

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY - THIRD LEGISLATURE

House Document

No. 446

H. P. 1198 House of Representatives, March 22, 1927.

Reported by Mr. Goodwin from Committee on Legal Affairs
and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Cyr of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-SEVEN

AN ACT Relating to the Charter of the City of Waterville.

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

Section 1. Section three, chapter one hundred and ninety-
2 five of the private and special laws of the state of Maine
3 of one thousand eight hundred and eighty-seven is hereby
4 amended by inserting the words 'He shall appoint' after the
5 word "punished" in the seventh line of said section, by
6 striking out the word "two" in the nineteenth line and in-
7 serting the word 'fifteen' and by striking out all words after
8 "agency" in the twenty-fourth line, so that said section, as
9 amended, shall read as follows:

'Sect. 3. The mayor of said city shall be the chief ex-

2 ecutive magistrate thereof. It shall be his duty to be vigi-
3 lant and active in causing the laws and regulations of the
4 city to be executed and enforced, to exercise a general su-
5 pervision over the conduct of all subordinate officers, and
6 to cause their violations or neglect of duty to be punished.
7 He shall appoint all city officers except those that are re-
8 quired by law to be elected by the qualified electors of said
9 city or of the several wards in said city, or to be appointed
10 or employed by authority of the board of education and
11 may remove city officers so appointed by him, for cause.
12 He shall also appoint an overseer of the poor, who shall
13 hold his office for a term of two years. Such officer, so
14 appointed, shall perform such duties as may be prescribed
15 by the municipal officers, and shall in general do and per-
16 form all the duties and exercise all the powers incumbent
17 upon or vested in overseers of the poor by law. Such over-
18 seer may be removed by the mayor for cause. The mayor
19 shall exercise the same power of appointment to fill a va-
20 cancy in any appointive city office. He may call special
21 meetings of the board of aldermen and common council,
22 when, in his opinion, the interest of the city requires it,
23 by a notice in one or more of the papers printed in the city,
24 or by causing a summons or notification to be given in hand,
25 or left at the usual dwelling place of each member of the
26 board to be convened. He shall, from time to time, com-
27 municate to the city council, such information and recom-
28 mend such measures as the business and interests of the

29 city may, in his opinion, require. He shall preside in the
30 board of aldermen and joint meetings of the two boards,
31 but shall have only a casting vote. The salary and com-
32 pensation of the mayor shall be fifteen hundred dollars per
33 year, which shall not be increased or diminished during his
34 continuance in office unless by the vote of the qualified
35 electors in ward meetings called for that purpose. Nor shall
36 he receive from the city any other compensation for any
37 services by him rendered in any other capacity or agency.'

Sect. 2. Section five, chapter one hundred and ninety-
2 five of private and special laws of the state of Maine of
3 one thousand eight hundred and eighty-seven, is hereby
4 amended by striking out the words "and aldermen" in the
5 fifteenth line so that the section, as amended, shall read as
6 follows:

'Sect. 5. The executive powers of said city generally, and
2 the administration of police department, with all the powers
3 of selectmen and overseers of the poor except as modified
4 by this act, shall be vested in the mayor and aldermen. All
5 the powers of establishing watch and ward, now vested by
6 the laws of the state in the justices of the peace and munici-
7 pal officers or inhabitants of the town, are vested in the
8 mayor and aldermen, so far as relates to said city, and they
9 are authorized to unite the watch and police departments
10 into one department, and establish suitable regulations for
11 the government of the same. The officers of police shall
12 be one chief, to be styled the city marshal, as many deputy

13 marshals as the city councils may by ordinance prescribe,
14 and as many watchmen and police as the mayor may, from
15 time to time, appoint. All other powers now or hereafter
16 vested in the inhabitants of said city, and all powers granted
17 by this act, as well as all powers relating to the fire depart-
18 ment, shall be vested in the mayor and aldermen and com-
19 mon council of said city to be exercised by concurrent vote,
20 each board to have a negative upon the other. (But all
21 members and officers of the fire department shall be con-
22 tinued in the service of said department without re-election
23 or re-appointment unless removed for inefficiency or other
24 cause or retired on arrival at an age limit which may be
25 determined by the city council of said city.) Each board
26 shall keep a record of its proceedings, and judge of the
27 election of its own members, and in case of vacancies, new
28 elections shall be ordered by the mayor and aldermen.'

