

MAINE STATE LEGISLATURE

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

Legislative Document

No. 483

H. P. 1164

House of Representatives, February 7, 1939.

Referred to Committee on Legal Affairs. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Miller of Bath.

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

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

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

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 Bath shall continue to be a body politic and corporate by the name of the city of Bath, and as such shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises and shall be subject to all the duties, liabilities and obligations provided for herein, and otherwise appertaining to or incumbent upon said city as a municipal corporation or appertaining upon the inhabitants 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 committee as hereinafter provided by this charter, shall be and are vested in one body of 7 members, which shall constitute and be called the city council, all of whom shall be inhabitants and legal voters 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 Bath for all purposes required by statute, and, except as otherwise herein specifically provided, shall have all powers and authority given to and perform all duties required of municipal officers, and mayors of cities under the laws of this state.

(b) **Overseers of the poor:** The city council is hereby constituted the overseers of the poor of the city of Bath and shall perform all duties required of overseers of the poor for cities by statutes or otherwise.

(1) **Superintendent and agent of overseers of the poor; duties.** A superintendent of the poor department shall be appointed as hereinafter provided and he shall be authorized by the board of the overseers of the poor to sign in their name and send written notices and the written answers referred to and required by sections 35 and 36 of chapter 29 of the revised statutes, and amendments thereto, and such written notices and written answers, so signed, shall have the same effect as if signed by one or more of said overseers of the poor and sent by a member or members of said overseers personally.

The duties of said superintendent shall be the executive management of the city farm, almshouse, work house, house of correction, and of the poor in said city under the general policies and directions of the overseers of the poor, and he shall be directly responsible in the details of said management to his appointive 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 requisition.

(c) **Watch and ward.** 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.

(d) **Fire department.** The board of engineers of the fire department shall consist of 3 members elected by the city manager without reference to wards. They shall consist of a chief engineer, and a first and second assistant engineer and shall hold office for a term of 2 years and until their successors are elected and qualified. If, for any reason, a vacancy shall exist in the membership of the board of engineers of the fire department, the vacancy shall be filled forthwith by appointment by the city manager for the unexpired term.

The chief engineer, or in his absence, the next engineer in rank who may be present shall have all the power and authority given by law to fire wards and shall perform the duties required of fire wards in accordance with the public laws of the state of Maine, and such other duties pertaining to said fire department as may be required by the city council, or any by-law, regulation or ordinance of said city of Bath.

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

(f) **Board of assessors.** The board of assessors shall consist of 3 members appointed by the city manager without reference to ward lines. They shall hold office for a term of 3 years, and until their successors are appointed and qualified, except that at the first appointment of the members of the board of assessors, one member shall be appointed 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 one member shall be appointed each year for a term of 3 years, and each shall hold office until his successor is appointed and qualified. If for any reason a vacancy shall exist in the membership of the board of assessors, the vacancy shall be filled forthwith by appointment by the city manager for the unexpired term.

The board of assessors shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and may now or hereafter be subject to under the laws of the state.

The board of assessors may appoint competent assistant assessors as needed whose duty shall be to furnish the board of assessors with all information relative to persons and property taxable. The compensation for such assistant assessors shall be fixed by the city council.

A chief clerk may be appointed by the board of assessors, as herein-

after provided, whose duties shall be to conduct the executive details of the management of the office of the board of assessors, under the general policies as outlined by the board and to perform such other duties pertaining to said assessors department as may be required by the assessors.

(g) **Bath water district retained.** The Bath water district shall continue to be a body politic and corporate as now organized and existing under the provisions of chapter 197, private and special laws, 1915, as amended by chapter 126, private and special laws, 1919, except that whenever the term of office of the trustee expires, a successor shall be chosen by the city council, and in case any other vacancy arises it shall be forthwith filled in like manner for the unexpired term.

(h) **Board of education.** The board of education for the city of Bath shall be and continue as now established and existing under the provisions of chapter 115, private and special laws, 1915, except that the members of the present board of education shall not serve out their present terms but shall continue in office only until their successors are elected and qualified by this act.

They shall hold office for the term of 4 years, and until their successors are elected and qualified, except that the first regular municipal election held after this act shall have been approved by the voters of the city of Bath, 4 members of the board of education shall be elected and the 2 candidates receiving the highest number of votes shall serve for 4 years, and the 2 candidates receiving the next highest number of votes shall serve for 2 years. Thereafter each member as he is duly elected at the expiration of the term shall serve for the complete 4 years. Members of the board of education shall be elected on the same ballot used for the election of the members of the city council.

(i) **Cemetery and park board.** The city council shall be and constitute the park commission and shall have the power and perform the duties required of such officers under the laws of the state and the by-laws, regulations and ordinances of the city of Bath.

They shall also be and constitute the cemetery board and shall have the powers and perform the duties required of such officers under the laws of the state and the by-laws, regulations and ordinances of the city of Bath.

A superintendent of burials, who shall also be superintendent of parks and playgrounds shall be appointed, as hereinafter provided, whose duties shall be to conduct the executive details of the management of the office and to perform such other duties pertaining to such departments as may be required or directed by the city manager.

(j) All other powers now or hereafter vested in the inhabitants of said city, by the laws of the state, and all powers granted by this act, except herein otherwise provided, shall vest in the city council.

Sec. 2. Interference by 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 through the city manager, and neither the council or any member thereof shall give orders to any of the subordinates of the city manager, either publicly or privately.

Any such dictation, prevention, orders or other interference on the part of a member of the council with the administration of the city shall be deemed to be a misdemeanor and upon conviction shall be subject to a fine not exceeding \$20 or imprisonment for a term not exceeding one month, or both, and to removal from office as hereinafter provided.

Sec. 3. Wards of voting precincts. For election purposes the city of Bath shall continue to be divided into 7 wards with the 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 a manner as to preserve as nearly as convenient an equal number of inhabitants in each ward.

The city council shall provide and designate the building or room, to be used as a ward room by the inhabitants of such ward, and said room on election days shall be for their special use and at all other times, (during evenings) said rooms shall be at the service, free of charge, of the inhabitants of said wards for the purposes of caucuses or meetings.

Sec. 4. Composition, election, tenure of office. The city council shall be composed of 7 members, elected at large by and from the qualified voters of the city, voting in their respective wards, for a term of 2 years and until their successors are elected and qualified.

Each member shall receive a 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 the city manager, nor to act as city manager.

Sec. 5. Vacancies; forfeiture of office. In case of a vacancy caused by

death, resignation, removal from the city, or removal from office, as herein 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 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. 6. Regular meetings and qualifications. The city council shall meet at the usual place for holding meetings at 7:30 P. M. on the first 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 twice a month.

Sec. 7. 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 meetings 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 said special meetings.

Sec. 8. Chairman mayor. At the first meeting, or as soon thereafter as possible, the city council shall elect by majority vote, one of its members as chairman of the council for the ensuing 2 years, and until his successor is elected and qualified, and the city council shall fill for the unexpired term any vacancy as chairman may occur.

(a) **Vacancy.** If the chairman shall fail from sickness, disability, 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 city council may by unanimous vote, after notice and hearing, terminate the term of office of said chairman and remove him therefrom and thereupon by majority vote may elect some other member of said city council chairman and such newly elected member shall thereupon and thereafter hold the office and perform the the duties of chairman for the balance of the term and until his successor is elected and qualified.

(b) **Powers and duties.** The chairman shall bear the title of mayor of the city of Bath, preside at all meetings of the city council, and shall perform such other duties, consistent with this 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. He shall be recognized as the official head of the city for ceremonial purposes, and shall have the powers and authority given to and perform the duties required of mayors or 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. In the temporary absence or disability of the chairman, the city council may select a chairman pro tempore from among its members and he shall exercise all the powers of the chairman.

Sec. 9. 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 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 the adjournment was taken.

Sec. 10. 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 meeting 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 appropriations order or resolve shall be confined to the subject of appropriations only.

No ordinance and no appropriation order or resolve shall be passed on until it has been read on 2 separate days, except when the requirements of a reading on 2 separate days has been dispensed with by a unanimous vote of the members present of the city council.

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 present of the city council. Unless dispensed with by unanimous vote of the city council, every ordinance shall be published in a newspaper published (and) (or) circulated in said Bath, at least 2 days before final passage and shall take effect and shall be in full force 10 days from and after it shall have received final passage by the city council and have been approved, in case such approval is required by law.

Within 10 days of such approval said ordinance shall be published in full

in a newspaper published or circulated in said Bath, but the failure to publish said ordinance either before or after final passage shall not effect its validity or force.

No ordinance or resolve shall take effect until 10 days after its passage, except that the city council may, by vote of 5/7 of its members, pass emergency orders and 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 III

Sec. 1. Initiative and referendum. The submission to the vote of the people of any proposed 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, therefore to the city council in the manner hereinafter provided. Any 10 qualified voters of the city of Bath 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 ten 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 bill the petition and shall during office hours for thirty 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 city 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 the 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 three hundred 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 a referendum the entire repeal of the ordinance, order or resolve sought to be referred, and 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 hereto attached, be adopted?

We, the undersigned, under oath, depose and say :

That we are fully qualified voters of the City of Bath, residing respectively at the addresses placed opposite our names, and we hereby petition the City Council to submit the following question to the voters of the City of Bath at the next regular Municipal election (or at a special election).

NAMES	RESIDENCE	DATE
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I,, the City Clerk of the City of Bath 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.

DATE CITY CLERK.....

Sec. 3. Effect and referendum petition. Whenever there has been originated 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 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, except, in the event that at the expiration of the said 30 days allowed for attaching signatures, said petition fails to bear the minimum number of valid signatures required, said ordinances, resolve or order shall immediately become operative.

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 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 30 days nor more than 60 days after such presentation: provided that if a petition shall be so presented with 4 months next preceding a regular municipal election, no special election shall be called, but the question shall be submitted at regular said election.

Sec. 5. Publication of ordinance. Whenever any ordinance, resolve or order is required by the provisions of this charter to be submitted to the voters of the city at any election, the city council shall order one publication of the complete text thereof made in one or more newspapers published or circulated in Bath, such publication to be made less than 10 days nor more than 15 days prior to the election.

Sec. 6. Form of ballot. The ballots used when voting upon such pro-

posed ordinance, resolve or order 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 questions 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 and all questions submitted by the city council on its own initiative.

Sec. 10. Repeal of popular ordinance, order or resolve 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 therein at any election, such ordinance, order or resolve shall be enacted, repealed or amended accordingly. An ordinance, order or resolve 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 IV

Nominations and Elections

Sec. 1. Date of elections and procedure to determine results. On the second Monday of December A. D. 1939, and biennially thereafter 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 qualified voters of each ward, shall at the same time, ballot for a warden, a ward clerk, and ward constable for his ward.

All the votes cast for the several officers shall be sorted, counted, declared and registered in open ward meetings, as required by law. The ward clerk shall forthwith deliver to each person elected warden and 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 the first election held under this charter the then municipal officers and thereafter the city council shall not longer than 24 hours after such election examine the copies of the records of the several wards, certified as aforesaid, and shall determine the successful candidates according to the laws of the state of Maine 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 shall appear that no person has been elected to the office of councilman, or to the office of a member of the board of education, or if the person elected shall refuse to accept the office, warrants for another election to fill such vacancy shall be issued forthwith.

Sec. 2. Warden, and ward clerk, eligibility, tenure, qualifications, powers and duties, vacancies, ward meetings and how called. The warden and ward clerk, chosen as provided in the preceding action, shall be residents of the ward for which they are elected and shall hold office for 2 years from the first Monday of January following their election, 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 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 or the ward clerk shall be present, any legal voter in the ward may preside until a clerk pro tempore shall be chosen and qualified. Immediately following the election of a clerk pro tempore a warden pro tempore shall be chosen.

The clerk shall record all the proceedings and certify the votes given and deliver over to his successor in office all such records, and journals in his possession or under his control, together with all documents and papers held by him in his capacity as clerk. The ward clerk shall have and perform all rights and duties now held and performed by the ward clerk of such ward, so far as consistent with this charter. 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. 2. Nominations for elective officers to be made by petition. 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 qualified voters of the city. The petition of candidates of warden, ward clerk or ward constable shall be signed by not less than 15 nor more than 25 qualified voters of the ward within which the candidate is to be elected.

No voter shall sign more petitions of candidates than there are persons to be elected thereto and should any voter sign more than said number, his signature shall be counted only upon the first correct number of petitions 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 candidate for said office, or of any person circulating said petition in behalf of said candidate, 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 other 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 Bath:

We, the undersigned, voters of the City of Bath, hereby nominate
....., whose residence is

for the office of to be voted for at the election to be held in the City of Bath 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 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 candidate mentioned in the foregoing petition, (the person who circulated the foregoing 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. St.

Sec. 5. Filing nomination papers, acceptance of nomination 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, 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 newspapers published in the city of Bath, the names, and 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 the candidates nominated as provided in this charter shall be arranged on the ballot in alphabetical order according to surnames, under the title of the office to be filled. The

ballots shall be without party mark or designation. The full name and residence of each candidate shall be given. At the left of each name shall be a square within which the voter shall place a cross to designate his choice. 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 BATH

WARD

Regular (or Special) City Election

DATE

Facsimile of Signature

City Clerk

Official Ballot

INSTRUCTIONS TO VOTERS

To vote for any candidate mark a cross (X) in the space at the left of the name.

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

FOR CITY COUNCIL

Vote for seven

Name	Residence
Name	
Name	
Name	
Name	
Name	
Name	

FOR BOARD OF EDUCATION

Vote for two

Name	
Name	

Sec. 12. Recall provisions. Any member of the city council may be recalled and removed therefrom by the electors of the city as herein provided.

(a) **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 person 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 the 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 signature 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 three persons designated as filing the same.

(b) **Examination and amendment of the 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 insufficient, he shall forthwith 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 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 finding

of the insufficiency of a petition shall not prejudice the filing of a new petition for the same person.

(c) **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 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 regular municipal elections. The removal election shall be called and held and nominations made as in the elections under this charter except for the specific limitations of this section.

(d) **Form of ballot in recall elections.** 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 the place of the member recalled as follows: "candidate for the place of A. if recalled; candidate for the place of B. if recalled," etc., but the members whose recall is sought shall not themselves be candidates upon such a ballot. The names shall be arranged as provided in section 8 thereof.

(e) 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 that event the candidate to succeed him for the balance of the unexpired term shall be determined as provided in sections 9 and 10 hereof.

(f) If the member or members 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 the 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.

(g) **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 superior court.

Sec. 13. State laws not inconsistent applicable. The provisions of the laws of the state of Maine relating to the qualifications of electors, registrations, the manner of voting, the duties of election officers and all other particulars in respect to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections of Bath 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 elected or appointed as hereinafter designated:

(a) The following officers and boards shall be elected by ballot by the majority vote of the members of the city council:

1. City manager
2. Trustees of the Bath Water District
3. Representative for city to Knox and Lincoln R. R.
4. Associate members of the board of registration

(b) The following officers and board shall be appointed by the city manager subject to the consent and approval of the city council:

1. City clerk
2. Assessor of taxes
3. City treasurer
4. Collector of taxes
5. Superintendent of the overseers of the poor
6. Superintendent of burials and parks and playgrounds
7. Chief of police
8. Chief engineer of the fire department and assistants
9. City physician
10. Superintendent of streets and sewers
11. Inspector of buildings
12. Sealer of weights and measures
13. Health officer
14. Inspector of milk
15. City almoner
16. Bookkeeper
17. All other minor officers, department heads and boards now existing or which may be created.

(c) The various department heads and boards unless otherwise herein

provided, may hire their own subordinates, clerk, 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.
- (b) To authorize the appointment of assistants or deputies in any office.

Sec. 3. Term of service. All appointive officers whose terms of office are specified herein and all officers and heads of departments whose appointment requires consent and approval of the city council shall be removable by the appointing powers, only upon written charges, notice and hearing, if upon such hearing they are adjudged guilty of the charges preferred.

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

Sec. 4. Compensation of officers. The city council shall fix by order the salaries of the appointees of the city council, salaries of the appointees of the city manager and department heads shall be fixed by the city manager, subject to the approval of the city council.

Sec. 5. Appointment and qualification 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 shall not be a resident of the city of Bath at the time of his appointment. He shall give bond to the city of Bath 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 of his bond shall be paid by the city. He may be hired on contract for a period not to exceed 2 years (alternative) for a period to terminate at a time not later than 30 days after the next regular municipal election.

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 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:

- (a) To see that the laws and ordinances are enforced.
- (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 an officer.
- (e) To divide the duties of any office between 2 or more officers.
- (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 act as purchasing agent for the city unless by ordinance, the city council shall provide for the appointment of a person other than the city manager to be purchasing agent.
- (h) 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.
- (i) To perform such other duties as may be prescribed by this charter or required by ordinance or order 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 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 prescribed by the appointing power but shall not be inconsistent with this charter.

Duties of subordinate employees shall be as prescribed by their immediate department heads but shall not be inconsistent with the provisions of this charter.

ARTICLE VI

Business and Financial Provisions

Sec. 1. Accounts and records. Accounts shall be kept by the 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 city bookkeeper 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 obligations incurred during the preceding calendar month and a balance

sheet showing the financial conditions of the city, of the several funds, and the total unexpended balance to the credit of each department.

Sec. 2. Approving the 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 approval shall be by majority vote of the council.

Sec. 3. Audit. All the accounts of the city shall be audited annually by an auditor to be chosen by the city council.

Sec. 4. Reports. Each of the administrative officers and 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 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 in the report shall conform in general to the classification in the bookkeeper's books.

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

Sec. 5. 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 year. The budget shall be compiled from information furnished by administrative officers and board on blanks, the forms of which shall be designated by the city manager and shall contain :

- (a) Exact statement of the financial conditions 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 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 posted in a conspicuous place in the city hall not less 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 appropriations resolve.

Sec. 6. 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. 7. Reserve fund; transfers. The city council in the appropriation resolve shall provide for a reserve fund from which transfers shall be made only by a 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 the 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; the city 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 11 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. 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 VI of this charter. The credit of the city shall in no manner be loaned to any individual, association 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 Bath 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, and construction and equipment of buildings, the construction of streets and road, and other permanent improvements, and the payment of 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 Bath, and publishing said notice in a newspaper published or circulated in Bath at least 2 weeks before the final action of the city council, and the approval of 5/7 of all the members of the city council.

Every issue of bonds shall be payable within a fixed term of years. If said bonds are issued in payment of indebtedness incurred for a permanent improvement the term of such bonds shall not exceed the estimated period of utility of said improvement but the declaration of the city council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made payable shall in no case exceed 30 years.

Bonds issued after the adoption of this charter shall be made payable in equal, annual, serial installments as pertains the principal, and the 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 of each year until the debt is extinguished; provided, however, that bonds issued to refund any indebtedness of the city of Bath existing prior to the adoption of this charter on bonds issued to refund such bonds shall not be subject to the aforesaid requirement of being made payable in equal, annual, serial 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 such 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. Sinking fund; liquidation of indebtedness. Until the bonded indebtedness of the city of Bath 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 appropriation for that year.

The 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 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.

The sinking fund shall be invested as provided by the revised statutes and all acts amendatory thereof and additional thereto.

Sec. 12. Payments. Money shall be paid out only on warrants of 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 the 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 each 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 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. 14. Collection and custody of city moneys. All moneys received

by an 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 for the city and for the several officers and boards thereof, excepting for supplies for the city schools which supplies he shall purchase only upon requisition by the board of education.

No purchase of supplies exceeding an amount set by the city council, except school requirements, shall be made except through authorization of the city council.

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 ordinances provide.

ARTICLE VII

Public Utilities

Sec. 1. Franchises. All public utility franchises, hereinafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by a 5/7 vote of the members of the city council. No franchise and no renewal or amendment thereof shall be granted or made within three 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, 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 at any time for non-use, 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.

ARTICLE VIII

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, or 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 Bath 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 treasury on account of any such contract. No such officer or employee, except a policeman or fireman, shall accept or receive from any person, firm or corporation acting under a franchise or license from the city, any frank, free pass, free ticket, or free service or accept directly or indirectly from any such person, firm or corporation, any service 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 Bath at an election to be held on the same date as the next general state election, special state election, state referendum election, regular municipal election, or special municipal election, whichever is held first after this act shall have been enacted by the legislature. 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 ballots concerning a new charter for the city of Bath. 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 1939 entitled 'An Act to Grant a

New Charter to the City of Bath' be accepted?" which shall be printed on the official ballots and at said election the voters in favor of accepting this act shall vote "Yes" and those opposed shall vote "No."

Otherwise the 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 election shall apply to such election and 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 determination of 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. 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 Bath shall take effect as provided in the constitution of the state, but it shall not take effect unless adopted by the voters of the city of Bath as hereinbefore provided. If adopted by the voters of the city, then this act for the purpose of nominating and electing officers hereunto shall take effect on the date of its adoption by the voters, and for all other purposes this act shall take effect on the first Monday of January 1940.

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 of the city of Bath 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 of 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. 7. Term of office; officers; boards. 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 otherwise herein 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. 8. Miscellaneous; rules of construction. The following rules shall be observed in the construction of the act, unless such construction is inconsistent with the plain meaning of the enactment.

A. Words and phrases shall be construed according to the common meaning of the language. Technical words and phrases, and such as have a peculiar meaning, convey such technical or peculiar meaning.

B. Words of the singular number may include the plural and words of the plural number may include the singular, words of the masculine gender shall include the feminine.

C. The word "oath" includes an affirmation, when affirmation is allowed.

Sec. 9. Acts repealed. In case this act is approved in the manner hereinbefore provided, all acts and parts of acts inconsistent herewith are hereby repealed.