

MAINE STATE LEGISLATURE

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E I G H T Y - S I X T H L E G I S L A T U R E

Legislative Document

NO. 402

H. P. 859

House of Representatives, Feb. 1, 1933.

Referred to the Committee on Legal Affairs and 1,000 copies ordered printed. Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Plummer of Portland.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

AN ACT Providing for a New Charter for the City of Portland.

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

Section 1. Corporate existence retained. The inhabitants of the city of Portland shall continue to be a body politic and corporate by the name of the city of Portland, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation, or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations and ordinances for municipal purposes, not inconsistent with the constitution and laws of the state of Maine, and impose penalties for the breach thereof, not exceeding \$100 in any one case, to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

Sec. 2. Mayor; city council; powers. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, except as otherwise in this charter specifically provided, shall be and hereby are vested in 1 principal magistrate to be styled the mayor and in 1 body consisting of 1 councilor from each ward of the city, which body shall constitute and be called the city council, all of whom shall be and remain during their term of office, inhabitants of said city,

and shall be chosen in the manner hereinafter provided, and shall be sworn or affirmed in the form prescribed by the constitution of the state for state officers. The mayor and members of the city council shall be and constitute the municipal officers of the city of Portland for all purposes required by statute, and, except as otherwise specifically provided, shall have all powers and authority given to, and perform all duties required of municipal officers and boards of mayor and aldermen of cities under the laws of this state.

Duties of city council. The city council is hereby constituted the overseers of the poor of the city of Portland and shall perform all duties required of the overseers of the poor for cities, by statute or otherwise. As such overseers of the poor, they may authorize the superintendent of the poor department, or a clerk or agent to act for them as they may direct, to sign in their name and send written notices and the written answers referred to or required in sections 31 and 32 of chapter 33 of the revised statutes of 1930 and acts amendatory thereof and additional thereto, and such written notices and written answers, so signed, shall have the same effect as if signed by 1 or more of said overseers and sent by a member or members of said board of overseers personally.

The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same.

Sec. 3. Duties of mayor. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws of the state, and ordinances and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all administrative and subordinate officers. He shall from time to time communicate to the city council such information, and recommend such measures, as the interests of the city may require. He shall preside at all meetings of the city council, but shall have only a casting vote. He shall be entitled to receive as compensation for his services such salary as the city council may determine, payable quarterly, and shall receive therefor no other compensation, which said salary, however, shall not be increased or diminished during his term of office.

Sec. 4. Laws, acts, ordinances, etc., how approved. Every law, act, ordinance, resolve or order, excepting rules and orders of a parliamentary character, shall be presented to the mayor, and if he approve, he shall sign it, and it shall then be in full force and effect. If he does not approve it, he shall return it with his objections at the next stated session of the city council held at least 1 week after the aforesaid law, act, ordinance, resolve or order is presented to the mayor for his approval. The city council shall

enter the objections at large on its journal and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of 2-3rds of all the members of the city council it shall have the same effect as if signed by the mayor. The mayor shall have the right to approve as a whole any resolve or order involving the appropriation and expenditure of money, or to approve or disapprove specific items thereof, and the portions approved shall thereby be in force in like manner as if no part thereof had been disapproved, and the portion or portions disapproved shall thereupon take the same course as herein provided as though said resolve or order had been disapproved as a whole.

Sec. 5. Watch and ward vested in city council; other powers. All the powers of establishing a watch and ward now vested by the laws of the state in the justices of the peace and municipal officers or inhabitants of towns, are vested in the city council, so far as relates to said city; and they are authorized to unite the watch and police departments into 1 department and establish suitable regulations for the government of same. All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this act, except as otherwise provided, as well as all powers relating to the fire department, shall be vested in said city council.

Sec. 6. Administrative officers of city council. There shall be the following administrative officers and boards:

(a) **Election by voting members of city council.** The following officers and boards shall be elected by ballot by a majority vote of the voting members of the city council: city clerk, corporation counsel, treasurer and tax collector, auditor, assessors of taxes, health officer, music commission, trustees of Evergreen Cemetery, 2 members of board of registration under section 8 of chapter 6 of the revised statutes of 1930, and acts amendatory thereof and additional thereto, and they may elect 9 constables at large.

(b) **Appointments by mayor.** The following officers shall be appointed by the mayor subject to confirmation by the city council: commissioner of public works, city electrician, chief of police, chief of the fire department, secretary to overseers of the poor, city physician, inspector of buildings who shall give all his time to the work of his office and who shall not have any interest, direct or indirect, in any building or material concern, and all other department heads whose position may from time to time be created by statute or ordinance; and, except as herein otherwise provided, upon recommendation of the heads of their departments, all minor officers and employees.

B. Further powers. The council shall have power by ordinance:

- (a) To create any new appointive office.
- (b) To authorize the appointment of assistants or deputies in any office.