Sect. 3. Section six, chapter one hundred and ninety-five
2 of the private and special laws of the state of Maine of one
3 thousand eight hundred and eighty-seven, is hereby amend-
4 ed by striking out all the words after the word "appointed"
5 in the fourth line of said section so that said section, as
6 amended, shall read as follows:

'Sect. 6. The compensation of all subordinate city offi-
2 cers whatsoever, shall be fixed by the city council. All offi-
3 cers of the police department shall be appointed by the
4 mayor and may be removed by him for good cause. All
5 other subordinate officers shall be appointed by the mayor

6 and such officers may be removed by him for good cause.
7 Except as otherwise specially provided in this act or by the
8 laws of the state of Maine all subordinate officers shall be
9 appointed biennially on the first Monday of January, or
10 as soon thereafter as may be, and their term of office shall
11 be for two years and until others are qualified in their place.
12 All vacancies may be filled by the mayor.'

Sect. 4. Section seven, chapter one hundred and ninety-
2 five of the private and special laws of the state of Maine
3 of one thousand eight hundred and eighty-seven is hereby
4 amended by inserting the words 'million five" after the word
5 "one" in the fifteenth line of said section so that said sec-
6 tion as amended shall read as follows:

'Sect. 7. No money shall be paid out of the city treasury
2 except on orders drawn and signed by the mayor, desig-
3 nating the fund or appropriation from which said orders
4 are to be paid, nor unless the same shall be first granted
5 or appropriated therefor by the city council, and the city
6 council shall secure a prompt and just accountability by
7 requiring bonds with sufficient penalty and surety or sure-
8 ties, from all persons trusted with the receipt, custody or
9 disbursement of money; they shall have the care and super-
10 intendence of the city buildings and the custody and man-
11 agement of all city property, with power to let or sell what
12 may be legally let or sold, and to purchase and take, in the
13 name of the city, real and personal property for municipal
14 purposes to an amount not exceeding one million five hun-

15 dred thousand dollars in addition to that now held by the
16 town, and shall, as often as once a year, cause to be pub-
17 lished for the information of the inhabitants, a particular
18 account of receipts and expenditures, and a schedule of
19 city property.'

Sect. 5. Section eight, chapter one hundred and ninety-
2 five of the private and special laws of the state of Maine
3 of eighteen hundred and eighty-seven, is hereby amended
4 by striking out all words before the words "an assistant"
5 in the ninth line of said section, so that said section as
6 amended shall read as follows.

'Sect. 8. The board of assessors shall consist of three
2 members to be appointed by the mayor on the second Mon-
3 day in March in the manner hereinafter provided. Each
4 member shall hold office for a term of three years. The
5 present assessors shall continue in office until their term as
6 heretofore provided, expires. And a vacancy caused by
7 the expiration of their term shall be filled by appointment
8 by the mayor. The mayor shall appoint an assistant as-
9 sessor in each ward, whose duty it shall be to furnish the
10 assessors with all the necessary information relative to per-
11 sons and property taxable in his ward; he shall be sworn
12 or affirmed to the faithful performance of his duty. All
13 taxes shall be assessed, apportioned and collected in the man-
14 ner prescribed by the laws of this state relative to town
15 taxes, except as herein modified, and the city council may

16 establish further or additional provisions for the collection
17 thereof, and of interest thereon.'

