

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 925**

H. P. 1599

House of Representatives, March 15, 1933.

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

HARVEY R. PEASE, Clerk.

New Draft of H. P. 867, L. D. 301.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED THIRTY-THREE

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AN ACT to Grant a Commission-Manager Form of Government to the City of South Portland.

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

**ARTICLE I**

**Grant of Powers to the City**

**Corporate existence retained.** The inhabitants of the city of South Portland shall continue to be a body politic and corporate by the name of the City of South Portland and shall have, exercise and enjoy all the rights, immunities, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, and 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 \$100.00 in any one case, to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

## ARTICLE 2

### Fiscal, Municipal and Calendar Years

**Sec. 1. Fiscal year.** The fiscal and municipal years shall begin January 1st and shall end December 31st of the calendar year.

## ARTICLE 3

### The Establishment and Creation of Five Voting Districts

**Sec. 1. Five voting districts established.** The seven wards of the city are, hereby combined into five voting districts, as follows:

District 1 is composed of the qualified voters of ward 1 and the ward lines of this ward are hereby changed back to the limits of 1931, as of the lines in force prior to the 1932 revision.

District 2 is composed of the qualified voters of wards 2 and 3 and the ward lines of these wards are hereby changed back to the limits of 1931, as of the lines in force prior to the 1932 revision.

District 3 is composed of the qualified voters of wards 4 and 6 and the ward lines of these wards are hereby changed back to the limits of 1931, as of the lines in force prior to the 1932 revision.

District 4 is composed of the qualified voters of ward 5 and the ward lines of this ward are hereby changed back to the limits of 1931, as of the lines in force prior to the 1932 revision.

District 5 is composed of the qualified voters of ward 7 and the ward lines of this ward are hereby changed back to the limits of 1931, as of the lines in force prior to the 1932 revision.

**Sec. 2. Polling places.** The five districts hereby established shall have as their respective polling places the usual polls now in force as follows:

**District 1** shall have polling place 1 located at hose house just off Pillsbury Street.

**District 2** shall have polling places 2 and 3 located respectively at K. of P. Hall, High and Preble Streets and at Union Hall, Munroe Street.

**District 3** shall have polling places 4 and 6 located respectively at American Legion Hall, E Street and at Hose House, Robinson Street.

**District 4** shall have polling place 5 located at Rear of South Portland Heights School, Sawyer Street.

**District 5** shall have polling place 7 located at Hose House at Cash Corner on Broadway.

**Sec. 3. City council may change locations.** District and ward lines may be further revised by majority vote of the council and subsequent ratification by the electorate of the city at a regularly conducted election.

**ARTICLE 4****City Council**

**Sec. 1. Powers and duties.** The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, except the general management, care, conduct and control of the schools of said city, which shall be vested in a school committee as hereinafter provided by this charter, and also except as otherwise provided by this charter, shall be and are vested in one body of five members, which shall constitute and be called the city council, all of whom shall be inhabitants of said city, and shall be sworn in the manner hereinafter provided. Said city council shall exercise its powers in the manner hereinafter provided.

A. **Municipal officers.** The members of the city council shall be and constitute the municipal officers of the city of South Portland for all purposes required by statute, and except as otherwise herein specifically provided, shall have all the powers and authority given to and perform all duties required of municipal officers and mayors of cities under the laws of this state.

B. **Chairman of council.** The city council shall designate one of its members to act as chairman of the school board, with voting power only in case of tie.

C. **Overseers of the poor.** The city council is hereby constituted the overseers of the poor of the city of South Portland and shall perform all duties required of overseers of the poor for cities by statute or otherwise.

1. **Superintendent of the poor department.** A superintendent shall be appointed as hereinafter provided, and he shall be authorized by the board of overseers of the poor to sign in their name and send written notices and the written answers to or required in the revised statutes of the state and such written notices and written answers, so signed, shall have the same effect as if signed by one or more of said overseers and sent by a member or members of said overseers personally. The duties of the said superintendent shall be the executive management of the city home and the out-poor of this city under the general policies as outlined by the overseers of the poor, but he shall be directly responsible in the details of management of his department to his appointing power. However, it is specifically provided, herein, that all purchases necessary for the poor department shall be made through the purchasing agent of the city as hereinafter provided upon formal requisitions.

D. **Watch and ward (police).** 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 said city

council so far as relates to said city; and they are authorized to unite the watch and police departments into one department, and establish suitable regulations for the government of the same.

E. **Fire department.** All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this act, except as herein otherwise provided, as well as all powers relating to the fire department, shall be vested in the said city council.

