

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)

Sixty-Eighth Legislature.

HOUSE.

No. 146.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-SEVEN

AN ACT to amend Chapter 506 of the Private and Special Laws of 1889, entitled "An Act to Incorporate the City of Deering," as amended by Chapter 439 of Private and Special Laws of 1893, and by Chapter 633 of Private and Special Laws of 1893, and by Chapter 238 of Private and Special Laws of 1895.

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

Section 1. Section one of chapter five hundred and six
2 of the Private and Special Laws of eighteen hundred and
3 eighty-nine is hereby amended by striking out the word
4 "twenty" in next to the last line and inserting in the place
5 thereof the word 'fifty,' so that said section as amended
6 shall read as follows:

'Section 1. The inhabitants of the town of Deering, in the
8 County of Cumberland, shall continue to be a body politic
9 and corporate under the name of the city of Deering, and
10 as such shall have, exercise and enjoy all the rights,
11 immunities, powers, privileges and franchises, and shall
12 be subject to all the duties and obligations now incumbent
13 upon and pertaining to the said town as a municipal cor-
14 poration and may enact reasonable by-laws and regulations
15 for municipal purposes and impose penalties for the breach
16 thereof, not exceeding fifty dollars, to be recovered for
17 such uses as the city council may designate.'

Sect. 2. Section two of chapter five hundred and six of
2 the Special Laws of eighteen hundred and eighty-nine is
3 hereby amended by striking out the word "seven" in the
4 fourth line thereof and inserting in the place thereof the
5 word 'eleven,' so that said section as amended shall read
6 as follows :

'Section 2. The administration of all fiscal, prudential
8 and municipal affairs of said city with the government
9 thereof shall be vested in an officer to be called the mayor,
10 and one council of eleven to be denominated a board of
11 alderman ; all of whom shall be inhabitants of said city
12 and legal voters therein. Said mayor and alderman shall
13 constitute the city council, and shall be sworn or affirmed
14 in the form prescribed by the constitution of the State for
15 State officers.'

Sect. 3. Section four of chapter five hundred and six
2 of the Special Laws of eighteen hundred and eighty-
3 nine, as amended by section one of chapter four hundred
4 and thirty-nine of the Special Laws of 1893 is hereby
5 amended by striking out the word "one" between the

6 word “exceeding” and the word “hundred” in the
7 thirteenth line thereof, and inserting in place thereof the
8 word ‘two;’ and by inserting the word ‘grade’ between
9 the word “widen” and the word “or” in the twenty-ninth
10 line thereof; and by inserting the word ‘grade’ between
11 the word “widen” and the word “or” in the thirty-fourth
12 line thereof; and by inserting the words ‘widened,
13 graded,’ between the word “out” and the word “or” in
14 the forty-fourth line thereof; and by inserting the words
15 ‘widened, graded’ between the word “altered” and the
16 word “or” in the forty-eighth line thereof; and by insert-
17 ing the words ‘or grade thereof’ between the word “way”
18 and the word “is” in the fifty-ninth line thereof; and by
19 inserting the words ‘excepting such public ways as are
20 within the exclusive jurisdiction of the County Commis-
21 sioners’ between the word “city” and the word “and” in
22 the thirtieth line thereof; and by inserting the words ‘or
23 damaged’ between the word “taken” and the word “for”
24 in the thirty-second line thereof; and by inserting the
25 word ‘such’ between the word “any” and the word
26 “street” in the thirty-fourth line thereof; and by insert-
27 ing the words ‘or damaged’ between the word “taken”
28 and the word “when” in the forty-fifth line thereof; and
29 by inserting the words ‘or grade’ between the word “way”
30 and the word “shall” in the fifty-first line thereof; and
31 by inserting the words ‘or grades’ between the word
32 “way” and the word “which” in the fifty-fifth line thereof;
33 and by inserting the words ‘or damage sustained’ after the
34 word “taken” and before the word “the” in the sixtieth
35 line thereof; and by inserting the words ‘or grades’ after
36 the word “streets” and before the word “and” in the