Sect. 6. Section nine, chapter one hundred and ninety-
2 five of the private and special laws of the state of Maine
3 of eighteen hundred eighty-seven, as amended by chapter
4 four hundred eighty-three of the private and special laws
5 of eighteen hundred ninety-three, is hereby further amend-
6 ed by inserting the words 'or establish a grade' after the
7 word "city" in the eighth line of said section, so that said
8 section as amended shall read as follows:

'Sect. 9. The city council shall have exclusive authority
2 to lay out, widen or otherwise alter, or discontinue any and
3 all streets or public ways in the city of Waterville, without
4 petition therefor, and to estimate all damage sustained by
5 the owners of land taken for that purpose. A joint stand-
6 ing committee of the two boards shall be appointed, whose
7 duty it shall be to lay out, alter, widen or discontinue any
8 street or way in said city or establish a grade, first giving
9 notice of the time and place of their proceedings to all par-
10 ties interested, as now required by law in case of town ways.
11 The committee shall first hear all parties interested and then
12 determine and adjudge whether the public convenience re-
13 quires such street or way to be laid out, altered or discon-
14 tinued, and shall make a written return of their proceed-
15 ings, signed by a majority of them, containing the bounds
16 and descriptions of the street or way, if laid out or altered,
17 and the names of the owners of the land taken, when known,

18 and the damages allowed therefor; the return shall be filed
19 in the city clerk's office, at least seven days previous to its
20 acceptance by the city council. The street or way shall not
21 be altered or established until the report is accepted by the
22 city council, and the report shall not be altered or amended
23 before its acceptance. A street or way shall not be dis-
24 continued by the city council, excepting upon the report of
25 said committee. The committee shall estimate and report
26 the damages sustained by the owners of the lands adjoin-
27 ing that portion of the street or way which is so discon-
28 tinued; their report shall be filed with the city clerk, seven
29 days at least before its acceptance. Any person aggrieved
30 by the decision or judgment of the city council in establish-
31 ing, altering or discontinuing streets, may, so far as relating
32 to damages, appeal therefrom as in case of town ways. If
33 a street or way is discontinued before the damages are paid
34 or recovered for the land taken, the land owner shall not
35 be entitled to recover such damages, but the committee in
36 their report discontinuing the same shall estimate and in-
37 clude all the damages sustained by the land owner, includ-
38 ing those caused by the original location of the streets, and
39 in such cases, if an appeal has been regularly taken, the
40 appellant shall recover his costs. The city shall not be com-
41 pelled to construct or open any street or way thus here-
42 after established, until in the opinion of the city council,
43 the public good requires it to be done; nor shall the city
44 interfere with the possession of the land so taken, by re-

45 moving therefrom materials, or otherwise, until they decide
46 to open and construct said street. The city council may
47 regulate the height and width of sidewalks in any public
48 square, places, streets, lanes or alleys in said city, and may
49 authorize posts and trees to be placed along the edge of said
50 sidewalks. Nor shall the city be answerable for damages
51 occasioned by telegraph poles and wires erected in its streets.

Whenever said city council shall determine to lay out,
2 widen or otherwise alter any public street or road, said city
3 council is authorized to levy an assessment upon the real
4 estate fronting upon the line of said street and upon other
5 land near said street and benefited thereby in proportion to
6 the valuation and the benefits derived. The amount of said
7 assessment shall be fixed by the committee of the city coun-
8 cil authorized to lay out, widen or alter said road, and in
9 their report to the city council said committee shall state
10 definitely what amount they have assessed on each parcel
11 of land or real estate, giving a description of the same. In
12 proceeding to lay out, widen or alter such streets, such com-
13 mittee shall proceed in the same manner and give the same
14 notices as are required by law in laying out other roads.
15 The report of such committee shall be filed with the city
16 clerk at least seven days before action thereon by the city
17 council. The action of such committee shall be subject to
18 revision and change by the city council. The city clerk
19 shall give to the person owning or in possession of said
20 real estate at least five days' notice that such assessment has

21 been made, stating the amount of the same, before the ac-
22 tion of the city council upon the same, and a fair oppor-
23 tunity shall be given to all the parties interested to be heard
24 on said assessment before the city council, before action
25 shall be taken thereon and any person aggrieved by the
26 action of the city council shall have the right to appeal, and
27 be heard in court in the same manner as provided by law
28 for appeals and hearings in cases of damages for land taken
29 for highways; said assessment shall constitute a lien on said
30 real estate, which shall continue in force for one year after
31 final action on said assessment, either by city council or by
32 way of proceedings on appeal. The assessment so made
33 shall within three months after said final action thereon,
34 be committed to the collector of taxes, and he shall proceed
35 to collect the same in the same manner, and by the same
36 means, as now provided by law for collection of taxes on
37 real estate.'