C. Civil service rules. The city council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension and removal of the members of the police department and of the fire department, other than the chiefs of said departments, and for a civil service commission to administer the same.

Neither the city council nor civil service commission shall have power or authority to reduce, terminate, or diminish in any way the pay, term of office, or pension or retirement privileges of the members of the police department or of the fire department of the city of Portland, as now enjoyed by them, other than the chiefs of said departments, except that the city council may provide for the removal for cause of members of either the fire or police department upon presentation of charges and hearing before the civil service commission hereinbefore provided for. No further or other physical examination shall be required of the present members of the police or fire departments other than that to which they are now subject.

D. Removal from office of appointive officers; tenure of office. All appointive officers whose terms of service are specified herein to be for a fixed term, shall be removable by the city council upon written charges, notice and hearing, if upon such hearing they are adjudged guilty of the charges preferred.

All other appointive officers shall hold office during the pleasure of the appointing power.

The term of office of members of city hall music commission, trustees of Evergreen Cemetery, and members of the board of registration of voters shall be as now provided by law, except as otherwise specifically provided in this act.

E. Salaries. The city council shall fix by order the salaries of the appointees of the mayor and of the city council.

F. Duties of administrative officers. Duties of all administrative officers may be prescribed by the city council. Such duties shall not be inconsistent with the provisions of this charter.

G. Assessors of taxes. There shall be 3 assessors of taxes elected by the city council for terms of 3 years and until their successors are elected and qualified. Provided, however, that the 1st city council elected under this act shall elect 1 assessor for the term of 3 years to fill the vacancy caused by the expiration of the term of the assessor then expiring; the other 2 assessors whose terms under the present city charter are not ex-

piring shall hold their office until the expiration of their terms and until their successors are duly elected and qualified, and thereafter the said city council shall elect 1 assessor each year for the term of 3 years and until his successor is qualified and elected. If for any reason a vacancy shall exist in the membership of the board of assessors, the vacancy shall be filled forthwith by the city council for the unexpired term. The assessors elected as above provided shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and may now or hereafter be subject to under the laws of the state. The assessors may appoint 1 assistant assessor in each ward and 1 additional assistant assessor in each ward, if the city council shall so direct, whose duty it shall be to furnish the assessors with all the necessary information relative to persons and property taxable. The compensation of such assistant assessors shall be fixed by the city council but such assistant assessors shall hold office during the pleasure of the assessors. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of the state relative to town taxes; provided that the city council may establish further or additional provisions for the collection thereof, and of interest thereon.

H. Park commission. The members of the city council shall be and constitute the park commission and shall have the powers and perform the duties given to and prescribed for the park commission of the city of Portland by the laws of the state of Maine, but they shall receive no compensation as such commissioners.

I. Mill tax to be expended by park commission. To enable said commission to extend the work of the Back Bay and Fore River commission and to make improvements, to enlarge the park areas, to maintain the public grounds and cemeteries under their charge, and to pay for additions to grounds and cemeteries already acquired, or to be acquired by the city of Portland, a tax of 1 mill on the dollar shall be assessed annually by the assessors of said city of Portland upon all estates and property subject to taxation in said city, to be taken at the last regular valuation. The amount of said tax, when raised, shall be set aside as a special fund to be expended by said commission for the purposes specified in this charter; provided, however, that 1% of the amount of the above tax, shall be reserved by the city treasurer each year to cover any uncollected portion of this tax and carried to the credit of the account known as overlays and abatements.

J. Duties of park commission. It shall be the duty of the park commission to keep itself informed of the progress of city planning in this and other countries; to have made studies and recommendations for the

improvement of the plan of the city with a view to the present and future movement of traffic, the convenience, health, recreation, general welfare and other needs of the city, dependent on the city plan, of all new public streets, ways, sewers, conduits, land, buildings, bridges and all other public places and structures, of additions and alterations in those already existing and of the layout or plotting of new subdivisions of the city.

K. Health officer. The health officer is given the same powers and authority and is subject to the same duties and liabilities as are now held by or imposed upon the health officer for the city of Portland, and he shall perform such other duties, not inconsistent with the law of the state, as the city council shall determine.

L. Recreation commission; funds. The members of the city council shall be and constitute the recreation commission for the city of Portland and they shall have all the power and authority and be subject to the same duties and liabilities as are now possessed by the recreation commission of the city of Portland.

Funds for the purpose of carrying out the duties and work of said recreation commission shall be supplied in the same way and to the same amount as are now provided and supplied, or may be fixed hereafter.