F. **Board of assessors.** The city council shall elect from its own membership 3 members who shall constitute the board of assessors of the city of South Portland. It is hereby stipulated that the 1st members to be elected by the 1st city council shall be 1 of the 3 year term councilmen, 1 of the 2 year term councilmen, and the 1 year term councilman. This board of 3 assessors shall perform all the duties required of assessors for cities by statute or otherwise. A chief clerk shall be appointed for the board of assessors as hereinafter provided and the duties of this chief clerk will be to conduct the executive details of management of the office of the board of assessors. This chief clerk will operate the assessors' office and department under the general policies as outlined by the board of assessors, but he shall be directly responsible in the details of management of his department to his immediate appointing power. Any purchases necessary for the assessors' department shall be made through the purchasing agent of the city as hereinafter provided upon formal requisitions.

**Sec. 2. Composition, election, tenure of office, etc.** The city council shall be composed of 5 members elected in a city-wide election, one from each of the 5 voting districts provided for in Article 3 of this charter. The candidate from each district receiving the largest number of votes cast in the city-wide election shall be the elected councilman from his district. The term of office shall be for 3 years, and until their successors are duly elected and qualified, except that at the 1st regular meeting of the first council elected under the provisions of this charter, the duly elected members of the council shall determine by lot (method to be set by a majority of the council in this, their first meeting) which of them shall serve out the 1, 2 and 3 year terms, of this so-called 1st city council. Thereafter, each member as he is duly elected under the provisions of this charter shall serve for the complete 3 year term. Each member shall be a voter and resident of the district from which he is elected.

Each member shall receive as salary the sum of \$300 per year, payable quarterly, for all services rendered in his various capacities and shall not be eligible while a member of the council, to any other office of emolument or profit under the city charter or ordinances, nor to hold the office

of city manager or to act as city manager, during the term for which he was elected.

**Sec. 3. Chairman.** At the first meeting or as soon after as possible the city council shall elect by majority vote in regular meeting assembled one of its members as chairman of the council for the ensuing year and until his successor is elected and qualified, and the city council may fill for the unexpired term any vacancy as chairman that may occur.

If the chairman may fail from sickness, disability or absence from the city or other cause to attend to and perform the duties incumbent on him as such chairman, the remaining members of the council may, by unanimous vote, after notice and hearing, terminate the term of office of the said chairman and remove him therefrom and thereupon by majority vote may elect some other member of the said city council, chairman and such elected member shall thereupon and thereafter hold the office and perform the duties of chairman for the balance of that year and until his successor is elected and qualified.

The chairman shall preside at all meetings of the city council and shall perform all other duties, consistent with this office as the council may provide. He shall be entitled to vote and his vote shall be counted on all matters and things as a vote of the other members of the council. The chairman shall be recognized as the official head of the city for ceremonial purposes and shall have the powers and authorities given to and perform the duties required of the mayors of cities for all purposes of military law and shall act in lieu of the mayor insofar as representation is provided for the city by the mayor upon any board or commission by any statute. In the temporary absence of the chairman the city council may select a chairman pro tempore from among its number and he shall exercise all the powers of the chairman.

**Sec. 4. Vacancies, forfeiture of office.** In case of a vacancy caused by the death, resignation, removal from the city, or removal from office, as hereinafter provided, of any member of the city council more than 6 months prior to the next regular election of the city, the vacancy shall be filled by a special election, the warrant for which shall upon vote of the city council be issued by a member of the city council by vote designated for that duty.

Any member of the city council who shall be convicted of a crime of moral turpitude while in office, shall after due notice and hearing before the city council and the production of the records of such conviction forfeit his office.

**Sec. 5. Regular meetings and qualifications.** The city council shall meet at the usual place for holding meetings at 4 o'clock P. M. of the

1st Monday in January after election and then councilmen elect shall be sworn to the faithful discharge of their duties by a justice of the peace. The city council shall at its first meeting, or as soon thereafter as possible, establish by ordinance or resolution a regular place and time for holding its meetings and shall meet regularly at least twice each month.

**Sec. 6. Special meetings.** Special meetings may be called by the chairman and in case of his absence, disability, or refusal may be called by a majority of the members of the city council. Notice of such meeting shall be served in person or left at the residence of each member of the city council at least 24 hours before the time for holding said special meetings.

**Sec. 7. Quorum.** A majority of the members of the city council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least 24 hours' notice shall be given to all members who were not present at the meeting from which the adjournment was taken.

**Sec. 8. Procedure.** The city council shall keep a record of its proceedings and shall determine its own rule of procedure and make lawful regulations for enforcing the same. The meetings of the council shall be open to the public. The city council shall only act by ordinance, order or resolve. All ordinances, orders and resolves, except orders or resolves making appropriations of money shall be confined to one subject which shall be clearly expressed in the title.

The appropriation order or resolve shall be confined to the subject of appropriations only. No ordinance and no appropriation resolve shall be passed on until it has been read on 2 separate days, with an elapse of at least 3 days between readings. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance shall require on final passage the affirmative vote of a majority of the voting members of the city council. Every ordinance before final passage shall be posted, marked "Proposed Ordinance," at the city hall and shall take effect and be in full force 30 days from and after it shall have received final passage by the city council and have been approved by corporation counsel. Within 10 days after the approval by such counsel said ordinance shall be published in full at discretion of city council in one or more of the newspapers published in South Portland or Portland.

No order or resolve shall take effect until 10 days after its passage except that the city council may by vote of majority of its members pass emergency orders or resolves to take effect at the time indicated therein but such emergency orders or resolves shall contain a section in which the emergency is set forth and defined.

**ARTICLE 5****Initiative and Referendum**

**Sec. 1. How Invoked.** The submission to the vote of the people of any proposed ordinance, order or resolve, or of any ordinance, order or resolve enacted by the city council and which has not yet gone into effect, may be accomplished by the presentation of a petition therefor to the city council in the manner hereinafter provided. Any 30 qualified voters of the city of South Portland may originate a petition putting in operation the initiative or the referendum, by signing such petition at the office of the city clerk. Whenever requested by 10 such voters, the city clerk shall prepare the proper petition with a copy of the ordinance, order or resolve to be submitted attached thereto and upon its being signed by said 10 voters, the city clerk shall file the petition and shall, during office hours for 30 business days thereafter, keep the same open for signature by qualified voters of the city, and no such petition shall be signed or presented for signature at any place other than the clerk's office. At the expiration of said 30 days, the city clerk shall declare the petition closed and shall, at the first regular meeting of the city council thereafter, present to that body the petition with verification of the number of valid signatures thereto attached. If the number of valid signatures to said petition shall amount to 300 or more, the city council shall immediately take the necessary steps to submit to the voters of the city, the question proposed in said petition; provided that in the case of the referendum the entire repeal of the ordinance, order or resolve sought to be referred, and in the case of the initiative, the passage by the city council of the desired ordinance, order or resolve, shall put an end to all proceedings under said petition.

**Sec. 2. Form of petition.** The petition used to originate the initiative or the referendum shall be substantially in the following form:

**Petition to the City Council****For the Submission to the People of the Question**

Shall the proposed ordinance, order or resolve, a copy of which is hereunto attached, be adopted?

We, the undersigned, under oath, depose and say: That we are duly qualified voters of the City of South Portland, residing respectively at the addresses placed opposite our names, and we hereby petition the city council to submit the foregoing question to the voters of the City of South Portland at the next regular municipal election (or at a special election.)



| Names | Residences | Date  |
|-------|------------|-------|
| ..... | .....      | ..... |
| ..... | .....      | ..... |
| ..... | .....      | ..... |

I, ....., the city clerk of the city of South Portland, do solemnly affirm that I witnessed the signing of each of the above signatures and that, at the time of said signing, I made certain that the person affixing his name thereto had reasonable knowledge of the purpose of the petition.

.....  
City Clerk

Date.....

**Sec. 3. Effect of referendum petition.** Whenever there has been completed as aforesaid, a petition for the reference to the people of any ordinance, resolve or order passed by the city council, which ordinance, order or resolve has not yet gone into effect, the same shall be suspended from going into operation until it has been submitted to a vote of the people and has received the affirmative vote of a majority of the voters voting on said question.

**Sec. 4. Time of election.** Within 10 days after an initiative or referendum petition with the required number of valid signatures is presented by the city clerk, the city council shall set a time for the holding of a special election at which the proposed or suspended ordinance, resolve or order shall be submitted to the voters of the city, which special election shall be held not less than nor more than 60 days after such presentation; provided, that if a petition shall be so presented within 4 months next preceding a regular municipal election, no special election shall be called, but the question shall be submitted at said regular election.

**Sec. 5. Publication of ordinance.** Whenever any ordinance, order or resolve is required by the provisions of this charter to be submitted to the voters of the city at any election, the city council may order one publication of the complete text thereof to be made in one or more newspapers of South Portland or Portland, such publication to be made not less than 10 days nor more than 15 days prior to the election, or in lieu of such publication, the city council may cause the ordinance, order or resolve to be printed and mailed with a sample ballot to each voter at least 5 days prior to the election.

**Sec. 6. Form of ballot.** The ballots used when voting upon such proposed ordinance, order or resolve shall set forth the title thereof in full and state its general nature, and shall contain the words: "For the ordinance, order or resolve" and "Against the ordinance, order or Resolve."

