

MAINE STATE LEGISLATURE

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

Legislative Document

No. 828

H. P. 1694

House of Representatives, March 5, 1937.

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

HARVEY R. PEASE, Clerk.

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

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

**AN ACT to Provide a Town Council and Manager Form of Government
for the Town of Old Orchard Beach.**

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

Sec. 1. Annual town meetings to be held. After the passage of this act and its adoption by the inhabitants of the town as hereinafter provided, annual town meetings shall be held in the town of Old Orchard Beach, in the county of York, on the 1st Monday of March in each year, and the voters shall then choose by ballot, as now provided by law, a moderator.

Sec. 2. Election of officers. At such meetings the voters shall then elect by written ballot and by plurality vote, as hereinafter provided, 5 inhabitants of said town to be known as members of the town council, and which 5 members shall constitute and be called the town council, an auditor of accounts, a member of the superintending school committee, and a town treasurer, and once in 3 years a health officer subject to the approval of the state commissioner of health and welfare as now provided by general law, who shall hold office for said 3 year period. Said health officer shall appoint a plumbing inspector, or inspectors, in accordance with the provisions of section 171 of chapter 1 of the public laws of 1933. Except as hereinafter provided, all other necessary town officers provided by this act

or now or hereafter provided under any statute or by-law shall be appointed by the town manager subject to confirmation by the town council. At the first town meeting held under the provisions of this act said members of the town council shall be elected as follows: 2 for a term of 1 year, 2 for a term of 2 years and 1 for a term of 3 years, and thereafter at each of said annual town meetings 2 councillors shall be chosen as hereinafter provided, each for a term of 3 years, provided, however, that in each 3rd year, but one councillor shall be elected, and provided further that vacancies in the membership of the town council due to death, resignation or other cause, shall be filled at the next annual meeting for the unexpired term.

Sec. 3. Members of the town council to serve ex-officio as certain officers. The councillors provided for in section 2 shall have all the powers and perform all the duties of selectmen, municipal officers, overseers of the poor, and assessors of taxes as provided for by the general laws.

Sec. 4. Organization meeting, and meetings of council. The councillors elected, as herein provided, shall meet within 48 hours after their election, and shall be sworn to the faithful discharge of their duties by a justice of the peace. They shall choose by ballot one of their number to be chairman, and shall establish by resolution a regular place and time for holding its meetings and shall meet regularly at least once each month, except that during the months of May, June, July, August and September the council shall meet at least twice each month, and a majority of said council shall constitute a quorum for the transaction of all business. Special meetings of said council may be called by the town clerk when so ordered by the chairman of said council, or by a majority of all of its members. Notice of special meetings shall be mailed to, served upon, or left at the usual dwelling place of each councillor at least 24 hours before said meeting, provided, however, that at any special meeting when all the members of the town council are present notice of such meeting may be waived by a unanimous vote. The members of the council shall serve without compensation. The town clerk shall attend all meetings of the town council and keep a true record of all the proceedings, provided, however, that in case the town clerk shall be unable to attend said meetings, a clerk pro tem shall be chosen by the town council for the purpose of reporting said meeting, who shall be sworn to the faithful discharge of his duty.

Sec. 5. Superintending school committee. The present members of the superintending school committee, whose terms of office have not expired, on the effective date of this act, shall continue to serve until the expiration

of their present term of office. The third member shall be chosen in the manner provided for in section 2 for a term of 3 years and thereafter a member of the superintending school committee shall be elected annually in town meeting by the voters for a term of 3 years, and shall have all the powers and perform all the duties in regard to the care and management of the public schools of said town which are now conferred and imposed upon a superintending school committee by the general law.

Sec. 6. Town manager. Said councillors shall, by a majority vote, elect a town manager. Said office of town manager being hereby created, who shall not be a member of the council and who shall be chosen solely on the basis of his character, executive and administrative ability, and who may or may not be a resident of Old Orchard Beach or of the state of Maine at the time of his appointment. The town manager, so appointed, shall bear the title, have all the authority of, and perform the duties of tax collector, town clerk and road commissioner, and as such shall have the same powers as though regularly elected under the provisions of the general statutes. He shall also, when authorized and directed by the town councillors, be clerk or agent for them as overseer of the poor, sign and send the written notices and written answers referred to in sections 31 and 32 of chapter 33 of the revised statutes and acts additional thereto and amendatory thereof, and any act performed by the town manager in said capacity shall have the same effect as if performed by the members of the council as overseers of the poor themselves. All fees collected by the town manager while in the performance of his duties in every capacity shall be the property of the town, and shall be turned over to its treasurer.

Sec. 7. Removal. The town manager may be removed from office by the town council but such removal shall not be valid unless $\frac{4}{5}$ of all the members of the town council vote in favor of said removal.

Sec. 8. Powers and duties of town manager. The town manager shall be the administrative head of the town government and shall be responsible to the council for the administration of all departments of the town over which the council under this act and the general statutes has control, and his powers and duties in addition to those otherwise provided herein shall be generally as follows:

A. To act as purchasing agent for all departments of the town, except the school department. Each department head shall make requisition to the purchasing agent for their several needs, and he shall be the only person authorized to make contracts of purchase for the town except school department contracts. He shall, however, submit to competitive bids any

contract to purchase which involves an expenditure in an amount exceeding the sum of \$300 and/or when so ordered by the town council;

B. To attend the meetings of the council, except when his removal is being considered, and to recommend for adoption such measures as he may deem expedient;

C. To keep the council fully advised as to the business, financial condition, and present and future needs of the town;

D. All subordinate clerks and employees shall be hired by the various department heads, subject to the approval of the town manager as to number, but not subject to his approval as to personnel.

Sec. 9. Compensation of officers. The town manager shall receive such compensation as may be fixed by the town council, and such compensation shall be in full payment for all services. The salaries of all subordinate clerks and employees shall be fixed by the town manager subject to the approval of the town council.

Sec. 10. Civil service rules for police and fire departments. The council shall provide by by-laws for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension and removal of the members of the police department and the fire department other than the chiefs of said departments.

And the town council shall elect by a majority vote, a civil service commission consisting of 3 members who shall be residents of said town to administer the same.

At the 1st election of said members, 1 member shall be elected for a period of 1 year, 1 for a period of 2 years, and 1 for a period of 3 years. At each succeeding election 1 member of said commission shall be elected for a period of 3 years. Said commission to serve without compensation.

Provided, however, that no rules or regulations adopted by the town council as authorized above shall require any further physical examination of those members who are on the fire or police departments prior to the effective date of this charter.

Sec. 11. New offices created. The offices of chief of police and chief of the fire department are hereby created. Said chiefs of said departments shall be appointed by the town manager subject to confirmation by the town council, and shall be removed by the town manager with approval of the town council. In all criminal cases in which a member or members of the police department appear as witnesses, all witness fees therefor, including travel and attendance, shall be paid to the town treasurer for the use of the town.

Sec. 12. 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 1 year, and are subject to the provisions of the laws of the state of Maine in relation thereto.

Sec. 13. Officers to be sworn. All town officers elected or appointed shall be sworn to the faithful performance of the duties of their respective offices by a justice of the peace.

Sec. 14. Payments from treasury limited. No money shall be paid out of the town treasury except by the approval of the chairman of the town council.

Sec. 15. Bonds of officials. The council of said town shall require a bond with sufficient surety or sureties satisfactory to said council, from all persons trusted with the collection, custody, or disbursement of any of the moneys of the said town; and may require such bond from such officials as it may deem advisable. The premiums on said bonds shall be paid by the town.

Sec. 16. Existing contracts not invalidated. All rights, actions, proceedings, prosecutions, and contracts of the town 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 thereunder.

Sec. 17. Ratification. This act shall not become operative until it shall have been ratified by the qualified voters of the town, at a special town meeting called for that purpose, an appropriate article being inserted in the call for said meeting. Said special town meeting shall be held on the 2nd Monday in October, 1937, and if a majority of the qualified voters of the town, present and voting, are in favor of its adoption this act shall become operative at the annual town meeting to be held on the 1st Monday in March 1938. Otherwise this act shall become null and void.

Sec. 18. Repealing clause. In event this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed. Provided, however, that in any matter that this charter does not provide for, the general statutes shall prevail.