Sec. 7. Appropriations; bonds required of persons entrusted with moneys; further duties of council. No money shall be paid out of the city treasury except on orders drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor, by the city council; and the city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons entrusted with the receipt, custody or disbursement of money; they shall have the care and superintendence of the city buildings and the custody and management of all city property, with power to let or sell what may be legally let or sold, and to purchase and take in the name of the city such real and personal property in addition to that now held, as the city council may find necessary for municipal purposes; and shall as often as once a year cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property.

Sec. 8. Committee on streets; proceedings in laying out and maintaining streets. The city council shall have exclusive authority to lay out, widen or otherwise alter, or discontinue any and all streets or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall

be subject to the provisions of the laws relating to the commissioners of Portland harbor. A standing committee of the city council shall be appointed, to be called the committee on new streets, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in 2 daily papers printed in Portland, for 1 week at least previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least 7 days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the city council excepting upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk 7 days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, appeal therefrom to the next court having jurisdiction thereof in the county of Cumberland, which court shall determine the same by a committee of reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment, and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the said court, which shall first be holden in the county of Cumberland more than 30 days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, 14 days at least before the session of the court, and shall at the 1st term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants, shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owners shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and in-

clude all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise, until they decide to open and construct said street, provided that if any street or way is not constructed within 2 years, after the laying out of such street or way, the proceedings are void. The city council may regulate the height and width of sidewalks in any public square, places, street, lanes or alleys in said city; and may authorize posts and trees and other objects permitted by law to be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by telegraph poles and wires erected in its streets.

Sec. 9. Mayor's authority when streets are in making or repair. The mayor, or some person by him authorized, may on such terms and conditions as he may think proper, authorize and empower any person or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, crosswalk, bridge, watercourse or drain, or for erecting, repairing, or finishing any building or fences, or for laying or repairing gas or water pipes or conduits, provided that no more than $\frac{1}{2}$ of the width of the street shall be so occupied. Any such material so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city shall not be liable to any person for any damages occasioned by such materials.

Sec. 10. City to remain divided into 9 wards. The city shall remain divided into 9 wards unless and until the city council shall change the number thereof as hereinafter provided. It shall be the duty of the city council, once in 10 years, or oftener, to revise, and if it be needful, to alter such wards in such manner as to preserve, as nearly as may be, an equal number of voters in each, and the city council may, in such manner, but subject to the approval of the legal voters of the city signified in the manner provided by statute in the case of a change in the limits of city wards, change the number of wards. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a warden and clerk, who shall hold their offices for 1 year from the Monday following their election, and until others shall have been chosen and qualified in their places.

Ward meetings. All regular ward meetings shall be notified and called by warrant from the mayor and councilors, in the manner prescribed by

the laws of this state for notifying and calling town meetings by the selectmen of the several towns.

Sec. 11. Election of mayor, city council and other officers by voters.

The mayor shall be elected at large by and from the qualified voters of the city voting in their respective wards. One member of the city council, 1 member of the school committee, a warden and clerk and 2 constables shall be elected from each ward by and from the qualified voters thereof, at the times and in the manner hereinafter provided.

Election 1st Monday in December, 1933. At the 1st election after this charter is in force, to be held on the 1st Monday of December, 1933, and every 2nd year thereafter, the qualified voters of the city shall ballot for a mayor for a term of 2 years and on said 1st Monday of December, 1933, the qualified voters of each ward shall at the same time ballot by wards for a member of the city council from each of said wards, for a term of 1 year in wards 1, 4 and 7, for a term of 2 years in wards 2, 5 and 8, and for the term of 3 years in wards 3, 6 and 9, and the qualified voters of each ward shall on the 1st Monday of December, 1933, and annually thereafter, ballot by wards for a warden and clerk and 2 constables from each ward, and in case there is more than 1 voting precinct or any island ward in any ward, then the qualified voters of each said precinct and island ward shall at the same time ballot for a warden and ward clerk for such precinct or island ward, and at each regular municipal election thereafter a member of the city council and a member of the school committee shall be elected in each of said wards in which the term of its member of the city council or member of the school committee expires or a vacancy exists by reason of death, resignation or otherwise, but any member of the city council or member of the school committee elected to fill such vacancy shall be elected only for such term as is required to fill the unexpired term of his immediate predecessor.

Superintending school committee. All members of the superintending school committee hereinafter called the school committee shall continue hereafter to be elected on the 1st Monday of December at the annual municipal election and such committee shall consist of 1 member from each ward, elected by a plurality vote by the qualified voters of the ward of which he is a legal resident. The members thereof shall hold office for the term of 3 years and until their successors are elected and qualified, except that at the 1st election of members of the school committee, those elected from wards 2, 5 and 8 shall hold office for the term of 1 year, those elected from wards 3, 6 and 9 shall hold office for the term of 2 years, and those elected from wards 1, 4 and 7 shall hold office for

the term of 3 years, and until their respective successors are elected and qualified.

Removal from ward of city and ward officers. All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding their removal, after their election, out of their respective wards into any other wards in the city; but their office shall become vacant on their removal from the city.

Vacancy in elective office. In the event that any elective office under this charter becomes vacant by reason of death, resignation or otherwise, the city council shall forthwith cause a special election to be held in the manner provided herein and by the laws of the state for holding regular elections, to fill the unexpired term of the incumbent for such office, provided the council deems the exigency such as to require such special election, and provided further that the city council shall be required to call such special election upon the petition of 500 qualified voters of the city, if the said vacancy exists in the mayoralty office, and upon petition of 200 qualified voters of the ward in which any other such vacancy exists, and all the provisions of this charter shall apply to the method of nomination and election of such officer or officers.

Sec. 12. Record of election. All votes cast for the several officers shall be sorted, counted, declared and registered in open ward meeting, as provided by statute. The ward clerk shall forthwith deliver to each person elected warden or ward clerk a certificate of his election and shall forthwith deliver to the city clerk a certified copy of the record of such election.

Written notice of election. After the 1st election held under this charter the then municipal officers and thereafter the city council shall, as soon as it conveniently can, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the persons who shall have been elected councilmen or members of the superintending school committee to be notified in writing of their election; if it shall appear that at the 1st election 9 councilmen have not been elected, or if, after the 1st election, it shall appear that no person has been elected councilman, or if the person elected shall refuse to accept the office, warrants for another election to fill such vacancy shall be issued forthwith.

If 9 councilmen are not elected at 1st meeting. If it shall appear that at the 1st election to be held under this charter 9 councilmen have not been elected, the municipal officers then in the office shall continue to hold office and perform their duties until 9 councilmen have been duly elected.

Sec. 13. Ward officers. The warden and ward clerk, chosen as provided in the preceding section, shall be residents of the ward and precinct for which they are elected and shall hold their office for 1 year from

the 2nd Monday in December following their election, and until others have been chosen and qualified in their stead. The warden and the ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the state to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of said ward. The wardens shall preside at all ward meetings, with the powers of moderators of town meetings and if at any meeting the warden shall not be present, the clerk of the ward shall call the meeting to order and preside until a warden pro tempore shall be chosen. The warden shall have all rights and powers now held by the warden of such ward. If neither the warden nor the ward clerk shall be present, any legal voter in the ward may preside until a clerk pro tempore shall be chosen and qualified.

Immediately following the election of a clerk pro tempore a warden pro tempore shall be chosen. The clerk shall record all the proceedings and certify the votes given and deliver over to his successor in office all such records and journals in his possession or under his control, together with all documents and papers held by him in his capacity as clerk. The ward clerk shall have and perform all rights and duties now held and performed by the ward clerk of such ward, so far as consistent with this charter.

Sec. 14. Nomination of candidates by petition. The nomination of all candidates for elective offices provided for by this charter shall be by petition. The petition of a mayor shall be signed by not less than 300 nor more than 500 qualified voters of the city. The petition of candidates for member of the city council and members of the school committee, for warden, for ward clerk and for constables shall be signed by not less than 25 nor more than 100 qualified voters of the ward wherein the candidate is to be elected. No voter shall sign petitions for more than 1 candidate for each office to be filled at the election, and should any voter sign more than 1 such petition, his signature shall be counted only upon the 1st petition filed, and shall be held void upon all other petitions.

Sec. 15. Affidavit of circulator of petition; form of nomination petition. The signatures to nomination papers need not all be affixed to 1 nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers of each petition, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or their description suffi-

cient to identify the same. The form of the nomination petition shall be substantially as follows:

To the city clerk of the city of Portland:

We, the undersigned voters of the city of Portland, hereby nominate , whose residence is..... , for the office of..... , to be voted for at the election to be held in the city of Portland on the.....day of....., 19...; and we individually certify that we are qualified to vote for a candidate for the above office and that we have not signed more nomination petitions of candidates for this office than there are persons to be elected thereto.

Name.....Street and Number....., being duly sworn, deposes and says that he is the circulator of the foregoing nomination petition containing.....signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

(Signed).....

Subscribed and sworn to before me this.....day of....., 19....

.....

Justice of the Peace
(or Notary Public)

If this petition is deemed insufficient by the city clerk he shall forthwith notify by mail....., at No.....Street.

Sec. 16. Filing of petitions. The nomination petitions for any 1 candidate shall be assembled and united into 1 petition, and filed with the city clerk not earlier than 30 nor later than 16 days before the day of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing not later than 16 days before the day of election, his consent, accepting the nomination, agreeing not to withdraw, and if elected, to qualify.

Sec. 17. City clerk shall cause to be published list of candidates. The city clerk shall certify the list of candidates and shall cause to be published in 1 or more of the daily newspapers published in Portland the names, residences and office to which nominated of the candidates who have duly filed the above described petitions and acceptances.

Sec. 18. Preparation of ballots. Specimen ballots and official ballots for use in all city elections shall be prepared by the city clerk and furnished by the city.

Sec. 19. Ballot described. Ballots for use in elections under this charter shall contain the names of the various candidates, with their residence and the office for which they are a candidate, and shall be furnished with

columns for crosses at the right of the candidate's name and residence, and shall be without party mark or designation.

Sec. 20. Face of the ballot. The face of the ballot shall be of the following form:

CITY OF PORTLAND
Regular (or special) City Election
OFFICIAL BALLOT

Candidates for office in the city of Portland at an election held on Monday, the.....day of....., A. D.....

Instructions.

To vote for any person, make a cross (X) in the square at the right of the name voted for.

For (name of office to be filled.)

() to be chosen.

Name of candidate
and residence

Name of candidate
and residence

Name of candidate
and residence

Name of candidate
and residence

Back of Ballot

Portland, Maine, Monday,....., A. D.

Official Ballot

Ward.....

(Facsimile of Signature)

City Clerk.

Candidates in alphabetical order. The city clerk in preparing all ballots for election under this charter shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames, except as hereinafter provided. In any case where the names of 4 or more persons appear on 1 ballot as candidates for the city council or superintending school committee, the city clerk shall have printed as many sets of ballots as there are candidates for any single office. Each set of ballots shall begin with the name of a different candidate, the other names being arranged thereafter in regular alphabetical order, commencing with the name next in alphabetical order, after the one that stands 1st on that set of ballots. When the last name is reached in alphabetical order it shall be followed by the name that begins with the 1st letter represented in the list of names and by the others in regular order. The ballots so printed

shall then be combined in blocks of 50 so as to have the fewest possible ballots having the same order of names printed thereon together in the same block.

Sample ballots shall be printed from the arrangement of the 1st group of ballots to be printed as above provided.

Sec. 21. Counting ballots. As soon as the polls are closed, the warden shall immediately open the ballot boxes, take therefrom the ballots and sort, count and declare them in open meeting in the presence of the ward clerk.

Sec. 22. Determining successful candidates. Upon receipt of the returns, after the 1st election under this charter, the then municipal officers and thereafter the city council shall determine the successful candidates as hereinafter provided in this section.

Plurality to elect. The person receiving a plurality of the votes cast in the electoral division in which he is a candidate at any election for any office, shall be elected to that office.

Sec. 23. Specimen ballots to be posted and advertised. The city clerk shall cause specimen ballots to be posted in public places in each ward and voting precinct and advertised in the newspapers not later than 10 days prior to the city election and advertised in the newspapers at least twice more prior to the election. Such specimen ballots shall be printed on colored paper and marked specimen ballots, and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the legislature or by the city council. Such ballots shall be without party mark or designation.

Election may be ordered. Should the city council fail or refuse to order an election as herein provided, such election may be ordered by any justice of the supreme judicial court.

Sec. 24. Laws of state to apply in all particulars. The provisions of the laws of the state of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers, and all other particulars in respect to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections of Portland, except as otherwise provided in this charter.

Sec. 25. City council to choose permanent chairman; powers and duties. After the organization of a city government and the qualification of a mayor, and when a quorum of the city council shall be present, said city council, the mayor presiding, shall proceed to choose a permanent chairman, who, in the absence of the mayor, shall preside at all meetings of the council, and in case of any vacancy in the office of mayor, he shall

exercise all the powers and perform all the duties of the office, so long as such vacancy shall remain, but while exercising such powers and duties, shall have a casting vote only, and shall have the veto power. The city council in the absence of the mayor and permanent chairman at any meeting, shall choose a president pro tempore who shall preside at such meeting.

Sec. 26. Nothing in this act to repeal R. S., c. 8, §§ 70, 71. Nothing contained in this charter shall alter or repeal the provisions of sections 70 and 71 of chapter 8 of the revised statutes of 1930 relative to elections and election officers on the several islands within the city of Portland.

Sec. 27. Detection of crime; supervision of harbor; regulating use of boats; respecting lots, etc. The city council, in behalf of the city, may offer rewards for the prevention of crimes or detection of criminals. They may remove all sunken wrecks in the harbor or its entrances, and dispose of the same to defray the expense of removal, and may at the expense of the city, cause the harbor to be kept open and unobstructed by ice. They may also require all boats not under register of license, kept for hire in said harbor, to be examined and licensed for that purpose, and to be furnished with airtight compartments; and may establish such regulations respecting such boats as they may deem expedient. They may also make and enforce by penalties, regulations respecting the enclosure of lots abutting on any street or way in the city, which may for want of such enclosure, be dangerous to the public; and after notice to the owners or lessees of such lots, may, if the same are not enclosed in a reasonable time, cause the same to be enclosed at the expense of the owners or lessees. They may appropriate money for celebration of the anniversary of our national independence, and other public celebrations.