Sect. 7. Section twelve, chapter one hundred ninety-five
2 of the private and special laws of the state of Maine of
3 eighteen hundred and eighty-seven, is hereby amended by
4 striking out all of said section twelve and inserting in place
5 thereof, the following:

'Sect. 12. The mayor shall be elected by the inhabitants
2 of the city, voting in their respective wards. One alder-
3 man, two common councilmen, a warden, a clerk, one mem-
4 ber of the board of education, and one constable, shall be
5 elected by each ward, being residents in the ward where

6 elected. All said officers shall be elected by ballot by plu-
7 rality of the votes given, and shall hold their offices two
8 years from the first Monday in January (except that all
9 said officers elected at the first biennial election to be held
10 on the second Monday of December, nineteen hundred and
11 twenty-seven, shall assume and hold their offices from the
12 second Monday in March, nineteen hundred and twenty-
13 eight, until the first Monday in January, nineteen hundred
14 and thirty), and until others shall be elected and qualified
15 in their places.

(a) All city and ward officers shall be held to discharge
2 the duties of the offices to which they have been respectively
3 elected notwithstanding their removal after their election
4 out of their respective wards into any other wards in the
5 city, but they shall not be so held after they have taken up
6 their permanent residence out of the city.'

Sect. 8. Section thirteen, chapter one hundred and ninety-
2 five, of private and special laws of the state of Maine of
3 eighteen hundred and eighty-seven, is hereby amended by
4 striking out all of said section and inserting in place there-
5 of the following:

'Sect. 13. On the second Monday in December, biennially,
2 beginning with the year nineteen hundred and twenty-seven,
3 the qualified electors of each ward shall ballot for mayor,
4 one alderman, two common councilmen, a warden and clerk,
5 a member of the board of education (b) and one constable,
6 on one ballot. The ward clerk, within twenty-four hours

7 after such election, shall deliver to the persons elected, cer-
8 tificates of their election, and shall forthwith deliver to the
9 city clerk, a certified copy of the record of such election,
10 a plain and intelligible abstract of which, shall be entered
11 by the city clerk on the city records. If the choice of any
12 ward officer is not effected on that day, the meeting shall
13 be adjourned to another day, not more than two days there-
14 after, to complete such election, and may so adjourn, from
15 time to time, until the election is complete. The board of
16 aldermen shall, as soon as conveniently may be, examine
17 the copies of the records of the several wards, certified as
18 aforesaid, and shall cause the person who shall have been
19 elected mayor by a plurality of the votes given in all the
20 wards, to be notified in writing of his election. But if it
21 shall appear that no person shall have been so elected, or
22 if the person elected shall refuse to accept the office, the
23 said board shall issue their warrants for another election;
24 and in case the citizens shall fail on a second ballot to elect
25 a mayor, the city council in convention shall, from the four
26 highest candidates voted for at the second election and re-
27 turned, elect a mayor for the ensuing year; and in case of
28 a vacancy in the office of mayor by death, resignation or
29 otherwise, it shall be filled for the remainder of the term
30 by a new election in the manner hereinbefore provided for
31 the choice of said officer. The oath or affirmation prescribed
32 by this act shall be administered to the mayor by the city
33 clerk or any justice of the peace in said city, and a cer-
34 tificate thereof filed with the clerk and recorded. The al-

35 dermen and common councilmen elect, shall, on the first
36 Monday in January, at ten o'clock in the forenoon, meet
37 in convention, when the oath or affirmation required by the
38 second section of this act, shall be administered to the mem-
39 bers of the two boards present, by the mayor or any jus-
40 tice of the peace, after which the board of common council
41 shall be organized by the election of a president and clerk
42 (except that the first organization meeting after the first
43 biennial election to be held on the second Monday of De-
44 cember, nineteen hundred and twenty-seven, shall be held
45 on the second Monday of March, nineteen hundred and
46 twenty-eight). The city council shall, by ordinance, deter-
47 mine the time of holding stated or regular meetings of the
48 boards, and shall also, in like manner, determine the man-
49 ner of calling special meetings and the persons by whom
50 the same shall be called, but until otherwise provided by
51 ordinance, special meetings shall be called by the mayor,
52 by causing a notification to be left at the usual residence
53 or place of business of each member of the board or boards,
54 to be convened.'