37 sixty-fifth line thereof; and by inserting the words 'or
38 put any street or way to the grade established' after the
39 word "established" and before the word "until" in the
40 sixty-ninth line thereof; also by adding to said section
41 four the following: 'When any ordinance, order, resolu-
42 tion or vote passed by the city council involving the rais-
43 ing, appropriation, or expenditure of money is presented
44 to the mayor, if he approves of a part and does not ap-
45 prove of a part of the sums or items thereof, he shall so
46 indicate thereon, and thereupon the sums or items so
47 approved shall be in force from the date of said approval,
48 and he shall return the same with his objections to the
49 sums or items not approved by him to the city council at
50 the next stated meeting, which shall enter the objections
51 at large upon its records and proceed to reconsider the
52 sums or items not approved. If after such reconsideration
53 two-thirds of all the members of the city council shall
54 agree to pass the sums or items not approved, or any of
55 them, said sums or items shall be in force as if he had
56 approved. If the mayor shall disapprove a part of the
57 sums or items of any such bill and shall fail to approve or
58 disapprove a part on or before the next stated meeting,
59 the sums which he fails to approve or disapprove shall be
60 in force as if he had approved, so that said section as
61 amended shall read as follows:

'Section 4. The city council shall secure a prompt and
63 just accountability by requiring bonds with sufficient
64 penalty and surety or sureties, from all persons trusted
65 with the receipt, custody or disbursement of money;
66 the city council shall also have the care and superinten-
67 dence of the city buildings, and the custody and manage-

68 ment of all city property and trust funds for the benefit
69 of schools, public library, parks, cemeteries, and for any
70 other beneficial purpose whether acquired by purchase or
71 legacy ; with power to let or sell what may be legally let
72 or sold, and to purchase and take, in the name of the city,
73 real and personal property for municipal purposes to an
74 amount not exceeding two hundred thousand dollars in
75 addition to that now held by the town ; and shall, as often
76 as once a year, cause to be published for the information
77 of the inhabitants, a particular account of the receipts
78 and expenditures, and a schedule of the city property
79 and the city debt.

The city council shall have power to establish by ordi-
81 nance such offices as may be necessary for municipal gov-
82 ernment not provided for by this act, and to elect such
83 subordinate officers as may be elected by towns under
84 general laws of the state, for whose election or appoint-
85 ment other provision is not herein made ; to define their
86 duties and fix their compensation ; to act upon all matters
87 in which authority is now given to said town of Deering,
88 and to determine what streets, if any, shall be lighted, and
89 upon what terms. The city council shall appropriate
90 annually the amount necessary to meet the expenditures
91 of the city for the current municipal year.

The city council shall have exclusive authority to lay
93 out, widen, grade or otherwise alter or discontinue any
94 and all streets or public ways in said city, except such
95 public ways as are within the exclusive jurisdiction of the
96 county commissioners, and as far as extreme low water
97 mark, and to estimate all damages sustained by owners
98 of land taken or damaged for such purpose. A commit-

99 tee of the council shall be appointed whose duty shall be
100 to lay out, alter, widen, grade, or discontinue any such
101 street or way, first giving notice of the time and place of
102 their proceedings to all parties interested, by an advertise-
103 ment in two newspapers printed in Deering or Portland, for
104 three weeks at least, next previous to the time appointed.
105 The committee shall first hear all parties interested and
106 then determine and adjudge whether the public conven-
107 ience requires such street or way to be laid out, widened,
108 graded, altered or discontinued, and shall make a written
109 return of their proceedings, signed by a majority of them,
110 containing the bounds and description of the street or
111 way, if laid out, widened, graded or altered, and the
112 names of the owners of the land taken or damaged when
113 known, and the damages allowed therefor; the return
114 shall be filed in the city clerk's office at least seven days
115 previous to its acceptance by the city council. The
116 street or way shall not be altered, widened, graded or
117 established until the report is accepted by the city
118 council, and the report so filed shall not be altered or
119 amended before it comes up before the city council, for
120 action. A street or way or grade shall not be discon-
121 tinued by the city council, except upon the report of
122 said committee. The committee shall estimate and report
123 the damages sustained by the owners of the lands adjoin-
124 ing that portion of the street or way or grade which is
125 so discontinued. Their report shall be filed with the
126 city clerk seven days at least before its acceptance. Any
127 party aggrieved at their decision may appeal therefrom
128 as provided by law in the case of town ways. If a street
129 or way or grade thereof is discontinued before the

130 damages are paid or recovered for the land taken, or
131 damage sustained, the land owners shall not be entitled
132 to recover such damages, but the committee in their
133 report discontinuing the same shall estimate and include
134 all the damages sustained by the land owner, including
135 those caused by the original location of the streets or
136 grades and in such cases, if any appeal has been regu-
137 larly taken, the appellant shall recover his costs. The
138 city shall not be compelled to construct or open any
139 street or way thus hereafter established or put any street
140 or way to the grade established until, in the opinion of
141 the city council, the public good requires it to be done ;
142 nor shall the city interfere with possession of the land so
143 taken, by removing therefrom materials or otherwise,
144 until they decide to open said street.

The city council may regulate the height and width of
146 the sidewalks in any public square, places, streets, lanes
147 or alleys, in said city ; and may authorize hydrants,
148 drinking fountains, posts and trees to be placed along
149 the edge of sidewalks, and may locate and construct cul-
150 verts and reservoirs within the limits of any street or way
151 in said city whenever they deem it needful for protection
152 against fire, and the city shall not be liable for any
153 damage caused by such posts, hydrants, drinking foun-
154 tains, trees and reservoirs, nor by any posts or wires
155 erected in its streets by any parties authorized so to do.

Every law, act, ordinance, resolve or order of the city
157 council, excepting rules and orders of a parliamentary
158 character, shall be presented to the mayor. If not
159 approved by him he shall return it with his objections in
160 writing, at the next stated session of the city council

161 which shall enter the objections at large on its journal,
162 and proceed to reconsider the same. If, upon such
163 reconsideration, it shall be passed by vote of two-thirds
164 of all the members of the board, it shall have the same
165 force as if approved by the mayor. In case of vacancy
166 in the mayor's office this section shall not apply to any
167 act of the council. In case the mayor fails to either sign
168 or return the bill at the next stated session, then it
169 becomes a law as though he had signed it.

When any ordinance, order, resolution, or vote passed
171 by the city council involving the raising, appropriation,
172 or expenditure of money is presented to the mayor, if
173 he approves of a part and does not approve of a part of
174 the sums or items thereof, he shall so indicate thereon,
175 and thereupon the sums and items so approved shall be
176 in force, from the date of said approval, and he shall
177 return the same with his objections to the sums or items
178 not approved by him to the city council at the next stated
179 meeting, which shall enter the objections at large upon
180 its records and proceed to reconsider the sums or items
181 not approved. If after such reconsideration, two-thirds of
182 all the members of the city council shall agree to pass
183 the sums or items not approved, or any of them, said
184 sums and items shall be in force as if he had approved.
185 If the mayor shall disapprove a part of the sums or items
186 of any such bill and shall fail to approve or disapprove a
187 part, on or before the next stated meeting, the sums
188 which he fails to approve or disapprove shall be in force
189 as if he had approved.

Sect. 4. Section fourteen of chapter five hundred and
2 six of the special laws of eighteen hundred and eighty-nine

3 is hereby amended by inserting the words 'except by
4 vote of the city council' after the word "purpose" and
5 before the word "and" in the thirteenth line thereof; and
6 by inserting the same words 'except by vote of the city
7 council' after the word "city" and before the word
8 "until" in the fourteenth line thereof, and by adding at
9 the end of said section the following: 'unexpended
10 balances of annual appropriations shall at the end of each
11 financial year become a part of the general balance in his
12 treasury.'

A city auditor shall be elected annually by vote of the
14 people. He shall perform all the duties now incumbent
15 upon auditors of towns, and such other duties, and in
16 such manner, as the city council shall by ordinance deter-
17 mine. He shall have the custody and control of the
18 current expenditure books of the city, and shall cause to
19 be entered therein all appropriations made by the city
20 council; and he shall charge against the several appropri-
21 ations all expenditures of the city which are properly
22 approved by the department or committee contracting the
23 same. He shall approve no bills until the city council
24 shall have provided by appropriation funds sufficient to
25 meet the same in the account against which said bill is to
26 be charged, and the clerk of the council shall have certified
27 the same to him, except as herein before provided.

The treasurer shall pay no bills until they are so approved
29 by the auditor. The auditor shall annually before the
30 election, publish a detailed report of the expenditures of
31 the city for the fiscal year. The auditor shall qualify by
32 oath or affirmation. In case of a vacancy in the office of
33 auditor, the city council shall elect some suitable person

34 to fill the vacancy. In case of temporary incapacity, the
35 city council shall elect some suitable person to perform
36 the duties of the auditor, until such incapacity shall have
37 been removed. The auditor's books shall be open to
38 public inspection. So that said section as amended shall
39 read as follows :

‘Section 14. In case any ordinance, order, resolution or
41 vote involves the appropriation or expenditure of money
42 to an amount which may exceed three hundred dollars,
43 the laying of an assessment or the granting to a person or
44 corporation of any right in, over or under any street or
45 other public ground of said city, the affirmative votes of
46 a majority of all the members of the city council shall be
47 necessary for its passage. Every such ordinance, order,
48 resolution or vote shall be read twice, with an interval of
49 at least three days between the two readings, before being
50 finally passed, and the vote upon its final passage shall be
51 taken by roll-call.

No sum appropriated for a specific purpose shall be
53 expended for any other purpose, except by vote of the
54 city council, and no expenditure shall be made, nor
55 liability incurred by or in behalf of the city, except by
56 vote of the city council, until an appropriation has been
57 duly voted by the city council, sufficient to meet such
58 expenditure or liability, together with all unpaid liabili-
59 ties which are payable out of such appropriation; pro-
60 vided, however, that after the expiration of the financial
61 year, and until the passage of the regular annual appro-
62 priations, liabilities payable out of a regular appropriation
63 to be contained therein may be incurred to an amount
64 not exceeding one quarter of the total of such appropria-

65 tion for the preceding year. No money shall be paid out
66 of the city treasury, except on orders signed by the
67 mayor, designating the fund or appropriation from which
68 said orders are to be paid.

Unexpended balances of annual appropriations shall at
70 the end of each financial year become a part of the general
71 balance in the treasury. A city auditor shall be elected
72 annually by vote of the people. He shall perform all the
73 duties now incumbent upon auditors of towns, and such
74 other duties, and in such manner, as the city council shall
75 by ordinance determine. He shall have the custody and
76 control of the current expenditure books of the city, and
77 shall cause to be entered therein all appropriations made
78 by the city council; and he shall charge against the
79 several appropriations all expenditures of the city which
80 are properly approved by the department or committee
81 contracting the same. He shall approve no bills until the
82 city council shall have provided, by appropriation, funds
83 sufficient to meet the same in the account against which
84 said bill is to be charged, and the clerk of the council
85 shall have certified the same to him, except as herein-
86 before provided.

The treasurer shall pay no bills until they are so
88 approved by the auditor. The auditor shall annually
89 before the election publish a detailed report of the ex-
90 penditures of the city for the fiscal year. The auditor
91 shall qualify by oath or affirmation. In case of a vacancy
92 in the office of auditor, the city council shall elect some
93 suitable person to fill the vacancy. In case of temporary
94 incapacity, the city council shall elect some suitable per-
95 son to perform the duties of the auditor until such inca-

96 pacity shall have been removed. The auditor's books
97 shall be open to public inspection.

Sect. 5. Section fifteen of chapter five hundred six of
2 the Special Laws of eighteen hundred and eighty-nine as
3 amended by section two of chapter four hundred and
4 thirty-nine of the Special Laws of eighteen hundred and
5 ninety-three is hereby amended by striking out the words
6 "for the aldermen and ward officers shall be residents of
7 the ward or district where elected provided however" in
8 the thirty-first, thirty-second and thirty-third lines thereof,
9 and inserting in place thereof the sentence 'The aldermen
10 shall be elected, one by each ward, and four by the voters
11 of the whole city; the aldermen of the wards and the ward
12 officers shall be residents of the wards by which they are
13 elected,' so that said section as amended shall read as
14 follows:

Sect. 15. For the purpose of organizing the system of
16 government hereby established, and putting the same in
17 operation in the first instance, the selectmen of the town
18 shall, at least seven days before the first Monday of
19 March, after the acceptance of this charter, issue their
20 warrant for calling a meeting of the legal voters at such
21 place and hour of the day as they shall choose, for the
22 purpose of choosing a mayor, seven aldermen, an auditor
23 and seven constables to be taken from the city at large;
24 said officers shall be elected by a plurality vote. The
25 town clerk shall notify the several officers elect of their
26 election, in writing, within twenty-four hours. Their
27 powers and duties shall be as herein provided. It shall
28 be the duty of the city council, as soon as may be after
29 their election, to cause a division of the city into seven

30 wards in such manner as to include as nearly as may be,
31 consistently with well defined limits, an equal number of
32 legal voters in each ward. After such division into
33 wards, ward meetings of the legal voters thereof shall be
34 called, which meetings shall be presided over by some
35 person appointed by the city council, and the records of
36 said first meetings in the several wards shall be made by
37 some person designated by the city council, and at said
38 first meetings lists of voters, corrected by the alderman,
39 shall be delivered to the persons designated to act as
40 recording officers in the several wards, to be used as pro-
41 vided by law, in town meetings. Said recording officers
42 shall perform the duties of ward clerks, as herein before
43 provided. relative to making a record of the election and
44 returning a copy of the records to the city council.

On the first Monday in March, annually thereafter, the
46 qualified voters of each ward shall vote on one ballot for
47 city and ward officers, as hereinafter provided. The
48 alderman shall be elected one by each ward, and four by
49 the voters of the whole city; the aldermen of the wards
50 and the ward officers shall be residents of the wards by
51 which they are elected. If there shall be no choice of
52 alderman or other ward officer on said day the ward meet-
53 ing may be adjourned from day to day to complete said
54 election. And all officers shall be elected by ballot by a
55 plurality of the votes given, and shall hold their offices
56 one year from the second Monday in March, and until
57 others shall be elected and qualified in their places; all
58 city and ward officers shall be held to discharge the duties
59 of the offices to which they have been respectively elected,
60 notwithstanding the removal after their election, out of

61 their respective wards into any other wards in the city,
62 but they shall not so be held after they have taken up their
63 permanent residence out of the city; the ward clerk,
64 within twenty-four hours after such election shall deliver
65 to the ward officers elected, certificates of their election,
66 and shall forthwith deliver to the city clerk a certified
67 copy of the record of such election, a plain and intelligible
68 abstract of which shall be entered by the city clerk upon
69 the city records. The city council shall, as soon as con-
70 veniently may be, examine the records of the several
71 wards certified as aforesaid, and shall cause the person
72 who shall have been elected mayor, and such persons as
73 have been elected to other offices by vote of the city at
74 large to be notified in writing of their election. If it
75 shall appear that no person has been elected mayor, or if
76 there shall be a failure to elect in the case of any other
77 office, or if any person elected to an office shall refuse to
78 accept the same, the said board shall issue their warrants
79 for another election; and in case of a vacancy in the office
80 of mayor or alderman by death, resignation or otherwise,
81 it shall be filled for the remainder of the term by a new
82 election, to be called as herein provided, and held within
83 twenty days after the vacancy occurs. The oath, or
84 affirmation, prescribed by this act shall be administered
85 to the mayor by the city clerk, or any justice of the peace
86 in said city. The alderman elect shall meet on the second
87 Monday in March, at seven o'clock in the evening, when
88 the oath, or affirmation, required by the second section of
89 this act shall be administered to the members present by
90 the mayor or any justice of the peace. The city council
91 shall, by ordinance, determine the times of holding stated

92 or regular meetings of the board, and shall also in like
93 manner determine the manner of calling special meetings
94 and the persons by whom the same shall be called, but,
95 until otherwise provided by ordinance, special meetings
96 shall be called by the mayor by causing a notification to
97 be given in hand or left at the usual residence of each
98 member.”

Sect. 6. Part I of section thirty-four of chapter five
2 hundred and six of the Special Laws of eighteen hundred
3 and eighty-nine is hereby amended by adding at the end
4 thereof the following: ‘The provisions of this section
5 relating to the construction of sewers and the expenses
6 and assessments for the same shall apply to all sewers
7 already constructed or hereafter to be constructed,’ so that
8 the same as amended shall read as follows :

‘Section 34. I. The city council may make, lay and
10 maintain all such main drains or common sewers, as they
11 adjudge to be necessary for the public convenience or the
12 public health, through the public streets, or through the
13 lands of any person or corporation, and may repair the
14 same whenever it is necessary, as hereinafter provided.
15 All such drains and sewers shall be the property of the
16 city, and shall be constructed in such manner and shall be
17 of such dimensions as the city council deem best.

The provisions of this section relating to the construction
19 of sewers and the expenses and assessments for the same
20 shall apply to all sewers already constructed or hereafter
21 to be constructed.’

Sect. 7. Part III of said section thirty-four is hereby
2 amended by adding at the end thereof the following :
3 Additions may be made from time to time to such plans

4 and estimates, for the same or other localities as the city
5 council shall direct,' so that the same as amended shall
6 read as follows :

‘III. The city council, as soon as convenient after its
8 first meeting, shall determine what localities within the
9 city limits, and streets of said localities, are in need of
10 drains or sewers, and thereupon cause to be made accu-
11 rate plans and estimates of cost of main drains or sewers,
12 with their out-falls and receptacles needed in said localities,
13 setting forth full details of costs of each main and needed
14 branches connected therewith, with costs of each branch,
15 using the results of the survey and estimates made in com-
16 pliance with the appropriation of the town of Deering,
17 under article twenty-three of the warrant for the annual
18 town meeting of said town in the year of our Lord
19 eighteen hundred and eighty-eight so far as applicable,
20 and cause the same to be recorded and carefully preserved
21 in record books prepared expressly for the purpose, but
22 kept ready at all times for public inspection.

Additions may be made from time to time to such plans
24 and estimates, for the same or other localities as the city
25 council shall direct.’

Sect. 8. Part V of said section thirty-four is hereby
2 amended by striking out all of said part of said section
3 and substituting instead thereof the following :

‘V. After the approval by the city council of the plans
5 and estimates made in accordance herewith the city council
6 may, after public notice of not less than ten days and a
7 hearing, proceed to construct any of such drains and
8 sewers in manner herein provided as the same are or shall
9 be needed.’

Sect. 9. Said section thirty-four is hereby further
2 amended by adding at the end of said section the
3 following :

‘XII. The city may under such regulations or ordi-
5 nances as the city council may establish, construct side-
6 walks or footways laid with brick, flat stones, concrete or
7 other material with suitable curbs, on any street or portion
8 thereof, and direct not exceeding one-half the cost of the
9 same to be assessed on adjacent lots ; and for that pur-
10 pose may direct the curb to be set at any time previous
11 to the construction of the walk, and may cause the cost of
12 the curb and the cost of the paving of the walk to be
13 assessed separately as either is or may be constructed.

When such walks or such curbs or such paving, sepa-
15 rately, are completed the city council shall assess upon
16 the adjacent lots or parcels of land and against the owners
17 thereof, if known, as betterments, an amount not exceed-
18 ing fifty per cent of the cost thereof, and the city council
19 shall certify to the treasurer of the city the amount
20 assessed upon each lot or parcel of land so assessed and
21 the name of the owner of each lot or parcel of land, if
22 known, with directions to collect the same according to
23 law ; and such assessments shall create a lien upon each
24 and every lot or parcel of land so assessed, and the collec-
25 tion of such assessments may be enforced in the same way
26 as is provided in this section for the collection of assess-
27 ments made for drains and sewers. Said assessments
28 may, at any time, be corrected by the city council on due
29 notice and hearing and in such case may be certified anew
30 to the treasurer. No assessment shall be void by reason

31 of error in the name of the owner or occupant of the lot
32 assessed, provided the lot assessed is so described that the
33 same may be distinctly known. Such walks shall forever
34 thereafter be maintained and kept in order by said city.'

Sect. 10. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,
February 24, 1897.

Reported by Mr. BOYNTON of Sullivan, from Committee on Legal
Affairs, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*