Sec. 28. City clerk. The city clerk shall be clerk of the city council. He shall perform such duties as shall be prescribed by the mayor or the city council and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in 2 or more of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the city council. In case of the temporary absence of the city clerk, the mayor, subject to confirmation by the city council, may appoint a city clerk pro tempore.

Sec. 29. General meeting of citizens. General meeting of the citizens qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the constitution of this state and such meetings shall be duly warned by the mayor and city council upon requisition of 60 quali-

fied voters. The city clerk shall act as clerk of such meetings, and record the proceedings upon the city records.

Sec. 30. Compensation; failure to attend stated meeting. Each member of the city council shall be entitled to receive as compensation for the discharge of his duties, the sum of \$500 per year, payable quarterly, and he shall not be eligible while a member of the council, to any other office of profit or emolument, the salary of which is payable by the city. For failure on the part of any member of the city council or of the municipal officers, there shall be deducted from his compensation the sum of \$10; unless such failure to attend is caused by accident or illness, in which case the certificate of a duly registered physician filed with the city clerk not more than 24 hours after such meeting shall be a sufficient excuse for such absence; and all departments, boards, officers and committees, acting under the authority of the city, and entrusted with the expenditure of public money, shall expend the same for no other purpose than that for which it is appropriated; and shall be accountable therefor to the city, in such manner as the city council may direct.

Sec. 31. Treasurer shall be collector; method of keeping accounts. The treasurer of the city of Portland shall also be the collector for said city with all the powers of collectors of taxes under the laws of this state. He shall be styled "treasurer and collector," and shall give but 1 bond for the faithful performance of his duties; said bond to be approved by the mayor and city council; and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments in whatever year assessed, as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office.

Sec. 32. Original location of streets to be ascertained at least once in 10 years. The location of all streets and ways in said city shall, once in 10 years, or oftener, be ascertained by the commissioner of public works, under the direction of the city council, as accurately as practicable, the

location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall give 20 days notice, by advertisement in 2 or more public papers in the city of the time and place at which it will act upon said report. Any person may appear and object to the report, and after a full hearing of all parties interested, the committee may accept, alter, or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines for such streets and ways in said city according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as and for the original boundaries; and a record of the location thereof to be made upon the city records, and a copy of the last record of such proceedings respecting any street, with evidence of the location of the boundaries therein designated, shall in all judicial proceedings, be prima facie evidence of the place of the original location of said street.

Sec. 33. Regulation of traffic on public occasions; extension of wharves. The mayor and city council of said city may on public occasions, by their order, forbid the passing, temporarily, of horses, carriages or other vehicles, over or through such streets or ways in said city, as they may deem expedient. No existing wharf in Portland harbor shall be extended into the harbor a greater distance below low water mark than the same now exists, and hereafter no such new wharf or any part thereof shall be extended below low water mark into the harbor, without in either case the written assent of the mayor and city council. No wharf or incumbrance shall hereafter be erected or extended into said harbor beyond the harbor commissioner's line.

Sec. 34. Provisions in charter to apply to construction and maintenance of drains and sewers. No existing act of the legislature, general or special, pertaining to the powers and duties of the city of Portland and its municipal officers, with respect to drains and sewers and the construction and maintenance of sidewalks and footways and assessment of the owners of adjacent lots for a proportional part of the cost thereof, shall be by this charter, in any wise affected or modified except as in this charter specifically provided.

Sec. 35. Superintending school committee; powers and duties. The superintending school committee shall have the powers and perform the duties appertaining to the care and management of the public schools of said city now conferred and imposed upon superintending school committees by law, except as otherwise provided in this charter.

Budget to be prepared. The superintending school committee shall

annually, as soon after the organization of their board as practicable, furnish to the city council a statement in detail as a budget, of the several sums which they estimate will be required during the ensuing municipal year for the support of the public schools. Nothing in this charter or general law contained shall impair the right, which is hereby granted, for the city council to alter or amend any budget so presented, and make its appropriation accordingly, provided, however, that the total appropriation shall not be less than that required by section 16 of chapter 19 of the revised statutes of 1930 and amendments thereof, which may have been heretofore or which may hereafter be made thereto, and that the portion of any such appropriation applicable to salaries of superintendent and teachers, shall not, without the consent of said superintending school committee, be reduced below the amounts specified therefor in the preceding annual school appropriation of the city council.

Sec. 36. Commissioner of public works. The commissioner of public works, except as otherwise provided in this charter, shall continue to be vested with all the authority now exercised by and shall perform all duties now incumbent upon said commissioner as provided by law.

