
22 care and superintendence of the city public buildings and
23 the custody and management of all city property, with
24 the power to let or sell what may be legally let or sold,
25 and to purchase in the name of the city such real or per-
26 sonal property, not exceeding the sum of one hundred
27 thousand dollars, including the property now owned by
28 the city, as they deem of public utility. And the city
29 council shall, as often as once a year, cause to be pub-
30 lished, for the information of the inhabitants, an account
31 of receipts and expenditures and a schedule of the city
32 property, and no money shall be paid from the city treas-
33 ury, unless the same be appropriated by the city council
34 and upon a warrant signed by the mayor, which warrant
35 shall state the appropriation under which the same is
36 drawn.

SECT. 12. At the first election of assessors of taxes,
2 overseers of the poor and health officers, under this
3 charter, three persons shall be elected members of each

4 of said boards, one of whom shall be elected for one year,
5 one for two years, and one for three years; and at each
6 subsequent annual election one member of each board
7 shall be elected for three years, each of whom shall con-
8 tinue in office until some other person shall have been
9 elected and qualified in his place.

SECT. 13. The city council may provide by ordinance
2 for the election and removal of all other necessary officers.
3 All officers elected by the city council may be removed by
4 vote of a majority of all the members of the city council.
5 The compensation of all officers, except the mayor,
6 shall be fixed by the city council. All vacancies
7 may be filled by the city council. The term of
8 all officers, except as otherwise specially provided,
9 shall be for one year and until others are qualified
10 in their places.

SECT. 14. The assessors of taxes shall execute and be
2 subject to the same powers, duties, and liabilities that the
3 assessors in the town in this State may exercise and be
4 subject to. All taxes shall be assessed, apportioned and
5 collected in the manner prescribed by the laws of this
6 State relative to town taxes; *provided, however*, that it
7 shall be lawful for the city council to establish further
8 and additional regulations and provisions for the collection
9 thereof.

SECT. 15. The city clerk shall be the clerk to the board
2 of aldermen; he shall perform such duties as shall be pre-
3 scribed by the board of aldermen, and shall perform all the
4 duties and exercise all the powers by law incumbent upon
5 or vested in town clerks; he shall give notice in two public
6 places in each ward of the time and place of regular ward

7 meetings ; but the place of regular ward meetings, and also
8 the day and hour, when not fixed by law, shall be deter-
9 mined by the board of aldermen.

SECT. 16. General meetings of citizens qualified to vote
2 in city affairs, may from time to time be held to consult
3 upon the public good ; to instruct their representatives,
4 and to take all lawful means to obtain redress of any
5 grievances, according to the right secured to the people
6 by the constitution of this State ; and such meetings
7 shall be duly warned by the mayor and aldermen upon
8 the requisition in writing, of thirty qualified votes. The
9 city clerk shall act as clerk of such meetings and record
10 the proceedings upon the city records.

SECT. 17. The city council shall have exclusive
2 authority to lay out, widen, or otherwise alter, or discon-
3 tinue any and all streets or public ways in the city of
4 Brewer, without petition therefor, and to estimate all
5 damage sustained by the owners of land taken for that
6 purpose. A standing committee shall be appointed,
7 whose duty it shall be to lay out, alter, widen or discon-
8 tinue any street or way in said city, first giving notice
9 of the time and place of their proceedings to all parties
10 interested, as now required by law in case of town ways.
11 The committee shall first hear all parties interested, and
12 then determine and adjudge whether the public con-
13 venience requires such street or way to be laid out,
14 altered or discontinued, and shall make a written return
15 of their proceedings, signed by a majority of them, con-
16 taining the bounds and descriptions of the street or way,
17 if laid out or altered, and the names of the owners of the
18 land taken, when known, and the damages allowed

19 therefor; the return shall be filed in the city clerk's office,
20 at least seven days previous to its acceptance by the city
21 council. The street or way shall not be altered or
22 established until the report is accepted by the city
23 council, and the report shall not be altered or amended
24 before its acceptance. A street or way shall not be
25 discontinued by the city council except upon the report
26 of said committee. The committee shall estimate and
27 report the damages sustained by the owners of lands
28 adjoining that portion of the street or way which is so
29 discontinued; their report shall be filed with the city
30 clerk, seven days at least before its acceptance. Any
31 person aggrieved by the decision or judgment of the city
32 council in establishing, altering or discontinuing streets,
33 may so far as relates to damages, appeal therefrom as in
34 case of town ways. If a street or way is discontinued
35 before the damages are paid or recovered for the land
36 taken, the land owners shall not be entitled to recover
37 such damages, but the committee in their report discon-
38 tinuing the same, shall estimate and include all the
39 damages sustained by the land owner, including those
40 caused by the original location of the streets, and in such
41 cases, if an appeal has been regularly taken the appellant
42 shall recover his costs. The city shall not be compelled
43 to construct or open any street or way thus hereafter
44 established, until, in the opinion of the city council, the
45 public good requires it to be done; nor shall the city
46 interfere with the possession of the land so taken, by
47 removing therefrom materials, or otherwise, until they
48 decide to open and construct said street. The city
49 council may regulate the height and width of sidewalks

50 in any public square, places, streets, lanes or alleys in
51 said city, and may authorize posts and trees to be placed
52 along the edge of said sidewalks. Nor shall the city be
53 answerable for damages occasioned by telegraph,
54 telephone, or electric light, or railway poles and wires
55 erected in its streets.

SECT. 18. The mayor may, on such terms and conditions
2 as he may think proper, authorize and empower any person
3 or corporation to place in any street, for such time as may
4 be necessary, any materials for making or repairing any
5 street, sidewalk, crosswalk, bridge, water course or drain,
6 or for erecting, repairing, moving or finishing any build-
7 ing or fences, or for laying or repairing gas or water
8 pipes, *provided*, that not more than one-half of the width
9 of the street shall be so occupied. And such materials
10 so placed by virtue of any license obtained as aforesaid,
11 shall not be considered an incumbrance or nuisance in
12 such street, and the city shall not be liable to any person
13 for any damages occasioned by such materials.

SECT. 19. The city council shall have authority to es-
2 tablish and make regulations for the measurement and sale
3 of wood and bark in said city, whether brought by land
4 or water; and may affix suitable penalties for the viola-
5 tion thereof, anything in the Public Laws of the State to
6 the contrary notwithstanding; and are hereby authorized
7 and empowered to control the building of wharves and
8 piers in said city and may authorize the extension of
9 wharves into tide waters, and to make and ordain from
10 time to time, such ordinances not repugnant to the con-
11 stitution and laws of the State as they may deem expe-
12 dient or necessary for the location and regulation of

13 vessels, boats, steamers and other crafts in that portion of
14 the harbor of Brewer which lies outside of the limits of
15 Bangor; to affix penalties for the breach of such by-laws
16 not exceeding twenty dollars for each offense, to be re-
17 covered upon complaint by the harbor master hereafter
18 provided for, to the use of the city.

SECT. 20. The city council shall have power to provide
2 by ordinance for the election or appointment of a harbor
3 master for said city, whose duty it shall be to enforce the
4 observance of the ordinances of the city relating to the
5 harbor, and laws of the State applicable thereto, and to
6 prosecute all violations of such laws and ordinances; and
7 such harbor master, in case of sickness or disability, may
8 appoint a deputy, subject to the approval of the board
9 of aldermen of said city, to perform his duties during
10 such sickness or disability.

SECT. 21. All the laws and regulations now in force in
2 said town of Brewer, shall, notwithstanding this act, be
3 and remain in force until they expire by their own limita-
4 tions or be revised or repealed by the city council; and
5 prosecutions and suits may be commenced and proceeded
6 thereon in the name of the city, by officers or other per-
7 sons thereby empowered or directed to prosecute and sue;
8 and the fines and penalties shall go to the uses in such
9 laws or regulations named according to law.

SECT. 22. It shall be the duty of the selectmen of the
2 town of Brewer, as soon as may be, after this act shall
3 have been accepted, as hereinafter provided, to cause a
4 division of said town to be made into five wards, in such
5 manner as to include, as nearly as conveniently may be,
6 consistently with well defined limits to each ward, an
7 equal number of voters in each ward.

SECT. 23. For the purpose of organizing the system of
2 government hereby established, and putting the same in
3 operation in the first instance, the selectmen of the town
4 for the time being shall seasonably, before the second
5 Monday of March next after the acceptance of this
6 charter, issue their warrants for calling meetings of the
7 said citizens, at such place and hour upon said day as
8 they shall think expedient, for the purpose of choosing a
9 warden and clerk for each ward, and also to give their
10 vote for a mayor, to be taken from the city at large, and
11 two aldermen and one constable, for each ward; the
12 transcript of the records of each ward, specifying the
13 votes given for mayor, one alderman and two common
14 councilmen, and one constable, certified by the warden
15 and clerk of said ward, shall at said first election be re-
16 turned to the said selectmen of the said town of Brewer,
17 whose duty it shall be to examine and compare the same;
18 and in case such elections shall not be completed at the
19 first election, then to issue a new warrant until such
20 elections shall be completed according to the provisions
21 of this Act; and to give notice thereof in the manner
22 hereinbefore directed, the several persons elected. And
23 at said first meeting, any inhabitant of said ward, being a
24 legal voter, may call the citizens to order and preside
25 until a warden shall have been chosen; and at said first
26 meeting a list of voters in each ward, prepared and cor-
27 rected by the selectmen of the town of Brewer, for the
28 time being, shall be delivered to the clerk of each ward
29 when elected, to be used as provided by the law in town
30 meetings.

SECT. 24. This act shall take effect and be in full force
2 when the same shall have been accepted by the inhabitants

3 of said town qualified to vote in town affairs, at a legal
4 town meeting called for that purpose; *provided*, it shall
5 be accepted within five years from the passage of this act,
6 but not more than one meeting, for that purpose, shall be
7 called in the same year. And at such meeting the inhabi-
8 tants of said town shall vote by a written or printed
9 ballot, those in favor of accepting this act having on the
10 ballot the word "yes," and those opposed having on the bal-
11 lot the word "no"; and if a majority of all the ballots re-
12 ceived are in favor of accepting the same, it shall then be-
13 come a law and take effect. And it shall be the duty of the
14 clerk of said town to file a copy of the record of the vote of
15 said town accepting the same, with the clerk of the city
16 of Brewer, when elected, who shall transcribe such copy
17 into the records of the city, and such record shall be con-
18 clusive evidence that this act has been accepted.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 28, 1889. }

Tabled, pending third reading, and ordered printed on motion of Mr.
BARKER of Bangor.

NICHOLAS FESSENDEN, *Clerk.*