Sect. 9. Section sixteen, chapter one hundred and ninety-
2 five of private and special laws of the state of Maine of
3 eighteen hundred and eighty-seven, as amended by chapter
4 three hundred eighty-three of private and special laws of
5 the state of Maine of nineteen hundred and one, is hereby
6 further amended by striking out all of said chapter three
7 hundred and eighty-three of the private and special laws

8 of the state of Maine of nineteen hundred and one, and add-
9 ing to said section sixteen the following :

‘The members of the board of education from wards one
2 and two to be elected on the second Monday in December,
3 nineteen hundred and twenty-nine, to take their seats on
4 the first Monday in March, nineteen hundred and thirty,
5 shall hold their office until the first Monday in January,
6 nineteen hundred and thirty-two. The members of the
7 board of education to be elected on the second Monday in
8 December, nineteen hundred and twenty-seven, from wards
9 three and four to take their seats on the second Monday
10 in March, nineteen hundred and twenty-eight, shall retain
11 their offices until the first Monday in January, nineteen hun-
12 dred and thirty-two. The members of the board of edu-
13 cation elected on the first Monday in March, nineteen hun-
14 dred and twenty-six, from wards five, six and seven, shall
15 hold their office until the first Monday in January, nineteen
16 hundred and thirty, and at each biennial election members
17 for those wards shall be chosen by those wards whose mem-
18 bers’ terms are about to expire and the term of office shall
19 be four years. In case of a vacancy a member may be
20 chosen by the ward in which the vacancy exists to fill the
21 unexpired term,’ so that said section, as amended, shall read
22 as follows :

‘Sect. 16. The board of education, elected as hereinbefore
2 provided, shall take the place of the superintending school
3 committee, and perform all its duties and be invested with
4 all its rights and powers. The board shall elect a chair-

5 man annually, and appoint some suitable person, not a mem-
6 ber of the board, superintendent of schools, and may adopt
7 such rules and regulations for the management of the
8 schools as are not inconsistent with the laws of the state.
9 The superintendent shall be the secretary and executive
10 agent of the board, which shall fix his salary, to be paid
11 from the city treasury as salaries of teachers are paid, and
12 may remove him for good cause and appoint a successor.
13 The members of the board shall receive no compensation
14 for their services as such. The members of the board of
15 education from wards one and two to be elected on the
16 second Monday in December, nineteen hundred and twenty-
17 nine, to take their seats on the first Monday in March,
18 nineteen hundred and thirty, shall hold their office until the
19 first Monday in January, nineteen hundred and thirty-two.
20 The members of the board of education to be elected on
21 the second Monday in December, nineteen hundred and
22 twenty-seven, from wards three and four to take their seats
23 on the second Monday in March, nineteen hundred and
24 twenty-eight, shall retain their office until the first Monday
25 in January, nineteen hundred and thirty-two. The mem-
26 bers of the board of education elected on the first Monday
27 in March, nineteen hundred and twenty-six, from wards
28 five, six and seven, shall hold their office until the first
29 Monday in January, nineteen hundred and thirty, and at
30 each biennial election members for those wards shall be
31 chosen by those wards whose members' terms are about to
32 expire and the term of office shall be four years. In case

33 of a vacancy a member may be chosen by the ward in which
34 the vacancy exists to fill the unexpired term.

This act shall not take effect unless approved by a major-
2 ity of those voting upon the question of its approval at a
3 general or special election held on the second Monday in
4 September, nineteen hundred and twenty-seven, and the mu-
5 nicipal officers of the city of Waterville shall issue their
6 warrant calling said election at least seven days before the
7 date appointed by them for said election.'