Sec. 37. Auditor; duties. The auditor shall examine all payrolls, bills and other claims and demands against the city, and shall issue no warrant for payment until he finds that the claim is in proper form, correctly computed, duly certified and legally due and payable.

Oath of validity of claim. The auditor may require any claimant to make oath to the validity of his claim, may investigate any claim, and for such purpose or purposes may examine witnesses under oath.

Sec. 38. Bond required of those having custody of money. The city council shall require a bond with sufficient surety or sureties, satisfactory to the city council, from all persons trusted with collections, custody or disbursement of any of the public moneys; and may require such bond from such other officials as it may deem advisable; the premium charges for said bonds to be paid by the city.

Sec. 39. Mill tax to be expended by park and recreation committee. The assessors of the city shall assess annually a tax of 1 mill on the dollar upon all estates and property subject to taxation in said city to be taken at the last regular valuation. The amount of said tax when raised shall be appropriated as a special fund and expended by the park and recreation commissions for the duties and work prescribed for said park and recreation commissions by the laws of this state and by this charter; provided, however, that in lieu of the amount now provided by law to be expended by said recreation commission for its purposes, there shall be set aside and expended by said park and recreation commissions for

said purposes 10% of the amount of said mill tax shall be reserved by the city treasurer to cover any uncollected portion of said tax and carried to the credit of the account known as overlayings and abatements.

Sec. 40. Purchasing agent; duties. The purchasing agent shall purchase all supplies for the city and for the several officers and boards thereof, excepting for supplies for the city schools, which school supplies he shall purchase only upon requisition by the superintending school committee.

Delivery of supplies and receipt therefor. The purchasing agent shall see to the delivery of supplies to each officer and department to whom they belong, and take and file receipts therefor. He shall conduct all sales of property belonging to the city which are unfit or unnecessary for the city's use, but only after such sale has been authorized by the city council, and subject to such restrictions as the city council may by ordinance provide.

Sec. 41. Money may be borrowed; issue of bonds and notes. Money may be borrowed, within the limits fixed by the constitution and statutes of the state now or hereafter applying to said Portland, by the issue and sale of bonds or notes pledged on the credit of the city, the proceeds to be used for the payment of indebtedness of the city, contracted for the acquisition of land, the construction and equipment of buildings and other permanent public improvements, and the payment or refunding of bonds, notes, and certificates of indebtedness previously issued. No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in 2 public places in the city of Portland, and publishing said notice in at least 2 daily newspapers published in said Portland at least 2 weeks before final action by the city council, and the approval of 7-9ths of all the members of the city council. Every issue of bonds shall be payable within a fixed term of years; if said bonds are issued in payment of indebtedness incurred for a permanent improvement the term of such bonds shall not exceed the estimated period of utility of said improvement but the declaration of the city council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made payable shall in no case exceed 30 years. Bonds issued after the adoption of this charter shall be made payable in equal, annual, serial installments as pertains to principal, and interest shall be made payable semi-annually. Every order for the issue of bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual, serial installment of principal and interest; and such amounts shall be included in the tax levy for each year until the

debt is extinguished; provided, however, that bonds issued to refund any indebtedness of the city of Portland existing prior to September 10th, 1923, or bonds issued to refund such bonds shall not be subject to the aforesaid requirement of being made payable in equal, annual, serial installments.

Sec. 42. Borrowing in anticipation of taxes. Money may be borrowed in anticipation of receipts from taxes during any fiscal year but the aggregate amount of such loans outstanding at any one time shall not exceed 80% of the revenue received from taxes during the preceding fiscal year. All such loans shall be paid within the year out of receipts from taxes for the fiscal year in which said loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized; all such loans shall be paid within 1 year and are subject to the provisions of laws of the state of Maine in relation thereto. This section shall not limit in any way the power granted to towns and cities to borrow money as contained in chapter 5, section 83 of the revised statutes of 1930 and acts amendatory thereof and additional thereto.

Sec. 43. Sinking fund. Until the bonded indebtedness of the city of Portland in force at the time of the adoption of this charter together with any renewals thereof is fully paid, the city council shall raise and set apart each year for a sinking fund a sum equal to 1½ per cent of the total amount of appropriations for that year. The sinking fund shall be applied only to the payment of that bonded indebtedness of the city, the payment of which has not been provided for by payments in serial installments.

Investment of fund. The sinking fund shall be invested as provided by the revised statutes of the state of Maine and all acts in addition thereto and in amendment thereof.

Sec. 44. Public utility franchises. All public utility franchises, hereinafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by a 7-8ths vote of the voting members of the council. No franchise and no renewal or amendment thereof shall be granted or made within 3 months after the application therefor is filed with the city clerk nor within 30 days after the publication in full of the proposed franchise in its final form, not until a public hearing has been held thereon. No public utility franchise shall be transferable except with the approval of the city council.

Rights to be retained to city. All orders providing for grants, renewals, amendments or extensions of public utility franchises shall retain to the city the following rights:

- (a) To repeal the same by order at any time for non-use, or for fail-

ure to begin construction within the time prescribed, or for failure to otherwise comply with the terms prescribed;

(b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency;

(c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;

(d) To impose such other regulations as may be conducive to the safety, welfare, and accommodation of the public.

(e) Nothing contained in this section is intended to repeal, or shall be construed as repealing, the whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 62 of the revised statutes of 1930, and all acts amendatory thereof or additional thereto.

Sec. 44. Board of overseers of poor, abolished. The board of overseers of the poor as now constituted is hereby abolished as of the 2nd Monday of December, 1933, or as soon thereafter as the city council provided for in this charter shall be elected and qualified and the terms of office of the present members of said board shall then terminate.

Sec. 45. Ordinances not inconsistent remain in force. All ordinances in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Rules and regulations in force. All rules and regulations of the municipal officers of the city of Portland in force at the time when this charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Powers and duties in force. The powers and duties of any committee of the city council or of the board of aldermen of the city of Portland heretofore conferred or prescribed by statute, may by ordinance be conferred upon or prescribed for any committee of the city council.

Rights, actions, etc., in force. All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when this charter goes into effect, and not inconsistent therewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 46. Act does not repeal or amend any law of state. Nothing in this act shall be construed as repealing or amending any law of the state, or ordinance of the city of Portland relative to the appointment, term of office, removal, retirement or pension of the members of the police de-

partment, the fire department and of the electrical department of the city of Portland, except so far as relates to the appointment, removal and term of office of the chief of the fire department, chief of the police department, appointment and removal of the city electrician and the appointment of the deputy and district chiefs of the fire department.

Act not to affect tenure of office of those now holding office. The passage and acceptance of this act shall not, except as specifically provided therein, affect the term of office of such officers, trustees, members of commissions, or departments, as may be holding office, with a definite term of years fixed by statute, at the time this charter takes effect, but such officers, trustees, members of commissions, or departments, shall complete the term of office to which they have been elected or appointed, subject to removal by the mayor, with the consent of the city council, for cause.

Sec. 47. Officers shall not be interested in contract entered into by city. No mayor, no member of the city council, no member of the school committee, no subordinate city officer, no member of any board or commission charged with the expenditure of any money appropriated by the city council or belonging to the city, no officer or employee of the city, elected or appointed, shall be interested, directly or indirectly, in any contract entered into by or in behalf of the city of Portland for work or material, or the purchase thereof, to be furnished to or performed for the city, and all contracts made in violation hereof are void and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such contract. No such officer or employee, except a policeman or fireman, shall accept or receive from any person, firm or corporation acting under a franchise or license from the city, any frank, free pass, free ticket, or free service, or accept directly or indirectly from any such person, firm or corporation, any service now or hereafter provided for by contract, franchise or ordinance.

Sec. 48. When act shall take effect. So much of this act as authorizes the submission of the acceptance of this charter to the electors of the city of Portland shall take effect as provided in the constitution of the state, but it shall not take further effect unless adopted by the electors of the city, then this act for the purpose of nominating and electing officers hereunder shall take effect on the date of its adoption by the electors, and for all other purposes this act shall take effect on the 2nd Monday of December in the year 1933.

Inconsistent provisions of present charter repealed. All provisions of the present charter of the city of Portland not inconsistent with this act are hereby expressly continued in full force and effect, but all acts and parts of acts inconsistent with this act are hereby expressly repealed.

Sec. 49. Referendum provided for; form of ballot. This act shall be submitted for approval or rejection to the qualified voters of the city of Portland at an election to be held the 2nd Monday in September, 1933, and warrants shall be issued for such election in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said city to meet at the several ward meetings of said city, there to cast their ballot for the approval or rejection of this act. The question proposed on said ballot shall be in substantially the following form:

FORM OF BALLOT

“Place a cross X in the square after the form of charter which you select. Mark only one form or your ballot will not be counted.

FORMS OF CHARTER

“Plan 1. Present council-manager form providing for a city council of five members elected one each year for a term of five years from the city at large without regard to ward lines and without party designation, and a city manager elected by the council.

“Plan 2. From providing mayor elected at large for two years and board of nine councillors and nine school committee elected by wards for term of three years each, one from each ward.”

Otherwise said ballot shall be in the form provided by law when a constitutional amendment is submitted to the vote of the people. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election and said election shall in all other respects be conducted as municipal elections in said city are now conducted by law, and the results thereof shall be determined in the manner now provided by law for the determination of the election of mayor. If a majority of the valid ballots deposited as aforesaid shall favor the adoption of plan 2, so-called, on said ballot, then this act shall take effect as herein provided and the chairman of the city council shall forthwith make proclamation of the fact.