**Sec. 7. Result of election.** If a majority of the qualified voters voting on said proposed initiative ordinance, order or resolve or said referred ordinance, order or resolve, shall vote in favor thereof, such ordinance, order or resolve shall take effect 5 days after the declaration of the official canvass of the return of such election.

**Sec. 8. Conflicting ordinances, orders or resolves.** Any number of proposed or referred ordinances, orders or resolves may be voted upon at the same election. In the event that 2 or more ordinances, orders or resolves adopted at the same election shall contain conflicting provisions, the ordinance, order or resolve receiving the highest number of votes at such election shall be paramount and all question of construction shall be determined accordingly.

**Sec. 9. Order upon the ballot.** In the event that 2 or more ordinances, orders or resolves are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the city council on its own initiative.

**Sec. 10. Repeal of popular ordinances, orders or resolves enacted by the people.** The city council may submit, on its own initiative, a proposition for the enactment, repeal, or amendment of any ordinance, order or resolve (except as herein otherwise provided) to be voted upon at any municipal election and should such proposition receive a majority of the votes cast thereon at any election such ordinance, order or resolve shall be enacted, repealed or amended accordingly. An ordinance, order or resolve proposed by petition or adopted by a vote of the people shall not be repealed or amended except by a vote of the people, unless such ordinance, order or resolve shall otherwise expressly provide.

**Sec. 11. Further regulations.** The city council shall by ordinance, make such further regulations as may be necessary to carry out the provisions of this article.

**Sec. 12. Exceptions.** The provisions of this article shall not apply to permits granted to or regulations made for public utilities under the statutes.

## ARTICLE 6 Board of Education

**Sec. 1. Composition, eligibility, election, tenure of office, special provisions.** The board of education shall consist of 5 members, 1 from each district, elected in the same manner as the members of the city council from the qualified voters of the city. They shall hold office for a rotating term of 3 years and until their successors are elected and duly qualified, except that the 1st board elected under the provisions of this char-

ter shall determine their respective terms of office in a similar manner to the city council members. Thereafter, each member shall be elected for a full term of 3 years.

**Sec. 2. Chairman.** The city council shall designate one of its members to serve as chairman of the board, who shall have no power of vote except in case of tie.

**Sec. 3. Organization, qualification and quorum.** The board of education shall meet for organization at 7.30 o'clock P. M. on the 1st Monday in January. The members shall be sworn to the faithful discharge of their duties by a justice of the peace and a record made thereof. A majority of the whole number shall be a quorum.

**Sec. 4. Powers and duties.** The board of education 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 now conferred and imposed upon school committees by the laws of this state except as hereinafter provided in this charter. They shall annually and whenever there is a vacancy, elect a superintendent of schools for the current year, who shall have the care and supervision of said public schools under their direction, and act as secretary of their board; they shall fix his salary at the time of his election. They shall annually, as soon after the organization of their board as practicable, furnish to the city council an estimate in detail of the several sums required during the ensuing municipal year for the support of the public schools. This estimate shall be considered by the city council in connection with the total appropriation bill of the city and the amount finally settled upon for the school department shall be appropriated in a lump sum to the board of education for the support of the public schools for the ensuing municipal year, and such appropriation shall not be exceeded except by consent of the city council but the expenditure of such appropriation shall be under the direction and control of the board of education. No member of the board shall receive any compensation for his services.

**Sec. 5. Vacancies.** Whenever from any cause, a vacancy shall occur, the vacancy shall be filled at the next annual election for the unexpired term, if any, by election in the usual manner or the city council may call a special election.

## ARTICLE 7

### Nominations and Elections

**Sec. 1. Date of elections and procedure to determine results.** The regular municipal elections under the provisions of this charter will be held annually on the 1st Monday of December. At these annual elections the

qualified voters of the city shall ballot within their regular districts and at their respective polling places for member or members of the city council and member or members of the board of education and the candidates for these offices shall be duly qualified under the nomination regulations contained herein; the said annual municipal election being held for the purpose of replacing, by a city-wide vote the member or members of the city council and the member or members of the board of education from each district whose term or terms automatically expire for the current municipal year within which that election is held. In addition the qualified voters of the 7 polling places or wards of the 5 districts shall ballot for the following offices for each polling place or ward: one warden, one ward clerk, one constable, and the terms of office of these ward officers shall be one year each. Also if there are any vacancies existing in any elective municipal offices at the time of the regular municipal election, the qualified voters of the city shall ballot to fill such vacancies.

As provided in section 2 of article 4, at the first municipal election to be held under the provisions of this charter 12/4/1933 the qualified voters of the various districts and polling places shall vote for 5 members of the city council, 5 members of the board of education, 7 wardens, 7 ward clerks and 7 constables, all of whom shall have been nominated under the provisions of this charter. Those candidates for ward offices receiving the majority of votes cast within their respective wards shall be designated as the office holders duly elected for their respective offices.

All votes cast for the several officers shall be counted, sorted, declared and registered in open meeting as required by law. 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.

After such elections the then municipal officers shall examine not longer than 24 hours after such elections the records of the several polling places, certified as aforesaid, and shall cause the person or persons who shall have been elected councilman or councilmen, member or members of the board of education, wardens, ward clerks and constables to be notified in writing of their election. If it appears that no person has been elected to fill these various offices then warrants shall be issued forthwith for another election to fill the vacancy.

**Sec. 2. Warden and ward clerk; eligibility, tenure, qualifications, powers and duties, vacancies, extent of jurisdiction geographically.** The warden and ward clerk chosen as provided in the foregoing section shall be residents of the ward and of the polling district, as identified by the old

ward lines existing before the 1932 revision, for which they are elected and until others have been chosen and qualified in their stead. The warden and 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 record of said ward. The warden shall preside at all meetings of his polling district with the powers of moderators of town meetings and if at any meeting the warden shall not be present the clerk of the polling district shall call the meeting to order and preside until a warden pro tempore shall be chosen. The warden shall have all the rights and powers now held by the warden of such ward. If neither the warden nor ward clerk is 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 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. All polling district meetings (ward meetings) shall be notified and called by the city council in the manner provided by the laws of this state for notifying and calling town meetings by the selectmen of the several towns.

As aforementioned the geographical limits of each of the 7 polling places or wards shall correspond to the ward lines then in existence before the 1932 ward line revision and check lists shall be revised to correspond to such ward lines then existing.

**Sec. 3. Nominations.** The nominations of all candidates for elective offices provided for in this charter shall be by petition. The petition for a candidate for the city council and board of education shall be signed by not less than 100 nor more than 300 of the qualified voters of the city. The petition of candidates for wardens, ward clerks, and constables shall be signed by not more than 100 nor less than 30 qualified voters of that ward within which they are registered as voters. No voter shall sign petitions for more than one candidate for each office to be filled at the election and should any voter sign more than one such petition his signature shall be counted only upon the petition first filed and shall be held to be void upon all other petitions.

**Sec. 4. Form of nomination paper.** The signatures to nomination papers need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof

stating the number of signers on 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 sufficient to identify the same. 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 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 vacancies to be filled.

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. 5. Filing nomination papers; acceptances of nominations must be filed.** The nomination petitions for any one candidate shall be assembled and united into one petition and filed with the city clerk not earlier than 30 nor later than 16 calendar 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 calendar days before the day of election, his consent, accepting the nomination, agreeing not to withdraw, and, if elected, to qualify.

**Sec. 6. List of candidates to be published.** The city clerk shall certify the list of candidates and shall cause to be published in one or more of the daily newspapers published in South Portland or Portland the names, the residences and office to which nominated, of the candidates who have duly filed the above described petitions and acceptances.

**Sec. 7. Ballots, etc., to be prepared by the city clerk.** Specimen ballots and official ballots for use in all city elections shall be prepared by the city clerk and furnished by the city.

**Sec. 8. Form of ballot.** 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 one column for crosses at the right of the candidate's name and residence. Such ballots shall be without party mark or designation and shall be in form as prescribed by board of registration and city clerk.

**Sec. 9. Rotation of names of candidates.** 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, as to districts.

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

**Sec. 10. Count of 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; and the ward clerk shall form a list of the persons voted for with the number of votes for each person against his name, shall make a fair record thereof in the presence of the warden, and in open ward meeting enter the total number thereof on a tally sheet provided by the city clerk. The ward clerk shall enter the number of votes for each candidate opposite the name of such candidate on said tally sheet, and make return thereof to the city clerk on a blank by said city clerk to be provided. Only one vote shall be counted for any candidate on any one ballot.

**Sec. 11. Returns; canvass.** Upon receipt of the returns, after the first election under this charter, the then municipal officers and thereafter the city council shall determine the successful candidates as has been the customary practice of canvassing returns of municipal elections in South Portland.

**Sec. 12. Specimen ballots to be published and posted.** The city clerk shall cause specimen ballots to be posted in public places in each ward and at city hall. 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.

**Sec. 13. Recall provisions.** Any member of the city council or board of education may be recalled and removed therefrom by the electors of the city as herein provided.

**Procedure for filing recall petition.** Any voter of the city may make and file with the city clerk an affidavit containing the name or names of the member or members whose removal is sought and a general statement of the reasons 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 person or persons 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 10% 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 one 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.

**Examination and amendment of recall petitions.** Within 10 days after the filing of the petition the 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 sufficient, he shall forthwith so notify in writing one 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 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 that fact. The final ending of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

**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 member or members 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 and nominations made as in other elections under this charter except for the specific limitations of this section.

**Form of ballot in recall election.** Unless the member or members 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 be recalled? Shall B be recalled?", etc., the name of the member or members whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates nominated in place of the men recalled, as follows: "Candidates for the place of A, if recalled; Candidates for the place of B, if recalled", etc., but the men whose recall is sought shall not themselves be candidates upon such a ballot. The names shall be arranged as provided in section 9 hereof.

In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official he shall be thereby removed, and in that event the candidate to succeed him for the balance of the unexpired term shall be determined as provided in sections 10 and 11 hereof.

If the person or persons 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 this section above, the form of ballot at the election shall be the same, as nearly as may be, as the form in use at a regular municipal election and all other procedure shall be the same.

**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.

**Sec. 14. State laws not inconsistent applicable.** 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 South Portland, except as otherwise provided in this charter.

**ARTICLE 8****Administrative Officers**

**Sec. 1. Titles and appointments.** There shall be the following administrative offices and boards:

a. The following offices and boards shall be appointed by the city council in regular session and with a majority vote of such board:

1. City Manager
2. Treasurer and tax collector
3. City clerk

The 3 above designated offices shall be held by one individual and the duties of each assumed by him, with power to delegate a part of such duties of each offices as is necessary.

b. The following offices and boards shall be appointed by the city manager, subject to confirmation by the city council:

1. Commissioner of public works
2. Chief of police and fire departments
3. Chief clerk of board of assessors
4. Bookkeeper
5. Superintendent of poor department
6. Corporation counsel
7. Health officers and city physician
8. Building inspector
9. Plumbing inspector
10. City chaplain
11. Milk inspector
12. City electrician

13. All other department heads now existing, or which may be appointed, established through ordinance or resolve, and except as hereafter provided, these various department heads may hire their own subordinate clerks and employees as needed, subject to the approval of the city manager as to number, but not subject to his approval as to personnel.

**Sec. 2. Power of council with regard to appointive officers and boards.** The council shall have power by ordinance or resolve:

(a) To create any new appointive office or to abolish any existing office, excepting those under section 1-a above.

**Sec. 3. Civil service rules for police and fire departments.** The present civil service commission and its rules shall remain in effect and the method of naming members shall remain the same with the chairman of the city council assuming any duties of the mayor with respect to the same.

**Sec. 4. Term of service.** All appointive officers and department heads

shall remain in office at the pleasure of the appointing power unless otherwise provided herein.

**Sec. 5. Compensation of officers.** The city council shall fix by order the salaries of the appointees of the council. Salaries of the appointees of the city manager shall be fixed by the city manager with the approval of the city council. Salaries of subordinate employees shall be set by city manager.

**Sec. 6. Appointment and qualification of the city manager.** The city manager shall be chosen by the city council on the basis of his character and his executive and administrative ability and qualifications. He may or may not be a resident of the city of South Portland or of Maine at the time of his appointment. He shall give bond to the city of South Portland for the faithful performance of his duties in such sum as the city council shall determine and direct, and with surety or sureties to be approved by the city council. The premium on his bond shall be paid by the city. He may be hired on contract for a two-year period of years.

**Sec. 7. Removal of the city manager.** The city manager shall be removed for sufficient cause by the city council after 7 days notice to city manager of charges preferred and with public hearing.

**Sec. 8. Powers and duties of the city manager.** The city manager shall be the executive and administrative head of the city and shall be responsible only to the city council for the administrative management of all departments of the city. The powers and duties of the city manager shall be as follows:

1. To bear the title and carry out the duties of city treasurer and city clerk.
2. To act as purchasing agent for the whole city. Each department head shall make requisitions to the purchasing agent for their several needs and he shall be the only person authorized to make contracts of purchase for the city.
3. To make appointments as provided for in this charter.
4. To assign the duties of 2 or more officers to 1 officer.
5. To divide the duties of any office between 2 or more officers.
6. To attend meetings of the city council (except when his removal is being considered and recommend for adoption such measures as he may deem expedient.
7. To keep the city council fully advised as to the business and financial condition of the city as well as the future needs of the city and to furnish the city council with all the available facts, figures, and data connected therewith when requested.

8. To perform such other duties as may be prescribed by this charter or required by ordinance of the city council.

**Sec. 9. Substitute.** During any vacancy in the office of city manager and during the absence or disability of the city manager, the city council may designate a properly qualified person to serve and perform the duties of city manager and fix his compensation; while so acting he shall have the same powers and duties as those given to and imposed upon the city manager. Before entering upon his duties, he shall give bond to the city of South Portland in a sum and with surety to be approved by the city council. The premium on such bond is to be paid by the city.

**Sec. 10. Duties of administrative officers other than the city manager.** Duties of those officers other than the manager shall be prescribed by the appointing power but shall not be inconsistent with this charter. Duties of the subordinate employees shall be as prescribed by their immediate department heads but shall not be inconsistent with the provisions of this charter.

**Sec. 11. Assessors.** The assessors of taxes for this city shall be as prescribed in section 1 of article 4 of this charter. The assessors shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities may exercise, and may now or hereafter be subject to under the laws of the state. The assessors may appoint competent assistant assessors as needed whose duty shall be to furnish the board with all information relative to persons and property taxable. The compensation for such assistant assessors shall be fixed by the board.

## ARTICLE 9

### Business and Financial Provisions

**Sec. 1. Accounts and records.** Accounts shall be kept by the city bookkeeper, showing the financial transactions of all departments of the city. Forms for such accounts shall be prescribed by the bookkeeper with the approval of the city council. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The bookkeeper shall furnish to the city manager prior to the first regular monthly meeting of the city council each month a report containing in detail the receipts and disbursements of the city on all accounts, the expenditures made and the obligations incurred during the preceding calendar month, and a balance sheet showing the financial condition of the city, of the several funds, and the total unexpended balance to the credit of each department.

**Sec. 2. Approving of bills.** The bookkeeper shall check and furnish

to the city council on or before the first regular meeting of each month the bills which have been incurred for the preceding calendar month. The council shall approve these bills before payment and such approval shall be by majority vote of the council.

**Sec. 3. Audit.** All the accounts of the city shall be audited annually by a certified public accountant to be chosen by the city council and the council at its discretion shall have included in any year an audit of the uncollected taxes.

**Sec. 4. Reports.** Each of the administrative officers of the city and the various boards shall annually on such date as may be fixed by the city council render to the city manager a full report of the transactions of his or their department for the year. On the basis of these reports, the city manager shall prepare and publish an annual report for general distribution. In addition to a summary of the services rendered the report shall show:

- (a) Receipts classified according to sources.
- (b) Expenditures classified according to objects. The classification of receipts and expenditures in the report shall conform in general to the classification in the bookkeeper's books.
- (c) Balance sheets.
- (d) Such other financial information as may be required by the city council.

**Sec. 5. Annual budget.** Not later than one month before the end of the fiscal year, the city manager shall submit to the city council budget estimates for the ensuing fiscal year. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks the forms for which shall be designated by the city manager and shall contain:

- (a) Exact statement of the financial condition of the city.
- (b) Itemized statement of appropriations recommended for current expenses and for permanent improvements; with comparative statements in parallel columns of expenditures for the current and next preceding fiscal year. Any increases or decreases in any item or items shall be indicated.
- (c) Itemized statement of estimated revenue from all sources other than taxation; and a statement of taxes required, with comparative figures from the current and next preceding year.
- (d) Such other information as the city council may require. The budget shall be posted not later than 2 weeks after its submission to the city council. The city council shall fix a time and place for holding a public hearing upon the budget and shall give a public notice of such

hearing, which shall be at least ten days before the final passage of the appropriation resolve.

**Sec. 6. Appropriation resolve.** As early as possible after the beginning of the fiscal year, the city council shall pass an annual appropriation resolve, which shall be based upon the budget submitted by the city manager. The total amount appropriated shall not exceed the estimated revenue of the city. Before the annual appropriation resolve has been passed the city council may make appropriation for current departmental expenses, chargeable to the appropriation for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual appropriation resolve is in force.

(a) There shall be included in the annual appropriation resolve an appropriation to provide for tax abatements and uncollectable taxes in an amount equal to that percentage of the total estimated revenue from this source that the total abatements and uncollected portion of the assessors' warrants bears to the total of said warrants for the 5 years immediately preceding the past 3 years. All abatements and uncollectable taxes shall be charged to this reserve, and if at any time such reserve should be in excess of the total uncollected taxes and tax deeds, then such excess shall be transferred to the reserve fund. For the purpose of interpretation of the foregoing, unredeemed tax deeds shall be considered as uncollected taxes.

**Sec. 7. Reserve fund.** The city council in the appropriation resolve shall provide for a reserve fund from which transfers shall be made only by vote of the city council and no transfer of any money shall be made from any fund until the end of the fiscal year, at which time after all warrants have been paid out of the various funds against which such warrants have been drawn, the bookkeeper shall transfer to the reserve fund any balance or balances then remaining in the various other funds except balances in the school fund; provided, however, that the city council may, in special cases, continue any particular fund without transfer temporarily pending the completion of the expenditures in process or contemplation. The council may then authorize a transfer from the reserve fund to any other fund in which there is an overdraft created by any actual emergency and the balance of such reserve fund shall be subject to such disposition as the council may determine.

**Sec. 8. Borrowing.** The borrowing of money by and for the city shall be limited as to form and purpose by the provisions of section 9 and section 10 of Article 9 of this charter. The credit of the city shall in no manner be loaned to any individual or corporation.

**Sec. 9. Bond issues.** Money may be borrowed, within the limits fixed

by the constitution and statutes of the state now or hereafter applying to said South 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 South Portland, and publishing said notice in at least 2 daily newspapers published in said South Portland or Portland at least 2 weeks before final action by the city council, and the approval of four-fifths 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 annual, serial and approximately equal 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 South Portland existing prior to the adoption of this charter or bonds issued to refund such bonds shall not be subject to the aforesaid requirement of being made payable in annual, serial and approximately equal installments.

**Sec. 10. Temporary loans.** 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 one 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 section 83 of chapter

5 of the revised statutes of 1930 and acts amendatory thereof and additional thereto.

**Sec. 11. Liquidation of indebtedness.** There shall be included in the annual appropriation resolve an appropriation for the liquidation of municipal indebtedness in the amount of at least 5% of the total appropriation for that year, such amount to be used for the payment of serial notes and bonds maturing within the year and the balance to be deposited in a sinking fund. This provision shall remain in force so long as there remains outstanding bonds or notes exclusive of temporary loans in anticipation of taxes, the payment of which has not been provided for by payments in serial installments.

a. This sinking fund shall be applied to the payment of the bonded indebtedness of the city at such times as such bonds become due, the payment of which has not been provided for by payments in serial installments. Any balance remaining in the sinking fund after such bonded indebtedness is completely retired may be used for the payment of serial bonds. This sinking fund shall be invested as provided by the revised statutes of the state of Maine and all acts in addition thereto or in amendment thereof.

**Sec. 12. Payments.** Money shall be paid out only on warrants on the city treasury issued by the bookkeeper and countersigned by the city manager and a member of the city council to be designated from time to time by said city council.

The bookkeeper shall examine all pay-rolls, 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.

The bookkeeper 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. 13. Bonds of officers.** The city council shall require a bond with sufficient surety or sureties, satisfactory to the city council, from all persons trusted with the collection, 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. 14. Collection and custody of city moneys.** All moneys received by any officer, employee or agent of the city belonging to the city, or for or in connection with the business of the city, shall forthwith be paid by the officer, employee or agent receiving the same into the city treasury, and shall then be deposited by the city treasurer with some responsible



banking institution or institutions to be chosen by said city council. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city.

**Sec. 15. Purchasing of supplies.** The purchasing agent shall purchase all supplies according to sub-section 2 of section 8 of article 8. No purchase of supplies exceeding an amount set by the city council shall be made except through authorization of city council, except school requirements, which shall be purchased according to regulations of board of education.

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.

The city manager shall act as purchasing agent.

## ARTICLE 10

### Public Utilities

**Sec. 1. Franchises.** All public utility franchises, hereafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by a 4-5ths 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.

**Sec. 2. Right of regulation.** 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 failure 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.

**Sec. 3. Exceptions.** The provisions of this article shall not apply to permits granted to or regulations made for public utilities under the statutes.

## ARTICLE II

### Miscellaneous Provisions

**Sec. 1. Members of the city council ineligible for certain offices.** No member of the city council shall during the term for which he was chosen be eligible for any other office the salary of which is payable by the city, nor shall he during such term hold any such office.

**Sec. 2. No personal interest.** No city manager, no member of the city council, 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 South 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, while in performance of his duties, 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 person, firm or corporation, any service upon terms more favorable than those granted to the public generally. This provision shall not apply, however, to any free service now or hereafter provided for by contract, franchise or ordinance.

**Sec. 3. 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 3, so-called, on said ballot, and provided further, if the number of ballots favoring plan 3, 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. 4. Date when effective.** So much of this act as authorizes the submission of the acceptance of this charter to the voters 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 adopted by the voters of the city of South Portland as hereinbefore provided. If adopted by the voters 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 voters, and for all other purposes this act shall take effect immediately following the first election held under provisions of this charter.

**Sec. 5. Ordinances not inconsistent continued 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.

All rules and regulations of the municipal officers and offices of the city of South 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.

**Sec. 6. Existing contracts not invalidated, unless inconsistent.** 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. 7. Term of office, officers, boards.** All officials, officers, trustees,

members of commissions or departments now in office holding positions hereafter to be filled under the provisions of this charter by the city council or the city manager shall not serve out their present terms but shall continue in office only until their successors are appointed or elected and qualified as provided in this act.

**Sec. 8. Repealing clause.** In event this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed.