

MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 415

H. P. 1067

House of Representatives, February 5, 1935.

Referred to Committee on Legal Affairs, 1000 copies ordered printed.
Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Stoddard of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Grant a New Charter to the City of Eastport.

Whereas the city of Eastport in the county of Washington has certain expenses and liabilities which must be met as they become due, and

Whereas the credit of said city is seriously impaired and its financial condition is such that under the present form of government it finds itself unable to raise or borrow sufficient funds to maintain the essential functions of local government, and

Whereas it is immediately necessary that provision be made for raising revenue for the general government of said city, and

Whereas it appears likely that a marked expansion of all the activities of the municipality must result from the construction of the Cooper-Quoddy Tidal Power Project and that this expansion will be of such a nature as to render greater efficiency in local government an absolute necessity, and

Whereas in the judgment of this legislature these facts constitute an emergency as contemplated by the constitution and in order that the city of Eastport be given an opportunity to make such a change in its form of government as will enable it to restore its credit and fulfill its obligations and thereby preserve the public peace, health and safety, now therefore

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 Eastport, in the county of Washington, shall continue to be a body politic under the name of the city of Eastport and as such shall be, have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for therein, or otherwise appertaining to or incumbent upon said city as a municipal corporation, or appertaining to or incumbent upon the inhabitants thereof or municipal authorities thereof; and may enact 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.

ARTICLE II

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 board as hereinafter provided, and also except as otherwise provided by this charter, shall be and are vested in one body of 5 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 prescribed. Said city council shall exercise its powers in the manner hereinafter provided.

The members of the city council shall be and constitute the municipal officers of the city of Eastport 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.

The city council is hereby constituted the overseers of the poor of the city of Eastport and shall perform all duties required of overseers of the poor for cities by statute or otherwise. As such overseers of the poor they may authorize a clerk or agent to sign in their name and send written notices and the written answers referred to or required in sections 35 and 36 of chapter 29 of the revised statutes, and such written notices and written answers, so signed, shall have the same effect as if signed by 1 or more of said overseers and sent by a member or members of said overseers personally.

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.

The said city shall continue to be divided into 4 wards with the now existing boundaries; except that it shall be the duty of the city council, once in 10 years and not oftener than once in 5 years, to revise and, if alteration is deemed necessary, to alter the boundaries of said wards in such manner as to preserve as nearly as convenient an equal number of inhabitants in each ward.

The council shall have the power, by a 4/5 vote of the members, to increase or decrease the number of wards, provided that the above stated rule regarding "an equal number of inhabitants" shall be observed.

The members of the city council shall be and constitute the park commission and shall have the powers and perform the duties of the park commission provided for by section 84 of chapter 4 of the revised statutes.

All other powers now or hereinafter vested in the inhabitants of said city, and all powers granted by this act, except as herein otherwise provided, shall be vested in said city council.

However, neither the council nor any of its committees or members shall dictate the appointment of any person to office or employment by the city manager, or in any manner interfere with the city manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry the council and its members shall deal with the administrative service solely thru the city manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately.

Sec. 2. Composition, election, tenure of office. The city council shall be composed of 5 members elected at large from the qualified voters of the city for a term of 3 years and until their successors are elected and qualified, except that at the first election of the members of the city council the 2 members elect who shall receive the largest number of votes cast at such election shall hold office for 3 years; the 2 members elect who shall receive the 2nd largest number of votes cast at such election shall hold office for 2 years; and the member elect who shall receive the 3rd largest number of votes cast at such election shall hold office for 1 year; and each shall hold office until his successor is elected and qualified.

A tie vote between 2 or more candidates shall be determined by lot under the direction of the city clerk at which drawing the candidates or their

representatives shall be entitled to be present. Candidates shall be notified of the time and place of such drawing at least 24 hours in advance thereof.

Each member shall serve without pay, and shall not be eligible, while a member of the council, to any office of emolument or profit under the city charter or ordinances, nor to hold the office of city manager, nor to act as city manager.

Sec. 3. President. At the first meeting, or as soon thereafter as possible, the city council shall elect by majority vote, 1 of its members as president 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 president that may occur.

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

The president shall preside at all meetings of the council, and shall perform such other duties, consistent with his office as the council may provide. He shall be entitled to vote, and his vote shall be counted upon all matters and things as a vote of other members of the council. The president shall be recognized as the official head of the city for ceremonial purposes, and shall have the power and authority given to and perform the duties required of mayors of cities for all purposes of military law, and shall act in lieu of the mayor in so far as representation is provided for the city by the mayor upon any board or commission by any statute or in any case where the mayor is nominated or appointed in any trust capacity by virtue of any trust heretofore or hereafter created. In the temporary absence or disability of the president the city council may elect a president pro tempore from among its own number and he shall exercise all the powers of president during such temporary absence or disability of the president.

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 city election, the vacancy shall be filled by a

majority vote of the remaining members and the member so elected shall serve until the next regular municipal election when a new member shall be elected to fill the vacancy for the unexpired term, if any.

Any member of the city council who shall be convicted of a felony 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 10 o'clock A. M. on the 1st Monday in January following the regular city election, and at said meeting the councilmen elect shall be sworn to the faithful discharge of their duties by a justice of the peace, or by the city clerk. The city council shall, at its first meeting, or as soon thereafter as possible, establish by ordinance or resolution a regular place and times for holding its meetings, and shall meet regularly at least once a month.

Sec. 6. Special meetings. Special meetings may be called by the president 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 contain a brief statement of the purpose or purposes of the meeting and shall be served in person or left at the residence of each member of the city council at least 24 hours before the time of holding such special meeting.

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 or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

Sec. 8. Procedure. The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public. The city council shall act only 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 until it has been read on 2 separate days, except when the requirement of a reading on 2 separate days has been dispensed with by a 3-5's vote of the members of the city council.

The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. 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 members of the city council.

Every ordinance before final passage shall be published in 1 or more newspapers published and circulated in the city of Eastport and if no newspaper is so published and circulated then in some newspaper published in the county of Washington and circulated in whole or in part in said city of Eastport, and shall take effect and be in full force 10 days from and after it shall have received final passage by the city council and has been approved, in case such approval is required by law, by some justice of the supreme judicial court. Within 10 days after its final passage or after said approval by such justice said ordinance shall be published in full in one or more newspapers published and circulated as aforesaid, but immaterial error in the publication of said ordinance before or after final passage, shall not affect its validity or force.

No order or resolve shall take effect until 10 days after its passage, except that the city council may, by vote of 3-5's 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 down and defined.

ARTICLE III

School Board

Sec. 1. Composition, eligibility, election, tenure of office, special provision. The school board shall consist of 3 members elected by the city council, without reference to ward lines. They shall hold office for a term of 3 years, and until their successors are elected and qualified, except that at the first election of the members of the school board, 1 member shall be elected for 3 years. The 2 members whose terms shall not have expired shall serve out the terms for which they were originally elected, and thereafter 1 member shall be elected each year for a term of 3 years, and each shall hold office until his successor is elected and qualified. If for any reason a vacancy shall exist in the membership of the school board the vacancy shall be filled forthwith by election by the city council for the unexpired term.

Sec. 2. Organization, qualification, quorum. The school board shall meet for organization within 7 days from date of election. The members

elected shall be sworn to the faithful discharge of their duties by a justice of the peace or by the city clerk, and a record made thereof. A majority of the whole number elected shall be a quorum and they shall elect their own chairman.

Sec. 3. Powers, duties. The school board 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 otherwise provided in this charter. They shall elect a superintendent of schools as provided for by the laws of this state, 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. On the basis of such estimates the city council shall make 1 gross appropriation for the support of 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 said appropriation shall be under the direction and control of the school board.

ARTICLE IV

Nominations and Elections

Sec. 1. Date of election and procedure to determine results. In the event of the acceptance of this charter by the voters of the city of Eastport a special election shall be called and held on the first Monday in May, A. D. 1935 at which time qualified voters of the city shall ballot for 5 councilmen, and the qualified voters of each ward shall ballot for a warden, ward clerk and constable for their ward; an officer so elected shall hold office until the 1st Monday in January A. D. 1936 and until their successors are elected and qualified; and subsequent to said first election, on the 2nd Monday in December in each year a regular Municipal Election shall be held and the qualified voters of the city shall ballot for a councilman or councilmen in accordance with the provisions of section 2 of article 2 of this charter, and the qualified voters of each ward shall at the same time ballot for a warden, ward clerk and constable for their ward. For the purpose of inaugurating the system of government provided for herein, the period from May 1, 1935 to January 1, 1936 shall constitute the first year.

All votes cast for the several officers shall be sorted, counted, declared and registered in open ward meeting, as provided by statute. The ward

clerk shall forthwith deliver to each person elected warden, ward clerk or constable a certificate of his election and shall forthwith deliver to the city clerk a certified copy of the record of such election.

After the first election held under this charter the then municipal officers and thereafter the city council shall as soon as it conveniently can, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the persons who shall have been elected councilmen to be notified in writing of their election; if it shall appear that at the first election 5 councilmen have not been elected, or if, after the first election, it shall appear that no person has been elected councilman, or if the person elected shall refuse to accept the office, warrants for another election to fill such vacancy shall be issued forthwith.

If it shall appear that at the first election to be held under this charter 5 councilmen have not been elected, the municipal officers then in office shall continue to hold office and perform their duties until 5 councilmen have been duly elected and qualified.

Sec. 2. Warden, ward clerk and constable, eligibility, tenure, qualifications, powers and duties, vacancies, ward meetings, and how called. The warden, ward clerk and constable chosen as provided in the preceding section, shall be residents of the ward for which they are elected and shall hold office for 1 year from the 1st Monday in January following their election, except as provided in section 1 of article 4, and until others have been chosen and qualified in their stead. The warden, ward clerk and constable shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the state to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of said ward. The warden shall preside at all ward meetings, with the powers of moderators of town meetings and if at any meeting the warden shall not be present, the clerk of the ward shall call the meeting to order and preside until a warden pro tempore shall be chosen. The warden shall have all the rights and powers now held by the warden of such ward. If neither the warden nor the ward clerk shall be present, the constable of the ward shall preside until a clerk pro tempore shall be chosen and qualified. If no one of the 3 ward officers shall be present, any legal voter in the ward may preside until a clerk pro tempore shall be chosen and qualified.

Immediately following the election of a clerk pro tempore a warden pro tempore shall be chosen. The clerk shall record all the proceedings and certify the votes given and delivered over to his successor in office all 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 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.

Sec. 3. Nomination of elective officers to be made by petition. The nominations for all candidates for elective officers provided for by this charter shall be by petition. The petition of a candidate for councilman shall be signed by a number of the qualified voters of the city equal to not less than 3% nor more than 5% of the ballots cast at the last municipal election. The petition of candidates for warden, ward clerk and constable shall be signed by a number of the qualified voters of the ward equal to not less than 3% nor more than 5% of the ballots cast in their ward at the last municipal election. No voter shall sign a petition 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 first petition filed, and shall be held void upon all other petitions.

Sec. 4. Form of nomination papers. 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 signatures on each petition, and that each signature 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 the 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 EASTPORT

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

Name..... Street and Number....., being duly sworn, deposes and says that he is the circulator of the foregoing 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 sufficient 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 days before the day of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing not later than 16 days before the day of election, his consent, accepting the nomination, agreeing not to withdraw, and if elected, to qualify.

Sec. 6. List of candidates to be published. The city clerk shall certify the list of candidates and shall cause to be published in 1 or more of the newspapers designated in article 2 of section 8 of this charter, the names, residences, and office to which candidates who have been nominated 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. The names of candidates nominated as provided in this charter shall be arranged on the ballot according to lot under the title of the office to be filled. Lot shall be drawn by the city clerk, at which drawing the candidates or their representatives shall be entitled to be present. Candidates shall be notified of the time and place of such drawing at least 24 hours in advance thereof.

The ballots shall be without party mark or party designation. The name and residence of each candidate shall be given. The ballot shall contain 1 column for a cross at the right of the candidate's name and residence.

Blank spaces shall be left at the end of the list of candidates for each

office in which the voter may insert the name of any person not printed on the ballot, for whom he desires to vote.

The ballot shall be printed substantially as follows:

CITY OF EASTPORT

Regular (or Special) Election

Monday, the day of A. D. 19

Instructions to Voters:

To vote for a candidate, make a cross (X) in the space at the right of Name and Residence.

If you wrongly mark, tear or deface the ballot, return it and obtain another.

FOR MEMBERS OF CITY COUNCIL		Vote for
Name	Residence	

FOR WARDEN		Vote for
Name	Residence	

FOR WARD CLERK		Vote for
Name	Residence	

FOR CONSTABLE		Vote for
Name	Residence	

(On Back of Ballot)

Eastport, Maine, Monday A. D., 19

Official Ballot

Ward

(Facsimile of Signature)

City Clerk.

Sec. 9. 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 from the list of persons voted for with the number of votes for each person against his name, 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 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.

Sec. 10. Returns, canvass. Upon receipt of the returns, from the first election under this charter, the then municipal officers and thereafter the city council shall determine the successful candidate as hereinafter provided in this section.

The person receiving a plurality of the votes cast at an election for any office, shall be elected to that office. The word "plurality" as used in this section shall mean the largest number of valid ballots cast for any candidate at such election for the candidates whose election is being canvassed.

Sec. 11. Specimen ballots to be published and posted. The city clerk shall cause specimen ballots to be posted in public places in each ward and voting precinct and advertised in one or more of the newspapers designated in article 2, section 8, of this charter, not later than 10 days prior to the city election and advertised in such newspapers or newspaper at least once more prior to the election. Such specimen ballots shall be printed on colored paper and marked "Specimen Ballots" and shall contain the names of the certified candidates, with the residence of each, instructions to voters, and such measures as may be submitted to voters by the legislature, or by the city council. Such ballots shall be without party mark or designation.

Sec. 12. State laws not inconsistent applicable. The provisions of the laws of the state of Maine relating to the qualifications of electors, regis-

tration, the manner of voting, the duties of election officers, and all other persons in respect to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections of Eastport except as otherwise provided in this charter.

ARTICLE V

Administrative Officers

Sec. 1. Title and appointment. There shall be the following administrative officers and boards chosen as hereinafter designated:

(a) The following officers and boards shall be elected by ballot by a majority vote of the members of the city council: School board as provided for in article 3 of this charter; city manager; sealer of weights and measures; city solicitor; and health officer.

(b) The following officers and boards shall be appointed by the city manager: City clerk; city auditor; city marshal; city treasurer; collector of taxes; city engineer; city physician; city electrician; chief of fire department; superintendent of sewers; inspector of buildings; road commissioner; assessors of taxes, as provided for in section 9 of this article; policemen; members of the fire department; milk inspector; additional constables; all other department heads whose positions may be created, and, except as herein otherwise provided, all minor officers and employees. All officers named in (b) of this section shall be residents of Eastport except the city engineer who may or may not be a resident of Eastport at the time of his appointment.

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

Sec. 3. Term of service. All officers elected by the council or appointed by the city manager whose terms of service are specified herein shall be removable by the powers naming them, only upon written charges, notice and public hearing, if upon such hearing they are adjudged guilty of the charges preferred.

All other appointive officers shall hold office during the pleasure of the appointing power, except that the term of members of the board of registration of voters, health officer and sealer of weights and measures, shall be as provided by law.

Sec. 4. Compensation of officers. The city council shall fix by order the salaries of the officials elected by the city council. Salaries of the appointees of the city manager shall be fixed by the city manager, subject to the approval of the city council.

Sec. 5. Appointment and qualifications of the city manager. The city manager shall be chosen by the city council solely on the basis of his character and his executive and administrative qualifications, and may or may not be a resident of the city of Eastport or of the state of Maine, at the time of his appointment.

Sec. 6. Powers and duties of the city manager. The city manager shall be the executive and administrative head of the city and shall be responsible to the city council for the administration of all departments. The powers and duties of the city manager shall be as follows:

(a) To see that the laws and ordinances are enforced, but he shall delegate to the chief of the police department the active duties connected therewith regarding crimes and misdemeanors.

(b) To exercise control over all departments and divisions created herein or that may hereafter be created.

(c) To make appointments as provided in this charter.

(d) To assign the duties of 2 or more officers to 1 officer.

(e) To divide the duties of any office between 2 or more offices.

(f) 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.

(g) To keep the city council fully advised as to the business and financial condition and future needs of the city and to furnish the city council with all available facts, figures and data connected therewith, when requested.

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

Sec. 7. 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 perform the duties of manager and fix his compensation; while so acting he shall have the same powers and duties as those given to and imposed on the city manager.

Sec. 8. Duties of administrative officers other than city manager. Duties of administrative officers other than the city manager shall be those pre-

scribed by the city manager. Such duties shall not be inconsistent with the provisions of this charter.

Sec. 9. Assessors of taxes. There shall be 3 assessors of taxes appointed for terms of 3 years by the city manager and until their successors are appointed and qualified, except that the first city manager to be appointed under this charter shall appoint 3 assessors for 1, 2 and 3 years respectively, and until their successors are appointed and qualified; provided however, that the board of assessors in office on May 1, A. D. 1935, shall hold office until the first Monday of January 1936, and until their successors are appointed and qualified. If for any reason a vacancy shall exist in the board of assessors, the vacancy shall be filled forthwith by the city manager for the unexpired term. The assessors appointed as above provided shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and may now or hereafter be subject to under the laws of this state.

Sec. 10. Health officer. The health officer shall be given the same powers and authority and shall be subject to the same duties and liabilities as are now held or imposed upon the health officer and board of health in the city of Eastport, and he shall perform such other duties, not inconsistent with the laws of the state, as the city council shall determine.

ARTICLE VI

Business and Financial Provisions

Sec. 1. Accounts and records. Accounts shall be kept by the auditor, showing the financial transactions of all departments of the city. Forms for all such accounts shall be prescribed by the auditor, with the approval of the city manager. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city. The auditor shall furnish to the city manager, prior to the first regular meeting of the city council in 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 or appropriation account.

Sec. 2. Accounts audited annually. All accounts of the city shall be audited annually by a qualified accountant to be chosen by the city council.

Sec. 3. Reports. The auditor shall publish each month a statement of the financial condition of the city. Each of the administrative officers shall annually, on such a date as may be fixed by the city council, render to the city manager a full report of the transactions of his or their respective departments 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 by the various departments, the report shall show:

(a) Receipts classified according to sources.

(b) Expenditures classified according to objects. The classification of receipts and expenditures shall conform in general to the classification in the auditor's books.

(c) Balance sheets.

(d) Such other financial information as may be required by the city council.

Sec. 4. Annual budget. Not later than one month after the beginning 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 of 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 improvement; with comparative statement in parallel columns of expenditures for the current and next preceding fiscal year. An increase or decrease in any item 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 may be required by the city council.

The budget shall be published 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 10 days before the final passage of the appropriation resolve.

Sec. 5. The appropriation resolve. As early as practicable after the beginning of the fiscal year, the city council shall pass an annual appropriation resolve, which shall be based on 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 appropriations 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.

Sec. 6. Transfers. The city council in the appropriation resolve shall provide for a reserve fund from which transfers shall be made only by the vote of the city council, and no transfer of any money shall be made from any fund other than this reserve 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 auditor shall transfer to the reserve fund any balance or balances then remaining in the various other funds, except balances in the school fund; 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.

The city council shall then transfer the remaining balance then in the reserve fund to the sinking fund of the city; provided, however, that the city council may, in special cases, continue any particular fund without transfer temporarily pending the completion of expenditures in process or in contemplation. Provided, further, that when and in case the occasion ceases to exist for maintaining a sinking fund as provided for by section 10 of this article the portion of this section relating to the transfer of the reserve fund to the sinking fund shall cease to be in effect.

Sec. 7. Borrowing. The borrowing of money by and for the city shall be limited as to form and purpose by the provisions of section 8 and section 9 of article 6 of this charter. The credit of the city shall in no manner be loaned to any individual, association or corporation.

Sec. 8. Bond issues. Money may be borrowed within the limits fixed by the constitution and statutes of the state now or hereafter applying to said Eastport 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, the construction of streets and roads, 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 Eastport, and publishing said notice in 1 or more of the newspapers designated in section 8 of

article 2 of this charter, at least 2 weeks before the final action by the city council, and the approval of 4/5 of all of 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 bond shall not exceed the estimated period of utility of said improvement but the declaration of the city council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made payable shall in no case exceed 30 years. Bonds issued after the adoption of this charter shall be made payable in equal, annual, serial installments as pertains to principal, and interest shall be made payable semi-annually. Every order for the issue of bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual, serial installment of principal and interest; and such amount 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 Eastport 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 equal, annual, serial installments.

Sec. 9. Temporary loans. Money may be borrowed in anticipation of receipts from taxes during any fiscal year after said fiscal year begins, 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 bonds have been authorized; all such loans shall be paid within 1 year and are subject to the provisions of laws of the state of Maine in relation thereto. This section shall not limit in any way the power granted to towns and cities to borrow money as contained in chapter 4, section 62 of the revised statutes and acts amendatory thereof and additional thereto.

Sec. 10. Sinking fund. Until the bonded indebtedness of the city of Eastport in force at the time of the adoption of this charter together with any renewals thereof is fully paid, the city council shall raise and set apart each year for a sinking fund a fund not less than 2% of the total amount of appropriations for that year. The sinking fund shall be applied only to the payment of that bonded indebtedness of the city, the payment of which has not been provided for by payments in serial installments. The sinking

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

Sec. 11. Payments. Money shall be paid out only on warrants on the city treasury issued by the auditor 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 auditor 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 auditor may require any claimant to make oath to the validity of his claim, may investigate any claim, and for each purpose or purposes may examine witnesses under oath.

Sec. 12. 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 disbursements 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. 13. Collection and custody of city moneys. All moneys received by an officer, employee or agent of the city belonging to the city, or for 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 in 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. 14. Purchasing of supplies. The purchasing agent shall purchase all supplies for the city and for the several officers and boards thereof, excepting supplies for the city schools.

The purchasing agent shall see to the delivery of supplies to each officer and department to whom they belong, and take and file the 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 until the city council by ordinance shall provide for the appointment of a purchasing agent.

ARTICLE VII

Public Utilities

Sec. 1. Franchises. All public franchises hereafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by a 4/5 vote of the members of the council. No franchise and no renewal or amendment thereof shall be granted or made within 45 days after the application therefor is filed with the city clerk nor within 10 days after the publication in full of the proposed franchise in its final form, nor 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 and rates.

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

ARTICLE VIII

Miscellaneous Provisions

Sec. 1. No personal interest. No city manager, 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 Eastport for work or material, or the purchase thereof, to be furnished to or performed for the city, and all contracts made in violation hereof are void and the city treasurer is expressly forbidden to pay any money out of the city treasury on account of any such contract. No such officer or employee, except a policeman or fireman, shall accept or receive any person, firm or corporation acting under a franchise or license from the city, any frank, free pass, free ticket, or free service, or accept directly or

indirectly from any such person, firm or corporation any service 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. 2. 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 Eastport at the next regular city election to be held on the first Monday in March in the year A. D. 1935 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 a new charter for the city of Eastport. The vote shall be taken by ballot at said election in answer to the question: "Shall an act passed by the legislature in the year 1935 entitled 'An Act to Grant a New Charter to the City of Eastport' be accepted?" which shall be printed on the official ballots, and at said election the voters of said city in favor of accepting this act shall vote "Yes" and those opposed shall vote "No."

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 such election shall in all other respects be conducted by law, and the results thereof shall be determined in the manner now provided by law for the election of mayor. If a majority of the valid ballots deposited as aforesaid shall favor accepting the same, then this act shall forthwith take effect as herein provided.

Sec. 3. 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 Eastport 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 Eastport 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, provided, however, that a special election shall be called on the 2nd Monday in April, A. D. 1935 at which election all elective officers as provided in this charter shall be chosen in the manner hereinbefore provided. Said officials so chosen at the special election having duly qualified shall assume office on the 3rd Monday of April, A. D. 1935 at which time all the affairs of the city shall be turned over to them. For all other purposes this act shall take effect on the 3rd Monday of April, A. D. 1935.

Sec. 4. Ordinances not inconsistent 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.

All rules and regulations of the municipal officers of the city of Eastport 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. 5. 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 herewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 6. Term of office, officers, board. All officials, officers, trustees, members of departments, hereafter to be appointed or elected under the provisions of this charter by the city manager or city council whose term of office has not been herein otherwise provided for, 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. 7. Acts repealed. In case this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed.