

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. 923

H. P. 1597

House of Representatives, March 15, 1933.

Reported by Miss Martin from Committee on Legal Affairs and laid on table to be printed under Joint Rules.

HARVEY R. PEASE, Clerk.

New Draft of H. P. 625, L. D. 206.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

AN ACT to Revise the Charter of the City of South Portland.

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

ARTICLE I.

Sec. 1. **Corporate existence retained.** The inhabitants of the city of South Portland, in the county of Cumberland, shall, in case of the acceptance of this act by the voters of said city, as hereinafter provided, continue to be a body politic and corporate under the name of South Portland, and as such shall have exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties and obligations now appertaining to, or incumbent upon said city as a municipal corporation, or to the inhabitants or municipal authorities thereof; and may ordain, enact and publish such by-laws, ordinances and regulations not inconsistent with the constitution and laws of this state, as shall be needful to the good order of said body politic; and impose fines and penalties for the breach thereof, of not more than \$20 or imprisonment of not more than 30 days, or by both fine and imprisonment, in any one case. The amount of said fines to be recovered for such use as said by-laws, regulations or ordinances shall provide.

ARTICLE 2.

Sec. 1. **Administration of city affairs.** The administration of all fiscal, prudential and municipal affairs of said city with the government thereof shall be vested in an officer, to be called the mayor, and a council of 7, to be denominated a board of aldermen; all of whom shall be inhabitants of said city and legal voters therein. Said mayor and aldermen shall constitute the city council, and shall be sworn, or affirmed, for the faithful discharge of their duties.

ARTICLE 3.

Sec. 1. **The mayor; powers; duties.** 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 and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers and to cause their violations or neglect of duty to be punished. He may call special meetings of the city council, when, in his opinion, the interests of the city require it, by causing a summons or notification to be given in hand, or left at the usual dwelling place of each member thereof. He shall from time to time, communicate to the city council, such information, and recommend such measures as the business and interest of the city may, in his opinion, require. He shall preside at the meetings of the city council, but shall have only a casting vote. The mayor, shall in the month of February, annually, prepare and lay before the city council an estimate of the amount of money necessary to be raised for the ensuing financial year, under the various heads of appropriation, and the ways and means of raising the same; and shall also, in the month of February, annually prepare and lay before the city council a statement of all the receipts and expenditures of the preceding financial year, giving in detail the amount of expenditures for each department; and said statement shall be accompanied with a schedule of the property, real and personal, belonging to the city, and the value thereof, and amount of city debt. After the city council has legally voted on behalf of the city to enter into any contract, lease, or agreement, it shall be the mayor's duty, and he shall have full power and authority, to sign and affix the corporate seal of the city to all such contracts, leases, or agreements in the city's behalf.

ARTICLE 4.

Sec. 1. **Division of city into wards.** The city shall continue to be divided into 7 wards, the boundaries of which shall remain the same as was voted at the last municipal election, held on the 1st Monday of March, 1932. But it shall be the duty of the city council once in 10 years at

most, and not oftener than once in 5 years, after the adoption of this charter by the voters, to review, and if in their opinion it be needful, they shall by ordinance alter such wards in such manner as to preserve, as nearly as may be, an equal number of legal voters in each ward. No change made by the city council, in the limits of any city ward, shall be valid unless it is approved by a majority of the legal votes cast at the election of the city officers, held next after such action of said council; and warrants for such ward meetings shall contain an article for that purpose.

ARTICLE 5.

Sec. 1. Election of city officers. At the 1st city election after the adoption of this act the mayor shall be elected, for a 2 year term, from the citizens at large, by the legal voters of the city voting in their respective wards. One alderman, a member of the board of education, a warden and a ward clerk shall be elected in each ward, being residents in the ward where elected. In wards 1, 3, 5 and 7 the aldermen shall be elected for a term of 2 years and in wards 2, 4 and 6 the aldermen shall be elected for a term of 1 year, and thereafter on the expiration of the terms of aldermen all aldermen in all wards shall be elected for a 2 year term. Every warden and ward clerk shall be elected and shall hold office for a term of 1 year following election and until another is chosen and qualified in his place. A board of assessors shall also be elected as provided in article 14 of this charter.

ARTICLE 6.

Sec. 1. Municipal elections; ward meetings. The 1st municipal election after the adoption of this act shall be held on the 1st Monday in December, 1933, and all subsequent municipal elections shall take place annually, on the 1st Monday in December, and the newly elected city officers shall take office on the 1st day of January following the December election. All meetings of the citizens for municipal purposes shall be notified and called in their respective wards, by the mayor and aldermen, in the manner provided by the laws of this state for notifying and calling town meetings by the selectmen of the several towns. A warden shall preside at all ward meetings with the power of moderators at town meetings; and if at any ward meeting the warden shall not be present, the clerk shall preside until a warden pro tempore shall be chosen. If neither the warden or clerk is present any legal voter in the ward shall preside until the clerk pro tempore shall be chosen and qualified. At the 1st municipal election after the adoption of this act the qualified voters of the city shall ballot for candidates to fill the elective offices for such terms as are enumerated and designated under the provisions of this charter, and annually on the 1st

Monday in December the qualified voters of the city shall ballot for the candidates to fill the vacancies caused by the expiration of the terms of any elective office.

ARTICLE 7.

Sec. 1. **Nomination of candidates for elective offices; petitions, number of signatures required.** The nomination of all candidates for elective offices provided for by this charter shall be by petition. The petition of a candidate for mayor shall be signed by not less than 245 nor more than 350 qualified voters. The petition of a candidate for assessor shall be signed by not less than 200 nor more than 300 qualified voters. The petition of a candidate for alderman, or member of the board of education, shall be signed by not less than 35 nor more than 50 qualified voters of the ward wherein the candidate is to be elected. The petition of a candidate for warden and for ward clerk shall be signed by not less than 20, nor more than 30 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. 2. **Form of nomination petitions.** 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 circulation thereof, stating the number of signatures on each petition, and that each signature appended thereto was made in the presence of the affiant 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 sufficient to identify the same, and also the particular ward in which the signer resides. The form of the nomination petition shall be substantially as follows:

“To the City Clerk of the City of South Portland:

We, the undersigned voters of the City of South Portland, hereby nominate.....whose residence is..... for the office of....., to be voted for at the election to be held in the City of South Portland on the.....day of19...; 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 nominating 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. 3. **Nomination petitions; when to be filed.** The nomination petitions for any 1 candidate shall be assembled and united into 1 petition, and filed with the city clerk not more than 30, not less 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 less than 16 days before the day of election, his consent, accepting the nomination, agreeing not to withdraw, and if elected to qualify.

Sec. 4. **City clerk to certify candidates; publication.** 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 said city of South Portland or Portland, the names, residences and offices to which nominated, of the candidates who have duly filed the above described petitions and acceptances.

Sec. 5. **Specimen and official ballots to be prepared by city clerk.** Specimen ballots and official ballots used in all city elections, shall be prepared by the city clerk, and furnished by the city.

Sec. 6. **Contents of ballots.** 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 candidates.

Sec. 7. **Ballots; how prepared.** At any municipal election when the office of mayor is to be voted on, the names and residence of the candidates for mayor shall be printed at the head of the ballots, in all the wards of the city. The name and residence of candidates for aldermen, board of education, warden and ward clerk shall be printed on the ballot only in the particular ward wherein the candidate is to be elected.

Sec. 8. **Form of ballots; stickers not to be used.** The candidates for each office shall be grouped under the title of each office plainly and distinctly marked. There shall be at least 2 blank lines under the name

of the candidate, which may be filled by writing in the name of a candidate. Stickers may not be used in lieu of writing in a name of candidate.

Sec. 9. **Form of ballot; sample.** The face of the ballot shall be substantially of the following form:

"CITY OF SOUTH PORTLAND
WARD
REGULAR CITY ELECTION
OFFICIAL BALLOT

Candidates for office in the city of South Portland at an election held onthe.....day of.....A. D. To vote for any person, make a cross (X) in the square at the right of the name voted for.

To vote for a person whose name is not on the ballot, write in the name in blank space and make cross (X) at the right of name voted for.

MAYOR

One to be chosen
Vote for one

Mark cross (X)
in this
column

Name of candidate and
residence

ASSESSOR (EXECUTIVE SECRETARY)

One to be chosen
Vote for one

Mark cross (X)
in this
column

Name of candidate and
residence

Name of candidate and
residence

Name of candidate and
residence

ASSESSOR

() to be chosen
Vote for ()

Mark cross (X)
in this
column

Name of candidate and
residence

ALDERMAN

One to be chosen
Vote for one

Mark cross (X)
in this
column

Name of candidate and
residence

BOARD OF EDUCATION

() to be chosen
Vote for ()

Mark cross (X)
in this
column

Name of candidate and
residence

Name of candidate and
residence

WARDEN

One to be chosen
Vote for one

Mark cross (X)
in this
column

Name of candidate and
residence

Name of candidate and
residence

Name of candidate and
residence

WARD CLERK

One to be chosen
Vote for one

Mark cross (X)
in this
column

Name of candidate and
residence

Name of candidate and
residence

Back of Ballot

South Portland, Maine
Official Ballot

A. D.

Ward
(Facsimile of signature)
City Clerk.”

At any election in which no assessor is to be elected to serve as executive secretary, that portion of the foregoing form of ballot designed for the election of such assessor shall be omitted.

ARTICLE 8.

Sec. 1. **General laws of state relating to elections to apply when not otherwise provided herein.** The provisions of the laws of the state of Maine relating to the qualifications of electors, registrations, 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 South Portland, except as otherwise provided in this charter.

ARTICLE 9.

Sec. 1. **Vacancy on board of aldermen; how filled.** In the event of a vacancy on the board of aldermen, the remaining members of the board shall by a majority vote, elect a duly qualified person, residing in the ward unrepresented by reason of the vacancy, to fill the vacancy for the remainder of the unexpired term.

ARTICLE 10.

Sec. 1. **Removal of mayor by recall; preparation and filing of recall petitions.** The mayor may be recalled and removed from office by the electors of the city as herein provided. Any voter of the city may make and file with the city clerk an affidavit containing the name of the mayor whose removal is sought, and a general statement of the reason why his removal is desired. The clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks for such removal printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the persons to whom issued, the number of blanks so issued, and the name of the mayor whose removal is sought. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk. The recall petition, to be effective, must be returned and filed with the city clerk within 45 days after the filing of the affidavit. The petition before being returned and filed shall be signed by voters of the city to the number of at least 20% of the number of registered voters as determined at the time of the last preceding regular municipal election and to every such

signature shall be added the place of residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on 1 paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of 3 persons designated as filing the same.

Sec. 2. **Examination and amendment of recall petitions.** Within 10 days after the filing of the petition the city clerk shall ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto his certificate showing the result of such examination. If his certificate shows the petition to be insufficient, he shall forthwith so notify in writing 1 or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within the 10 days after the giving of said notice, by the filing of a supplementary petition upon additional papers, issued, signed and filed as provided herein for the original petition. The city clerk shall, within 10 days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment was made, he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of the fact. In the event that said petition is finally determined to be insufficient the filing of a new petition for the same purpose shall not be prejudiced thereby.

Sec. 3. **Calling of recall election.** If the petition or amended petition shall be certified by the city clerk to be sufficient he shall submit the same with his certificate to the city council at its next meeting and shall notify the mayor whose removal is sought of such action. The city council shall thereupon, within 10 days of the receipt of the city clerk's certificate, order an election to be held not less than 40 nor more than 60 days thereafter; provided, that if a regular municipal election is to occur within 90 days after the receipt of said certificate, the city council may in its discretion provide for the holding of the removal election on the date of such other municipal election. The removal election shall be called and held as other elections under this charter except for the specific limitations of this section.

Sec. 4. **Form of ballot in recall election.** Unless the mayor whose removal is sought shall have resigned within 10 days after the receipt by the city council of the city clerk's certificate, the form of the ballot at such election shall be as nearly as may be: "Shall A, the mayor, be re-

called?" the name of the mayor whose recall is sought being inserted in place of A. In case a majority of those voting for and against the recall of mayor shall vote in favor of recalling such official he shall be thereby removed, and the chairman of the city council shall fill the vacancy until a successor to the office of mayor is duly elected and qualified as herein-after provided. If the mayor sought to be removed shall have resigned within 10 days after the receipt by the city council of the city clerk's certificate referred to in section 3 of this article no recall election shall be necessary as a vacancy in the office of mayor shall be declared.

Sec. 5. **Procedure on refusal of city council.** 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.

ARTICLE 11.

Sec. 1. **Aldermen and members of board of education to receive no salary; may hold no other city office; boards to expend public money only for purpose for which appropriated; but city council may transfer unexpended balance.** The aldermen, or members of the board of education, shall not be entitled to receive any salary or other compensation during the term for which they are elected, nor be eligible to any office of profit or emolument, the salary of which is payable by the city, and all departments, boards, offices and committees, acting under the authority of the city, and intrusted 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 shall direct. Nothing herein contained shall prevent the city council from transferring an unexpended balance in the account of any department, board, office or committee to the account of any other department, board, office or committee of the city.

ARTICLE 12.

Sec. 1. **No officer of the city to be interested in contract with the city; "officer of the city" defined.** Neither the mayor, members of the board of aldermen, or any officer of the city, shall be interested, either directly or indirectly, in any contract or agreement to which the city is a party. Any officer of the city shall mean, any person elected or appointed to an office of the city.

ARTICLE 13.

Sec. 1. **City council may remove city officials when guilty of gross abuse or grossly incompetent; procedure.** The city council shall have power to

remove from office any city official, or any member of any board or department established or provided for by or under this charter except the members of the board of education, the mayor and superintendent of schools, when in the exercise of their discretion, after notice as hereinafter provided, and upon public hearing, they shall deem him guilty of gross abuse of said office or grossly incompetent to perform the duties thereof. Upon presentation of a petition in writing signed by any alderman setting forth specific charges against such official or member of such board or department and requesting his removal, the council shall immediately order a hearing thereon. Said petition and order shall be served on said official by any officer qualified to serve civil process in the city of South Portland, by giving to him in hand or by leaving at his last and usual place of abode an attested copy thereof at least 10 days, exclusive of Sundays, before the time set for said hearing. Removal shall be by 2/3 vote of the members present and voting. The person for whose removal said petition is brought, if a member of the council, shall not be entitled to vote at said hearing. It shall be the duty of the corporation counsel to prosecute the charges at said hearing, unless the petition is brought for his removal in which event the city council shall appoint some other suitable person to prosecute said charges. Any justice of the peace shall have authority to issue subpoenas and to compel the attendance of witnesses at said hearing upon the application of either party to said proceeding.

ARTICLE 14.

Sec. 1. **Executive secretary of board of assessors.** At the 1st municipal election under this act, and at the regular municipal election in every 3rd year thereafter, the qualified voters of the city of South Portland shall elect an assessor, who shall be known as the executive secretary of the board of assessors. He shall serve for a term of 3 years, and it shall be his duty to be in attendance at the assessors' office during the regular hours of every business day (except when doing assessors' work at the registry of deeds, or elsewhere), to exercise general supervision over the office work of the department, and to perform such duties in connection with the department as may be necessary in the absence of the other members from the office.

Sec. 2. **Other assessors.** At the 1st municipal election under this act, the voters shall in addition elect 2 assessors, one of whom shall serve for a term of 2 years and the other for a term of 1 year. The names of candidates for said 2 offices shall appear upon the ballot in a space provided for the purpose, separate and distinct from the place allotted to the candidates for executive secretary. The 2 candidates for said 2 offices of assessor who

shall receive the largest number of votes shall be deemed to be elected as such assessors. The board of assessors shall organize annually after the newly elected member or members take office and shall elect from their number a chairman of said board to preside at the meetings thereof. Upon the organization of the 1st board of assessors elected under this charter it shall be determined by lot or by agreement which of said 2 assessors shall serve for a term of 2 years and which for 1 year. The executive secretary shall communicate the result of said drawing by lot, or agreement, to the city clerk in writing, who shall file said communication in the records of the city. Thereafter, on the expiration of the term of any member of the board of assessors, the voters shall elect an assessor for a 3-year term. Each assessor shall continue in office until his successor shall have been elected and shall have qualified in his place.

Sec. 3. **Duties and salaries of assessors.** The 3 assessors comprising the board shall perform the duties prescribed for assessors by the laws of the state. The city council shall fix the salary of each member of the board of assessors, having regard for the duties to be performed by each. The members of said board shall be sworn or affirmed to the faithful performance of their duties.

Sec. 4. **Assistant assessors.** The city council may elect an assistant assessor from each ward, whose duty it shall be to furnish the assessors with all necessary information relative to persons and property taxable in his ward. He shall be sworn or affirmed to the faithful performance of his duties. All taxes shall be taxed, apportioned and collected in the manner prescribed by the laws of the state, except as herein modified; and the city council may establish further provision for the collection of said taxes and of the interest thereon.

Sec. 5. **Filling vacancy on board of assessors.** In the event of a vacancy on the board of assessors caused by the death, resignation or removal of any member thereof, the city council shall elect a suitable person, who shall be a resident of South Portland, to fill the vacancy until the next regular municipal election, when the voters shall elect an assessor to serve for the remainder, if any, of the unexpired term. If the vacancy occurs by reason of the death, resignation, or removal of the executive secretary, the person elected by the city council to fill said vacancy shall serve as such executive secretary, until the place is filled at the next regular municipal election.

ARTICLE 15.

Sec. 1. **Board of education; how elected; powers and duties; removal of members; superintendent of schools; his election powers, duties and**

removal. The board of education shall consist of 7 members, one to be elected from each of the 7 wards. At their 1st meeting after their election under the provisions of this charter, they shall designate by lot 3 of their number to hold office for 3 years, 3 for 2 years and 1 for 1 year. The result of such drawing by lot shall be communicated in writing to the city clerk. Each member elected thereafter to fill the place of one whose term expires shall hold office 3 years. They shall fill all vacancies in their number for the remainder of the unexpired term. The board shall have power to remove its own members under the same procedure and for the same cause as is herein provided for the removal of other city officials. For this purpose the same powers hereinbefore vested in the board of aldermen are hereby conferred upon the board of education. It shall be the duty of the corporation counsel to prosecute the charges at said hearing. A majority of the board shall constitute a quorum for the transaction of business. They shall have all the powers and perform all the duties in regard to the care and management of the public schools of said city, which are conferred upon the superintending school committee by the laws of this state, including the employment of teachers and janitors, custody and care, including repairs and insurance, on school buildings, of all school property. They shall elect annually, or for a term not exceeding 3 years, a superintendent of schools, who shall not be a member of the board, who shall have the care and supervision of said public schools under their direction, and act as secretary of their board. The board shall fix the superintendent's salary at the time he is elected, for the term for which he is elected, and the term for which he is elected shall, in all cases, end with the 30th of June of the year in which the contract expires. Provided, however, that said board, after due notice and investigation, may discharge its superintendent for cause before the expiration of the term for which he was elected. Said board shall annually, at the 1st meeting of the city council of the new municipal year, submit to the city council a detailed budget indicating the amount of money required during the ensuing year for the support of the said public schools. Such sum as the city council shall appropriate for the public schools shall be appropriated as a whole and the board of education shall not increase the expenditure beyond this appropriation. The mayor shall be, ex-officio, chairman of the board of education, but shall have no vote unless the members present and voting be equally divided.

ARTICLE 16.

Sec. 1. City council; its organization; permanent chairman to fill vacancy in mayor's office until new mayor elected. After the organization

of the city government and the qualification of the mayor, and when a quorum of the city council shall be present, said board, the mayor presiding, shall proceed to choose a permanent chairman, who in the absence of the mayor, shall preside at all meetings of the board. In case of any vacancy in the office of mayor, caused by death, resignation, recall or otherwise, the vacancy shall be filled at the next regular municipal election. The permanent chairman of said board shall exercise all the power and perform all the duties of the office until a mayor is elected and until he has duly qualified on the 1st day of January following his election; during that period said chairman shall cease to be a member of the board of aldermen; the vacancy thereby created in the board of aldermen, as a result of said chairman filling the vacancy of the mayor, shall be filled as hereinbefore provided for filling all vacancies on the board of aldermen. In the event that the term of office of the mayor originally elected shall not expire until the end of the year following the next regular municipal election, the person so elected to the office of mayor shall be elected to serve only for the remainder of the unexpired term; otherwise he shall be elected for a term of 2 years.

ARTICLE 17.

Sec. 1. Powers and duties of city council; laying out and altering streets and ways; acts to be presented to mayor for signature. The city council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons trusted with the receipt, custody or disbursement of money; the city council shall also have the care and superintendence of the city buildings, and the custody and management of all city property, (schools excepted) and trust funds for the benefit of schools, public library, parks, cemeteries and for any other beneficial purpose whether acquired by purchase or legacy; with power to let or sell what may be legally let or sold, and to purchase and take, in the name of the city, real and personal property for municipal purposes; and the city council may provide by ordinance for the regulation of all existing and future cemeteries and burial grounds within the city limits and may by ordinance prohibit the burial of bodies within certain restricted and defined zones; and shall, as often as once a year, cause to be published for the information of the inhabitants, a particular account of the receipts and expenditures and a schedule of the city property and the city debt. The city shall have the power to establish by ordinance such officers as may be necessary for municipal government not provided for by this act, and to elect such subordinate officers as may be elected by cities under general laws of the state for whose election or appointment other provi-

sion is not made; to define their duties and fix their compensation; to act upon all matters in which authority is now given to said city of South Portland, and to determine what streets, if any, shall be lighted and upon what terms. The city council shall appropriate annually the amount necessary to meet the expenditures of the city for the current municipal year. The city shall have exclusive authority to lay out, widen or otherwise alter or discontinue any and all streets or public ways in said city, and as far as extreme low water marks, and to estimate all damages sustained by owners of land taken for such purpose. A committee of the council shall be appointed whose duty shall be to lay out, alter, widen or discontinue any street or way, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in 1 newspaper, printed in South Portland or Portland, once a week for 3 weeks at least, next 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 so filed shall not be altered or amended before it comes up before the city council for action. A street or way shall not be discontinued by the city council, except 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 party aggrieved by their decision may appeal therefrom as provided by law in the case of city ways. 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 include all the damages sustained by the land owner, including those caused by the original location of the streets; and in such cases, if any 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 possession of the land so taken by removing therefrom materials or otherwise, until they decide to open said street.

The city council may regulate the height and width of the sidewalks in any public square, places, streets, lanes or alleys in said city, and may authorize hydrants, drinking fountains, posts and trees to be placed along the edge of the sidewalks, and may locate culverts and reservoirs within the limits of any street or way in said city, whenever they deem it needful. Every law, act, ordinance, resolve or order of the city council excepting rules and orders of a parliamentary character, shall be presented to the mayor. If not approved by him he shall return it with his objections in writing at the next stated session of the city council, which shall enter the objections at large on its journal and proceed to reconsider the same. If, upon reconsideration, it shall be passed by vote of $\frac{2}{3}$ of all the members of the board, it shall have the same force as if approved by the mayor. In case the mayor fails to either sign or return the bill at the next session, then it becomes a law as though he had signed it.

Sec. 2. **Establishment of sinking fund.** Until the bonded indebtedness of the city of South Portland, existing at the time of the adoption of this charter, together with any renewal thereof is fully paid, the city council shall set apart each year for a sinking fund a sum amounting to not less than 2% of the total amount of the appropriation for that year. The sum so set apart shall be segregated and incorporated in a special fund not later than October 1st of each municipal year, and 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. 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.

ARTICLE 18.

Sec. 1. **Second readings of ordinances, orders, etc.; when required; expenditure of public money.** In case any ordinance, order, act, resolution or vote involves the appropriation or expenditure of money to an amount which may exceed \$300, the laying of an assessment, or the granting to a person or corporation of any right in, over or under any street or other public ground of this city, the affirmative votes of a majority of all the members of the city council shall be necessary for its passage. Every such ordinance, order, act, resolution or vote shall be read twice, with an interval of at least 3 days between the 2 readings, before being finally passed, and the vote upon its final passage shall be taken by roll call. No sum appropriated for a specific purpose shall be expended for any other purpose, and no expenditure shall be made nor liability incurred by or in behalf of the city, until an appropriation has been duly

voted by the city council sufficient to meet such expenditure or liability, together with all unpaid liabilities which are payable out of such appropriation; provided, however, that after the expiration of the financial year until the passage of the regular annual appropriation, liabilities payable out of a regular appropriation to be contained therein may be incurred to an amount not exceeding $\frac{1}{4}$ of the total of such appropriation for the preceding year. No money shall be paid out of the city treasury, except on orders signed by the mayor, designating the fund or appropriation from which said orders are to be paid.

ARTICLE 19.

Sec. 1. **City council to elect city clerk, treasurer and collector, corporation counsel, auditor and necessary health officers and fix their salaries; powers and duties of treasurer and collector.** The city council shall, annually, except as otherwise provided by law, as soon after its organization as may be convenient, elect by ballot a city clerk, a city treasurer and collector, a corporation counsel, who shall be an attorney at law, an auditor, and necessary health officers, who shall hold their offices for the municipal year following their election, and until their respective successors shall be elected and qualified; provided, however, that any of the officers named in this section may be removed at any time by the city council for sufficient cause as hereinbefore provided. Vacancies in the above named offices may be filled by ballot of the city council at any time. The compensation of the officers named in this section shall be fixed by vote of the city council, and the official fees by them received shall be paid into the city treasury. If it is deemed expedient by the city council, the offices of city clerk and city treasurer may be held by the same person. The treasurer of the city shall also be the collector of taxes 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 to be approved by the city council for the faithful performance of his duties; and may when the city council so votes 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, 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 power 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 as 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. 2. City council to elect annually not more than 7 constables. The city council may also elect, annually, not more than 7 constables from the city at large, and shall require a suitable bond from each for the faithful discharge of his duties.

Sec. 3. Clerks in boards and departments; how appointed; salaries established by city council. All clerks employed in any of the several boards and departments of the city shall be appointed by the officer or board in charge of such department, except as otherwise provided in this charter; such appointments to be confirmed by the city council, and the salaries of such clerks to be established by the city council.

ARTICLE 20.

Sec. 1. Commissioner of public works; how elected; powers and duties; salary to be fixed by city council. The city council of the city of South Portland, shall elect a commissioner of public works, who shall hold office for 3 years, and until his successor is qualified, and each successive term thereafter shall be for the term of 3 years. He shall receive such salary as the city council may allow. In case any vacancy shall occur, it may be filled in the same manner for the unexpired term. The said commissioner shall be vested with all the authority now exercised by, and shall perform all the duties now incumbent upon, the commissioner of public works, of said city of South Portland, and shall have charge of, maintain and repair, according to law, all streets and public ways in the said city of South Portland, including sidewalks and bridges, and of the construction, maintenance and repairs of all culverts and catch basins belonging to the city, all of which shall be subject to the instructions, approval or orders of the committee on public works, so-called. The commissioner shall also have charge of the construction of new streets, and new bridges when laid out and ordered to be constructed by order of the city council, according to law. He shall take general care of all property belonging to the city, which pertains to the duties of said commissioner. Said commissioner, after being duly authorized by the said committee on public works, shall purchase everything necessary and essential to conduct the business of his department and make such contracts for the supply of materials as are necessary to carry on the work under his charge. He shall employ such assistants, engineers, foremen and laborers necessary to carry on any of the said works as the committee on public works may order and direct. Said commissioner shall,

on or before the 25th day of each month, render and turn over to the committee on public works all bills contracted and a statement of all materials furnished up to the 1st day of the same month.

Sec. 2. Commissioner of public works not to be interested in city contracts. The commissioner of public works shall not be interested, either directly or indirectly, in any contract entered into by him in his official capacity, or in behalf of the city of South Portland, and the contracts made in violation thereof shall be void.

Sec. 3. Appropriations for public works department. The city council shall annually appropriate such sums of money as they may deem necessary and sufficient to carry on the work of said commissioner. Such appropriation shall be drawn from the city treasury in such manner as the city council may from time to time by ordinance direct.

Sec. 4. Committee on public works; how constituted; powers and duties. Annually at the organization of the city council of said city, or as soon thereafter as may be, the mayor shall appoint 2 members of the board of aldermen, who shall, with the mayor, ex-officio, who shall be chairman of said committee, constitute a committee to be called a committee on public works. Said committee shall monthly audit all accounts of said commissioner, and their approval shall be necessary to the payment of any and all bills contracted by the commissioner of public works in the discharge of his duties.

Sec. 5. Records of commissioner of public works to be open to inspection of city council; council may inquire into actions of commissioner. The commissioner shall keep full record of all his doings, which record shall at all times be open to the inspection of the city council, or any member thereof, and shall make report to the said city council whenever so directed, of the work completed or in process of completion, and said city council shall have power to inquire into the actions of said commissioner at all times, and can request of him a full explanation of his doings.

Sec. 6. City council may delegate administrative powers and duties to commissioner of public works. The city council may, from time to time, subject to the provisions of this act and in accordance with the general laws, delegate to the said commissioner such additional administrative powers and duties as the city council may by ordinance determine.

Sec. 7. Commissioner to give bond; amount may be increased by council. Before assuming the duties of his office the commissioner of public works shall give bond to the city in the sum of at least \$1,000, with such surety as the city council shall approve for the faithful performance of his duties. The city council may, in its discretion, increase the amount of the bond required of said commissioner.

ARTICLE 21

Sec. 1. **Police and fire departments; chiefs of police and fire departments; council may provide for civil service rules and commission.** The city council may, by the affirmative vote of 2/3 of all of its members, establish, by ordinance, a police department and a fire department, each to consist of such officers and men as it may prescribe, also a head of each department, to be known as the chief of police and the chief of the fire department, which office of chief may be held by the mayor, and may make regulations for the government of the departments, and may provide for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension, retirement, with or without pension, and removal of the members of the police department and of the fire department, other than the chiefs of said departments, and have a civil service commission to administer the same. The chiefs of said departments may be appointed by vote of the city council and may be removed by the council for cause.

ARTICLE 22

Sec. 1. **Overseers of poor; how constituted; duties; superintendent of city home; mayor may appoint other committees.** The board of overseers of the poor shall be composed of the mayor and 2 members of the board of aldermen, who shall perform all duties required of overseers of the poor for cities by statute, or otherwise, the 2 aldermanic members to be appointed annually by the mayor and confirmed by the board of aldermen. The city council shall also elect a superintendent of the city home for a term of 3 years. The mayor shall also annually appoint all other committees made mandatory by the provisions of this charter, and may appoint as many standing committees to carry on the governmental administration of the city as he deems advisable.

ARTICLE 23

Sec. 1. **City council to establish salaries; changes in salaries not to take effect during current year.** The city council shall establish, by ordinance, the regular salary or remuneration of the offices established by this act, and of such other offices as may be hereafter established, and after the 1st municipal year no ordinance of the council changing any such salary or remuneration shall take effect until the municipal year succeeding that in which the ordinance is passed.

ARTICLE 24

Sec. 1. **Powers and duties of the city clerk.** The city clerk shall, before entering upon the duties of his office, be sworn to the faithful

discharge thereof. He shall have care of all journals, records, papers and documents, of the city; and shall deliver all journals, records, papers and documents, and other things entrusted to him as city clerk, to his successor in office. He shall be clerk of the city council, and do such acts in said capacity as the city council may lawfully and reasonably require of him. He shall perform all the duties, and exercise all the powers by law incumbent upon or vested in the city clerk of the city of South Portland. He shall attend all meetings of the city council, and keep a journal of its acts, votes and proceedings. He shall engross all of the ordinances passed by the city council in a book provided for the purpose, and shall add proper indexes, which book shall be deemed a public record of such ordinances; he shall issue to every person who is appointed to any office by the mayor, or elected to any office by the city council, a certificate of such appointment or election. He shall give notice of the time and place of regular ward meetings. In case of the temporary absence of the city clerk, the city council may elect a clerk, pro tempore, with all the powers, duties and obligations of the city clerk, who shall be duly qualified. The city clerk may when the city council so votes, appoint assistants and deputies as provided by law.

ARTICLE 25

Sec. 1. **Qualifications of citizenship and residence for holding office under this act.** No person shall be eligible for election or appointment to any office established by this act unless at the time of election he shall have been a citizen of the United States, and a resident of the city for at least 3 months. Any office established by or under this act shall become vacant if the incumbent thereof ceases to be a resident of the city

ARTICLE 26

Sec. 1. **Officers to appear before city council to give information when requested.** Every officer of the city, including the mayor, shall, at the request of the city council, appear before the board and give such information as may be required, and answer any question that may be asked by the council in relation to any matter, act, or thing connected with his office or the discharge of the duties thereof.

ARTICLE 27

Sec. 1. **General meetings of the citizens; how called.** General meetings of the citizens, qualified to vote in the 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 rights secured to the people by the constitution of this

state; and such meetings shall be duly warned by the mayor and aldermen upon requisition of not less than 20 qualified voters. The city clerk shall act as clerk of such meetings and record the proceedings upon the city records.

ARTICLE 28

Sec. 1. **Municipal court established; appointment of judge; jurisdiction, etc.** A municipal court is hereby established, to be denominated the municipal court of South Portland, and to consist of one judge learned in the law, who shall be an inhabitant of said city. Said judge shall be appointed as provided by law for the appointment of judges of municipal courts and shall be ex-officio justice of the peace and of the quorum for the state and have and exercise concurrent jurisdiction with trial justices of the county of Cumberland over all matters and things within their jurisdiction and such authority and jurisdiction additional thereto as are conferred upon him by this act.

Sec. 2. **Jurisdiction of municipal court.** Said court shall have exclusive original jurisdiction of all offenses against the ordinances and by-laws of said city, and of the local board of health therein, and concurrent jurisdiction of all such criminal offenses and misdemeanors committed therein as are cognizable by trial justices, and concurrent jurisdiction of all civil actions in the county of Cumberland wherein the debt or damages demanded do not exceed \$50, except when the judge of said court is interested in any such action as party or attorney; and original jurisdiction concurrent with the superior court of the county of Cumberland in all civil actions wherein the debt or damages do not exceed \$50, exclusive of costs, in which any party to the action or person summoned as trustee shall reside, or, if not an inhabitant of the state, shall be comorant or have a place of business in said city. Nothing in this act shall be construed to give said court jurisdiction of any civil action in which the title to real estate, according to the pleadings or brief statement filed therein, is in question, and all such actions brought therein shall be removed to the superior court, or otherwise disposed of as in like cases before a trial justice.

Sec. 3. **Time and place of holding municipal court; judge may punish for contempt.** Said court shall be held on each Tuesday, at 9 o'clock in the forenoon, for the transaction of civil business, at such place within said city as the said judge shall determine, but the city council may, at any time, provide a court room, in which case the court shall be held therein and all civil processes shall be made returnable accordingly, and it may be adjourned from time to time by the judge at his discretion, but

it shall be considered in constant session for the cognizance of criminal actions. The judge of said court may upon contempt against his authority fine or imprison or compel the attendance of witnesses and administer oaths in civil and criminal cases.

Sec. 4. **Adjournment of court.** If said judge is prevented by any cause from attending at the time said court is to be held for civil business, it may be adjourned from day to day by a constable of said city, or any deputy sheriff residing therein, without detriment to any action then returnable or pending, until he can attend, when said action may be entered or disposed of with the same effect as if it were the 1st day of the term; and it may be so adjourned without day when necessary, in which event, pending actions shall be considered as continued, and actions then returnable may be returned and entered at the next term with the same effect as if originally made returnable at said term.

Sec. 5. **Judge to establish seal and keep records; other duties.** Said judge may establish a seal for said court, or use the seal in common use by trial justices; and in addition to the judicial duties imposed upon him by this act, he shall keep records of said court or cause them to be made and kept; and perform all other duties required of similar tribunals in this state; and copies of such records duly certified by said judge shall be legal evidence in all courts. All writs and processes issuing from said court shall be in the usual form, bear the teste of the judge, and be signed by him; and shall be served as like precepts are required to be served when issued by trial justices. But warrants in criminal cases issuing from said court shall be made returnable before the same; and no writ in a civil action shall be made returnable at a term of said court to begin more than 2 calendar months after the commencement of the action.

Sec. 6. **Pleadings and procedure in municipal court.** Actions in said court shall be entered on the 1st day of the term and not afterwards, except by special permission. When a defendant, legally served, fails to enter his appearance by himself or his attorney, on the 1st day of the return term he shall be defaulted; but if he afterwards appears during the term the court may, for sufficient cause, permit the default to be taken off. Pleas in abatement must be filed on or before the day of the entry of the action. The defendant may file his pleadings, which shall be the general issue with a brief statement of special matters of defence, on or before the return day of the writ, and must file them on or before the 1st day of the next term, or he shall be defaulted, unless the court for good cause enlarge the time, for which it may impose reasonable terms. Actions in which the defendant files his pleadings on the return day, and all actions of forcible entry and detainer, seasonably answered to, shall

be in order for trial at the return term, and shall remain so until tried or otherwise finally disposed of, unless continued by consent or on motion of either party for good cause, in which latter case the court may impose such terms as it deems reasonable; but all other actions, unless defaulted or finally disposed of, shall be continued as of course, and be in order for trial at the next term.

Sec. 7. **Salary of judge; blanks, documents and record books to be furnished by county.** The judge of said court shall receive a salary of \$800 per year, to be paid him in quarterly payments from the county treasury of Cumberland county, which shall be in full for the services as such judge. All blanks, civil and criminal, documents and record books, required by said court shall be furnished by the county of Cumberland.

Sec. 8. **Costs and fees in municipal court.** The costs and fees allowed to parties, attorneys, and witnesses in all actions in said court, shall be the same as allowed by trial justices in actions before them; except that the plaintiff, if he prevail, shall be allowed \$1 for his writ, and the defendant, if he prevail, \$1 for his pleadings.

Sec. 9. **Appeals from municipal court.** Any party may appeal from a sentence or judgment of said court to the then next term for civil or criminal business, as the case may require, to the court having jurisdiction within the county of Cumberland, by appeal from trial justices, and such appeal shall be taken and prosecuted in the same manner as from a sentence or judgment of a trial justice.

Sec. 10. **Jurisdiction of trial justices restricted.** Trial justices are hereby restricted from exercising any jurisdiction in said South Portland over any matter or thing civil or criminal, except such as are within the jurisdiction of justices of the peace and of the quorum, and except that they may issue warrants on complaints for criminal offenses returnable before said court; or in case of the death, disability or long continued absence from the state, of the judge, before themselves or some other trial justice within and for said county.

ARTICLE 29

Sec. 1. **Provisions relating to calling of 1st municipal election; filling of vacancies; election and removal of subordinate officers.** For the purpose of organizing the system of government hereby established, and putting the same in operation in the 1st instance after the adoption of same by the qualified voters of the city of South Portland, the municipal officers of the city shall, at least 7 days before the 1st Monday of December, 1933, issue their warrant for calling an election in the city of South Portland for the purpose of electing a mayor, 3 assessors, 7 aldermen, 7 citizens

to the board of education, 7 wardens, and 7 ward clerks in the same manner and for such terms as provided for in section 1 of article 5, section 1 of article 6 and section 7 of article 7 of this charter, and all officers shall be elected by ballot, by a plurality of the votes given. All city and ward officers shall be held to discharge the duties of the office to which they have been respectively elected, notwithstanding the removal after the election out of their respective wards into any other ward of the city. If the person elected shall refuse to accept the office, a vacancy shall be declared, and filled by a majority vote of the city council, except that a vacancy in the office of mayor, assessors, or board of education, shall be filled as otherwise provided by this charter. The oath or affirmation prescribed by this act shall be administered to the mayor by the city clerk, or any justice of the peace. The city council shall meet on the 1st day of January, at 7.30 o'clock in the evening, when the oath or affirmation required by the 2nd article of this act shall be administered to the aldermen present by the mayor, or any justice of the peace. When the 1st day of January falls upon Sunday the meeting aforesaid shall be held at the hour of 7.30 in the evening of the 2nd day of January. The city council shall by ordinance determine the time for holding stated or regular meetings of the board. All subordinate officers shall be elected by the city council, and may be removed by them as provided in this act. They shall be elected annually on the 1st day of January, or as soon thereafter as may be, and shall hold their office until others are elected and qualified in their place.

ARTICLE 30

Sec. 1. Referendum; date of meeting; form of question; procedure. This act shall be submitted for approval or rejection to the qualified voters of the city of South 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 in the several ward meetings of said city, there to cast their ballot concerning the selection of a charter for the city of South Portland 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 1 form or your ballot will not be counted.

FORMS OF CHARTER

Plan 1. Present charter.



Plan 2. Revised charter.

Plan 3. City manager charter.

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 plurality of the valid ballots deposited as aforesaid shall favor the adoption of plan 2, so-called, on said ballot, and provided further, if the number of ballots favoring plan 2, so-called, on said ballot shall also constitute more than 50% of the total number of valid ballots cast at said election, then this act shall take effect as herein provided and the mayor shall forthwith make proclamation of the fact.

Sec. 2. Act not to take effect until approved by voters; except for submission to electors. So much of this act as authorizes the submission of the acceptance of this charter to the electors of the city of South Portland shall take effect as provided in the constitution of the state, but it shall not take further effect unless accepted by the electors of the city of South Portland as hereinbefore provided. If accepted 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 1st day of January, 1934.

Sec. 3. Existing ordinances not inconsistent with this act to continue 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.

Sec. 4. Terms of present officers to expire January 1, 1934; members of board of registration, policemen and firemen excepted. All officers now in office holding positions by election by the city council, by the voters, or by appointment of the mayor, under the charter of 1895 and amendments thereto, or the state law, or by city ordinance shall not serve out their terms, if their terms extend to a period later than January 1st, 1934, but shall continue in office only until their successors are elected or appointed and qualified, except the members of the board of registration and all policemen, patrolmen and firemen, who shall serve out the term for which they were appointed or elected, chiefs of said departments excepted. Nothing contained in this act shall be construed to terminate the term of office of the

judge of the municipal court in office when this act shall take effect. He shall serve out the term for which he was originally appointed.

Sec. 5. **Existing contracts etc. to continue 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. 6. **Inconsistent acts repealed if this act adopted.** In case this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed.