

# MAINE STATE LEGISLATURE

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

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**Legislative Document**

**No. 11**

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H. P. 20

House of Representatives, January 9, 1947.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Marshall of York, by request.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SEVEN

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

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**Emergency preamble.** Whereas, the town of Old Orchard Beach, in the county of York, has certain expenses and liabilities which must be met as they become due, and

Whereas, it is immediately necessary that provisions be made for raising revenue, and for the general government of said town; and

Whereas, it is immediately necessary to correct the sewerage system of said town and raise money therefor in order that the public health and safety may be protected; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. Date of town meetings.** On and after the passage of this act and its adoption by 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. Officers; how elected.** At such meetings, the voters shall then choose, as hereinafter provided, 5 inhabitants of said town to be known as councillors, and a member of the superintending school committee.

The town shall be divided into 3 councillor districts, each of which shall be entitled to 1 councillor, who must reside in the district from which he is chosen; 2 councillors-at-large, who may reside in any councillor district, shall be chosen.

The councillor districts in said town shall be those parts of the town within the boundaries designated and numbered as follows:

District No. 1 shall consist of all that part of the town northeasterly of a line based on the center of Old Orchard Street, lengthwise, as said line extends to low water mark of the Atlantic Ocean and to the boundary line of the city of Saco in a straight line to the ends of said line.

District No. 2 shall consist of all that part of the town between the line mentioned in District No. 1 and a line based on the center of Union Avenue, lengthwise, as said line extends to low water mark of the Atlantic Ocean and to the boundary line of the city of Saco in a straight line to the ends of said line.

District No. 3 shall consist of all that part of town southwesterly of the second named line mentioned in District No. 2.

District councillors shall be elected by a plurality vote of the qualified voters of their respective district. Councillors-at-large shall be elected by a plurality vote of the qualified voters of the entire town.

At the first meeting held under the provisions of this act, said councillors shall be chosen as follows: The district councillor polling the greatest number of votes shall serve for a term of 3 years; the district councillor polling the next highest number of votes shall serve for a term of 2 years; the district councillor polling the next highest number of votes shall serve for a term of 1 year; and thereafter as their respective terms expire, each district shall choose a councillor for a term of 3 years. Said councillors-at-large shall be chosen annually for a term of 1 year.

The councillors shall select annually a town treasurer, fire chief, police chief, 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, and when a vacancy exists, shall select a town manager, with duties hereafter defined, for a term not to exceed 3 years. Said health officer shall appoint a plumbing inspector for a term of 1 year, subject to the approval

of said commissioner, as now provided by general law. Except as above and hereinafter provided, all other necessary town officers provided by this act as now or hereafter provided under any statute or by-law shall be appointed by the town manager, subject to approval by a majority of the council.

Vacancies in the office of councillor due to death, resignation or other cause shall be filled at the next annual town meeting for the unexpired term.

**Sec. 3. Councillors to serve ex-officio as certain officers.** The councillors provided for in section 2 shall serve as selectmen, overseers of the poor, and assessors of taxes provided for by law, and shall have the same powers and be subject to the same duties, but said councillors may delegate to the town manager any of the duties vested in them by virtue of said offices, not inconsistent with general statutes. If this act becomes operative as hereinafter provided, the terms of office of the members of the board of selectmen, assessors of taxes, and overseers of the poor, not at that time expired, shall terminate.

**Sec. 4. Organization meeting.** The councillors elected as herein provided shall meet as soon as may be after their election, and shall choose by ballot one of their number to be chairman, and shall appoint a secretary; an affidavit of such choice of chairman with the appointment of the secretary, signed by a majority of the councillors, shall be recorded by the town clerk in the records of said town. Thereafter records shall be kept by the council of all doings of said council, said records to be public records, and shall be open to the inspection of any citizen of said town, at the office of the council.

**Sec. 5. Meetings of council.** The council shall meet once each month at such times as it may designate in its organization meeting provided for in section 4, and 3 members of said council shall constitute a quorum for the transaction of business. Special meetings of said council may be called by the chairman of said council, or by a majority of all the members of said council. Notice of such special meeting shall be mailed to, served upon, or left at the usual dwelling place of each councillor and the town manager at least 24 hours before such meeting, provided, nevertheless, that any meeting in which all councillors are present shall be deemed legal.

**Sec. 6. Superintending school committee.** The present members of the superintending school committee whose terms of office have not expired

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 by the voters for a term of 3 years. The superintending school committee, constituted or elected as herein provided, shall have the same powers in relation to schools of said town as now provided by statute, and shall be subject to the same duties in relation thereto.

Vacancies in the office of superintending school committee due to death, resignation or other cause shall be filled at the next annual town meeting for the unexpired term.

**Sec. 7. Compensation.** Each councillor shall receive an annual salary of \$100. In addition to said annual salary, councillors when sitting as a board of registration of voters in their capacity as municipal officers as required by law during the 3 secular days next preceeding any primary election, state or presidential election, shall receive a per diem of \$3 each, but the total of such per diem allowance shall not exceed \$9 for any one day, meaning and intending that any 3 of said councillors shall constitute a legal board to pass upon the qualifications of persons desiring their names entered upon the polling list of said town of Old Orchard Beach. Provided further, that for such services, as required under the general law, of such councillors, acting in their capacity as municipal officers, at any such primary election, state or presidential election, the per diem shall be \$3 per day, the total allowance for any 1 day not to exceed \$9. Provided further, that said councillors shall receive the actual and necessary expenses incurred in the performance of their duties. Payment for all services and expenses contemplated by this section shall be made by the town treasurer out of the town treasury.

**Sec. 8. Town manager; fees.** Said councillors shall by a majority vote, as soon as may be after their organization meeting, appoint a town manager. Said office of town manager is hereby created, and he shall not be a member of the council and he may or may not be a resident of Old Orchard Beach 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 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 overseers of the poor, to sign and send the written notices and written answers referred to in sections 29 and

30 of chapter 82 of the revised statutes and acts additional thereto and amendatory thereof. 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. 9. Special power of council.** At any regular meeting, the council may vote to combine the offices of collector of taxes and town treasurer.

**Sec. 10. Terms of town officers.** All appointed officers and boards shall hold office at the pleasure of the appointing power, and they can only be removed upon written charges and a public hearing before the council upon the question. Previous to the date of their removal, but pending such hearing, the council may suspend them from office.

**Sec. 11. Powers and duties of town manager.** The town manager shall be chosen by the council solely on the basis of his executive and administrative qualifications and his knowledge of road construction, and he 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 has control under this act, and the general statutes, and his powers and duties, where not otherwise herein provided, shall be generally as follows:

(a) To see that the laws and ordinances are enforced.

(b) To collect the taxes committed to him in his capacity as tax collector and to collect the automobile excise tax, imposed by law, as well as all other money that may be due the town, and immediately pay the same over to the town treasurer, receiving therefrom a duly executed voucher, which shall be retained by him as evidence of such payment.

(c) To exercise control over all departments created herein or that may be hereafter created, either by general law, ordinance or by-law.

(d) To act as purchasing agent for all departments of the town, except the school department, and to submit to competitive bids any transaction involving more than \$100, if a majority of the council so orders.

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

(f) To keep the council fully advised as to the business, financial condition and future needs of the town.

(g) To perform such other duties as may be prescribed by the council.

**Sec. 12. Duties as purchasing agent.** As purchasing agent of said town, the town manager shall purchase all supplies and materials for the town and for the several departments, with the exception of the school department, and shall see to the delivery of such supplies and materials to each department, and shall take and file receipts thereof; and all accounts for the purchase of supplies and materials and work performed for said town, with the exception of the accounts of the school department, shall bear the approval of the town manager when presented to the council for payment.

**Sec. 13. Salary.** The town manager shall devote his entire time to his said office, and shall receive for his services a rate of compensation to be fixed by the council and the actual and necessary expenses incurred in the performance of his duties, to be paid by the town treasurer in monthly payments on the first day of each month. He shall maintain an office at such place as the councillors deem advisable and shall be provided with such clerical assistance as the council may decide.

**Sec. 14. 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 or notary public.

**Sec. 15. Compensation of officers.** When not otherwise provided herein, the compensation and fees of officers of said town shall be fixed by a vote of the council.

**Sec. 16. Payments from treasury limited.** No money shall be paid out of the town treasury except by order issued and signed by a majority of the councillors or their representative authorized for the purpose and presented to the treasurer of said town at the time of payment.

**Sec. 17. Bonds of officials.** The council of said town shall require a bond from a surety company satisfactory to said council, from all persons trusted with the collection, custody or disbursement of any of the moneys of said town, in such form as they deem sufficient. The premiums on said bonds shall be paid by the town.

**Sec. 18. Ratification.** This act shall not become operative until it is ratified by the legally qualified voters of said town of Old Orchard Beach, voting at a special town meeting prior to February 10, 1947, called for that purpose by an appropriate article inserted in the call for said meeting, and when so ratified, it shall become operative on the 1st Monday in March, 1947.

**Sec. 19. Repealing clause.** All acts or parts of acts and by-laws inconsistent herewith insofar as they relate to the town of Old Orchard Beach, in the county of York, are hereby repealed. Provided, however, that this act shall not affect any of the private or special acts or resolves pertaining to the town of Old Orchard Beach, which are not inconsistent with this act: and provided further that in all matters not covered by this act and not inconsistent therewith, the general statute shall prevail.

**Sec. 20. Saving clause.** If any part or parts of this act shall be deemed unconstitutional by a court of competent jurisdiction, such decision shall not effect the validity of other parts thereof.

**Sec. 21. Emergency clause.** In view of the emergency recited in the preamble hereof, so much of this act as authorizes the submission of this act to the voters of the town of Old Orchard Beach for their acceptance shall take effect when it is approved, and when so approved, the board of selectmen of said town shall forthwith call a special town meeting for the purpose of submitting this act to the legally qualified voters of said town for their acceptance or rejection.

All other and further provisions of this act shall have and be of no effect unless accepted by the qualified voters of the town of Old Orchard Beach in accordance with the foregoing provisions.