

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 952**

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H. P. 1272

House of Representatives, February 14, 1947.

Transmitted by revisor of statutes pursuant to joint order

Referred to the Committee on Legal Affairs. Sent up for concurrence and 1,000 ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Legard of Bath.

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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 Creating a Council-Manager Form of Government  
for the City of Bath.**

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

**COUNCIL MANAGER CHARTER OF BATH**

**CHAPTER I**

**Grant of Powers to the City**

**Sec. 1. Corporate existence retained.** The inhabitants of the city of Bath, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal corporation by the name of "City of Bath, Maine".

**Sec. 2. Powers of the city.** The city 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, or otherwise pertaining to or incumbent upon said city as a municipal corporation, or the inhabitants or municipal authorities thereof; and may enact by-laws, regulations and ordinances not inconsistent with the constitution and laws of the state of Maine, and impose penalties for the breach thereof

not exceeding \$100 in any one case, to be recovered to the use of said city on complaint or by other appropriate action before the municipal court of said city.

The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require. The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which, under the constitution of this state, it would be competent for this charter specifically to enumerate.

## CHAPTER II

### City Council

**Sec. 201. City council—general powers.** The general policy regarding, and the administration of all fiscal, prudential and municipal affairs of said city with the government thereof, except as otherwise herein provided, shall be and are vested in one body of 14 members which shall constitute and be called the city council, and shall exercise its powers in the manner herein provided.

**Sec. 202. City council constituted 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 the powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this state.

**Sec. 203. City council granted watch and ward and police powers.** 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 and inhabitants of towns, are vested in said city council so far as relates to said city; and they are authorized to unite the watch and police department into one department and establish suitable regulations for the government of the same.

**Sec. 204. Creation of other departments or offices; change of duties.** The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional

functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

**Sec. 205. Ward revision.** The said city shall continue to be divided into 7 wards with the now existing boundaries; except that it shall be the duty of the city council each 10th year commencing with the year 1950 inclusive to review, and if needful to alter, the ward lines in such manner as to preserve as nearly as may be convenient, consistent with well-defined boundaries, an equal number of voters in each ward. The council shall have the power to enact an ordinance decreasing the number of wards, provided that the above rule regarding "an equal number of voters" shall be observed, and provided that there shall be at least one ward.

**Sec. 206. City property—care and management.** The city council shall have legal custody of all the city public buildings and lands, but the care, superintendence and management thereof shall be under the administrative direction of the manager except as otherwise provided herein.

**Sec. 207. Municipal dock or pier.** The council is authorized and empowered to enact an ordinance establishing a municipal dock or pier, and appropriate money for its acquisition, management, control and maintenance. Such is hereby declared to be a public purpose and a public use. The city may exercise for this purpose either or both the right of condemnation and the right of laying out a town way, all as provided by law, such town way being permissible to low water mark.

**Sec. 208. Regulation of persons and businesses.** The city council is hereby authorized to enact ordinances regulating the following classes of persons, businesses, and purposes and shall designate the city manager (who may delegate the power) to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations, not inconsistent with law, upon payment by the licensee of such fees, and filing of such bonds as said city council may establish and make provisions for by ordinance, to wit: auctioneers, airports, the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other volatile inflammable liquids for fuel or power, the manufacture, storage, sale, transportation, disposition and use of explosives and flammable liquids, billiard tables, pool tables, bowling alleys, roller skating rinks, junk dealers, dealers in second-hand parts and salvage of automobiles, dealers in second-hand merchandise, hawkers and peddlers, plumbers, employment agencies, itinerant vendors,

public automobiles, taxi-cabs and motor buses, public wagons and trucks, amusements, exhibitions and performances, theatres, moving picture houses, inns, victualers, pawnbrokers, lodging houses of 10 lodging rooms or more, public shooting galleries, the manufacture, storage, sale, disposition and use of fireworks, dance halls, circuses, and the erection and maintenance of signs, flags, banners, awnings, marquees and all other things within the limits of the sidewalk, roads, ways and streets of said city, and no such objects placed within said limits in accordance with such ordinances shall be deemed defects in such sidewalk, roads, ways and streets. The provisions of this section shall also apply in full to the erection or enlargement of any building within any city fire district presently established or to be established by the city council; and to the erection or enlargement of any building upon any of the wharves, piers or docks in said city.

**Sec. 209. Residue of powers.** All other powers now or hereafter vested in the inhabitants or said city and all powers granted by this act, except as herein otherwise provided, shall be vested in said city council.

**Sec. 210. Number, election, term.** The city council shall be elected by and from the qualified voters of the city on an equal basis of 2 members from each of the duly established wards who shall hold office until their successors are elected and qualified. Provided, however, that (a) at the first election after the adoption of this charter the member-elect in each ward who receives the largest number of votes cast at such election shall hold office for 2 years from the first Monday in March next following the date of his election, and that the member-elect in each ward who receives the next largest number of votes cast at such election shall hold office for 1 year from the first Monday in March next following the date of his election; and that (b) at each subsequent annual election thereafter on the second Monday in February the member-elect in each ward who receives the largest number of votes cast in such election shall hold office for 2 years from the first Monday in March next following the date of his election.

**Sec. 211. Qualifications.** Councilmen shall be qualified electors of the city and remain inhabitants of the city during their term of office. They shall hold no office of emolument or profit under the city charter or ordinances; nor shall they participate directly or indirectly in any commercial transaction with any office, department or agency of the city whatsoever during their term of office. If a councilman shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant.

**Sec. 212. Compensation.** No salary shall be paid to members of the city council. The city council by order shall fix the salaries and/or other compensation of the appointees of the city manager and of officials elected by the city council, including the salary of the city manager for his services as such.

**Sec. 213. Induction of council into office.** The city council shall meet at the usual place for holding meetings at 7:30 o'clock PM on the first Monday in March 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.

**Sec. 214. Chairman of the council.** At its first meeting or as soon thereafter as practicable the council shall elect, by majority vote of the entire council, one of its members for the ensuing year as chairman of the council, and the city council may fill, for the unexpired term any vacancy in the office of chairman that may occur. He shall preside at the meetings of the council and shall be recognized as the official head of the city for all 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, but shall have no regular administrative duties.

The chairman shall act in lieu of the mayor insofar as representation is provided for the city by the mayor upon any board or commission by any statute.

In the temporary absence or disability of the chairman, the city council may elect a chairman pro tempore from among its members and he shall exercise all the powers of chairman during such temporary absence or disability of the chairman.

**Sec. 215. Council to be judge of the qualifications of its members.** The council shall be the judge of the election and qualifications of its members and for such purpose shall have powers to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

**Sec. 216. Regular meetings.** The city council shall, at its first meeting or as soon thereafter as possible, establish by ordinance or by resolution a regular place and times for holding its regular meetings, and shall meet regularly at least once a month. All meetings of the city council as a whole or in committee shall be open to the public.

**Sec. 217. 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 city council. Notice of such meetings shall be served in person upon, or left at the residence of each member of the city council and of the city manager at least 24 hours before the time of holding such special meeting. The city council may meet upon shorter notice by unanimous consent of all its members, recorded in the record of such meeting.

**Sec. 218. 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. 219. Vote, how taken.** In all meetings of the city council the vote shall be taken by yeas and nays on the passage of all ordinances, and on the passage of any order or resolve when called for by any member of the council, and such yea and nay votes shall be entered on the record of the proceedings of the council by the city clerk.

**Sec. 220. Vacancies in council.** If a seat in the council becomes vacant more than 6 months prior to the end of the term of office for which the member vacating was elected, the vacancy for the unexpired term shall be filled within 60 days from the date that the vacancy occurred, by a special election in the ward concerned, 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.

**Sec. 221. Rules of procedure; journal.** The council shall determine its own rules and order of business and make lawful regulations for enforcing the same. Provided however that nothing in the rules of procedure to be adopted shall nullify the right of the public to attend all meetings of the city council as provided for in section 216 of this charter. It shall act only by ordinance, order or resolve. All ordinances, orders and resolves, except those pertaining to appropriations shall be confined to one subject which is clearly stated in the title. The appropriation ordinance shall be confined to the subject of appropriations only. The city council shall keep a journal of its proceedings and the journal shall be open to public inspection.

**Sec. 222. Board of registration.** The city council shall elect the 2 associate members of the board of registration of voters, who shall serve for such term and perform such duties as may be provided by law.

**Sec. 223. City clerk.** The council shall elect an officer of the city to serve at its pleasure, who shall have the title of city clerk, shall give notice

of its meetings, shall attend all meetings of the city council and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions duly indexed and open to public inspection and shall perform such other duties as shall be required by this charter or by ordinance. He shall issue to every person appointed to any office by the city council or by the city manager, a certificate of such appointment. He shall perform all duties and exercise all powers incumbent upon or vested in town and city clerks generally, and by statute, and shall be the custodian of the seal of the city. In case of the temporary absence of the city clerk, the city council may appoint a clerk pro tempore, with all the powers, duties and obligations of the city clerk, who shall be duly qualified.

**Sec. 224. Ordinances.** In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be, "The council of the city of Bath hereby ordains:"

**Sec. 225. Procedure for passage of ordinances; first reading.** Every ordinance shall be introduced in writing and after passage on first reading shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall be at least 1 week prior to the time advertised. If the proposed ordinance exceeds 1,000 words; a summary only may be published.

**Sec. 226. Second reading and public hearing.** At the time and place so advertised, or at any time and place to which such hearing shall from time to time be adjourned, all persons interested shall be given an opportunity to be heard.

**Sec. 227. Further consideration; final passage.** After such hearing, the council may finally pass such ordinance with or without amendment. The second passage of any ordinance pursuant to this charter shall be final and no further passage shall be required. No ordinance shall require the sanction of any court or justice.

**Sec. 228. Publication of ordinances after final passage.** After final passage every ordinance shall be published in full, except that a summary only of those exceeding 1,000 words in length may be published. Every ordinance, unless it shall specify a later date, shall become effective at the



expiration of 20 days after such publication following final passage, or, if the ordinance be submitted at a referendum election, then upon a favorable vote of a majority of those voting thereon except as otherwise expressly provided by this charter.

**Sec. 229. Independent monthly audit.** Prior to the beginning of each fiscal year the council shall designate the appropriate state auditing agency or private qualified public accountants who, as of the end of each month during said fiscal year, shall make an independent audit of accounts and other evidences of financial transaction of the city government and shall submit their report to the council and the manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the city council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

**Sec. 230. Appointment of city manager.** The council shall appoint an officer of the city who shall have the title of city manager and shall have the powers and perform the duties in this charter provided. No councilman shall receive such appointment during the term for which he shall have been elected, nor within 2 years after the expiration of his term, nor shall any member of the city council act in that capacity.

**Sec. 231. Removal of city manager.** The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but the regular salary of the manager shall continue to be paid to him during such period of suspension. If removal is voted, the city council shall cause to be paid to him forthwith any unpaid balance of his salary and his salary for the next 2 calendar months.

**Sec. 232. Council to confirm all appointments by city manager.** All appointments to office or employment by the city manager shall be confirmed by the city council. Except, however, for the purpose of inquiry,

the council and its members shall deal with subordinates of the city manager solely through the manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

**Sec. 233. Recreation commission.** The city council shall make all appointments to the recreation commission at the intervals and for the terms of office specified by ordinance.

**Sec. 234. City solicitor.** The city council shall elect, by majority vote of its members, a city solicitor who shall hold office at its pleasure and for such salary and/or compensation as may be determined by the council. The city solicitor shall discharge the duties of his office as required by any ordinance, order or resolve of the council.

### CHAPTER III

#### The City Manager

**Sec. 301. Selection and qualifications.** The city manager shall be chosen by the council, with the advice of the Personnel Service Commission, solely on the basis of his character, executive and administrative qualifications, professional training and actual experience in municipal administration. At the time of his appointment he need not be a resident of the city of Bath or the state of Maine, but during his tenure of office he shall reside within the city of Bath.

**Sec. 302. Powers and duties.** The city manager shall be the chief executive officer and purchasing agent for the city. He shall have direct control of the administrative branches of the city government specified in section 304 of this chapter. He shall be responsible to the council for the proper administration of all affairs of the city under his jurisdiction and to that end, subject to existing personnel regulations, he shall have power and be required to:

- (1) Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all officers and employes of the city under his supervision; provided that any such administrative officer to be removed may request a hearing under such rules and regulations as the council may determine.
- (2) Prepare the budget annually, submit it to the council, and be responsible for its administration after adoption;
- (3) Prepare and submit to the council as of the end of the fiscal year a complete report on the finances and administrative activities of the city

for the preceding year, and cause such annual city report to be published and made available to the public as promptly as possible after the close of the fiscal year ;

(4) Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable ;

(5) Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.

**Sec. 303. Absence of city manager.** During the temporary absence or disability of the manager, the council may by resolution appoint an officer of the city to perform the duties of the manager until he shall return or his disability shall cease.

**Sec. 304. Administrative departments.** The following departments, and such other departments as may be established by ordinance, shall constitute the administrative branches of the city government directly subject to the manager: police, fire, highways and sewers, health, public welfare, cemeteries and parks. Each of these departments shall be supervised by an officer of the city who shall have full control of the department subject to the city manager.

**Sec. 305. Chief of police and harbor master.** The manager shall appoint for indefinite term an officer of the city titled chief of police and harbor master. This official shall be responsible to the manager for the supervision of the police department and shall be charged also with enforcing the observance of the laws of the state and the ordinances of the city relating to the harbor.

**Sec. 306. Superintendent of public welfare, city physician, city almoner.** The manager shall appoint for indefinite term an officer of the city whose title shall be superintendent of public welfare, who shall be responsible administratively to the manager, and who shall exercise all the powers and perform all the duties conferred or imposed by law upon overseers of the poor. The superintendent shall be responsible for the administration of all affairs of the city concerning charities and corrections, charitable trust funds, state aid and pensions.

The manager shall appoint for indefinite term a city physician and a city almoner who shall act under the direction of the superintendent of public welfare.

**Sec. 307. Health officer.** With approval of the council the manager shall appoint an officer of the city for such term and with such qualifica-

tions to carry out the duties of the office of city health officer, as required by statute law.

**Sec. 308. Sealer of weights and measures.** The city manager shall appoint for indefinite term an officer of the city to discharge the duties of sealer of weights and measures under the direction of the chief of police. The sealer shall be compensated by lawful fees.

**Sec. 309. Board of fire engineers and fire escape inspectors.** The manager shall appoint for indefinite term a board of engineers of the fire department consisting of a fire chief, first assistant and second assistant who shall be responsible to the manager for the administration of the fire department and who shall have all the power and authority that fire wards now have.

The fire chief shall be inspector of chimneys and heating apparatus and shall enforce the statutes relating thereto.

It shall be the duty of the board of fire engineers to enforce the regulations of the public laws relating to fire escapes and other safeguards for the protection of life.

**Sec. 310. Superintendent of highways and sewers.** The city manager shall appoint for indefinite term a superintendent of highways and sewers who shall be responsible administratively to the manager and who shall carry out the duties of his office as required by statute and ordinance.

**Sec. 311. Cemeteries and parks.** The manager shall appoint for indefinite term a superintendent of burials and burial grounds who shall be responsible to the manager for the superintendence and administration of all cemeteries, parks and other public grounds as specified by ordinance. The superintendent shall perform all the duties of his office as required by ordinance.

**Sec. 312. City constable and messenger.** The manager shall appoint for indefinite term an officer of the city entitled city constable and messenger who shall receive, deliver and execute, all notifications, summonses and precepts issued by the chairman of the council, the council or committees thereof, or the city manager, and make due return thereof.

He shall prepare and arrange the chambers required for all meetings of the council and be in constant attendance upon the members while in session.

The city constable and messenger shall have the superintendence of the city hall and the adjoining rooms, and shall see that they are kept clean

and in good condition at all times. He shall be subject to these and such other duties as the council may determine.

#### CHAPTER IV

##### Department of Education

Established by Chapter 115, Private and Special Laws 1915

#### CHAPTER V

##### Department of Finance

**Sec. 501. Board of Tax Assessors.** There shall be three assessors of taxes, one to be elected each year on the 1st Monday in March by majority vote of the city council for a term of three years and until his successor is elected 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 the city council 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 the state. The assessors may appoint one assistant assessor in each ward and one additional assistant assessor in each ward, if the city council shall so direct, whose duty it shall be to furnish the assessors with all the necessary information relative to persons and property taxable. The compensation of such assistant assessors shall be fixed by the city council, but such assistant assessors shall hold office during the pleasure of the assessors.

**Sec. 502. City treasurer and tax collector.** By majority vote of its members the council shall elect annually on the 1st Monday in March an officer of the city titled city treasurer and tax collector for a term of one year. In the administration of the financial affairs of the city the treasurer shall have authority and be required to:

- (1) Compile the current income and expense estimates for the budget for the city manager;
- (2) Compile the capital estimates for the budget for the city manager;
- (3) Supervise and be responsible for the disbursement of all moneys and have accounting control over all expenditures to ensure the budget appropriations are not exceeded;
- (4) Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency;

keep separate accounts for the items of appropriation contained in the city budget, each of which shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;

(5) Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city.

(6) Prepare for the city manager, as of the end of each fiscal year, a complete financial statement and report;

(7) Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department or agency of the city;

(8) Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the council, or, if no such resolution be adopted, by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account;

(9) Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;

(10) Certify all proposed expenditures; unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.

**Sec. 503. Work programs; allotments.** Before the beginning of the budget year, the head of each office, department or agency shall submit to the city manager, when required by him, a work program for the year, which program shall show the requested allotments of the appropriations for such office, department or agency, by monthly periods, for the entire budget year. The city manager shall review the requested allotments in

the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total appropriation available to said office, department or agency for the budget year.

**Sec. 504. Allotments constitute basis of expenditures and are subject to revision.** The city manager shall file a copy of the allotments with the city treasurer, who shall authorize all expenditures for the offices, departments and agencies to be made from the appropriations on the basis of approved allotments and not otherwise. An approved allotment may be revised during the budget year in the same manner as the original allotment was made. If, at any time during the budget year, the city manager shall ascertain that the available income, plus balances, for the year will be less than the total appropriations, he shall reconsider the work programs and allotments of the several offices, departments and agencies and revise the allotments so as to forestall the making of expenditures in excess of the said income.

**Sec. 505. Transfers of appropriations.** The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last 3 months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another. No transfer shall be made from the appropriations required by subsections (a), (b), (c), (d), (e), (f), (g), and (h), of section 625 of this charter.

**Sec. 506. Accounting supervision and control.\*** The city treasurer shall have power and shall be required to:

- (1) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;
- (2) Examine and certify all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;
- (3) Audit and certify before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with legal advice determine the regularity, legality and correctness of such claims, demands or charges;

(4) Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

**Sec. 507. When contracts and expenditures prohibited.** No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of misdemeanor and, upon conviction thereof, shall cease to hold his office or employment. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

**Sec. 508. Appropriations lapse at end of year.** All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered, except as otherwise specifically required by general law or agreement concerning moneys granted to the city of Bath by the state of Maine or other unit of government.

**Sec. 509. Purchasing.** The purchasing agent, pursuant to rules and regulations established by ordinance, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department or agency of the city government. The purchasing agent shall also have power and shall be required to:

- (1) Establish and enforce specifications with respect to supplies, materials, and equipment required by the city government;
- (2) Inspect or supervise the inspection of all deliveries of supplies, materials, and equipment, and determine their quality, quantity and conformance with specifications;
- (3) Have charge of such general storerooms and warehouses as the council may provide by ordinance;
- (4) Transfer to or between offices, departments or agencies, or sell surplus, obsolete, or unused supplies, material and equipment.

**Sec. 510. Competitive bidding.** Before the city purchasing agent makes any purchase of or contract for supplies, materials or equipment,



he shall give ample opportunity for competitive bidding, under such rules and regulations, and with such exceptions, as the council may prescribe by ordinance; provided, however, that the council shall not except individual contracts, purchases or sales from the requirement of competitive bidding. The ordinance may authorize the city purchasing agent to combine with other units of government or with a state association of municipalities for purchasing purposes.

**Sec. 511. Contracts for city improvements.** Any city improvement costing more than \$1,000 shall be executed by contract except where such improvement is authorized by the council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$1,000 shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the city manager shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the council upon the written recommendation of the city manager.

**Sec. 512. Accounting control of purchases.** All purchases made and contracts executed by the purchasing agent shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the city treasurer certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

**Sec. 513. No contract executed until bond ordinance effective.** No contract shall be executed for the acquisition of any property or the construction of any improvement or betterment to be financed by the issuance of bonds until the ordinance authorizing the issuance of such bonds shall have taken effect and any contract executed before such day shall be unenforceable in any court of law.

**Sec. 514. Appropriation limitation.** Other than by the one regular annual budget appropriation ordinance, the city council shall make no appropriations except "emergency appropriation" as defined and provided under section 515.

**Sec. 515. Emergency appropriations.** At any time in any budget year, the council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure, for other than a regular or recurring requirement, to protect the public health, safety or welfare.

Such appropriation shall be by resolution adopted by the favorable votes of at least  $\frac{2}{3}$  of all elected members of the council, and shall be made only upon recommendation of the city manager. The total amount of all emergency appropriations made in any budget year shall not exceed 3% of the total operating appropriations made in the budget for that year, except upon recommendation of the city manager and approved by unanimous vote of all the elected members of the council.

**Sec. 516. Borrowing to meet emergency appropriations.** In the absence of unappropriated available revenues to meet emergency appropriations under the provisions of section 515, the council may by resolution authorize the issuance of notes, each of which shall be designated "emergency note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

**Sec. 517. Sale of notes.** All notes issued pursuant to this chapter may be sold at not less than par and accrued interest at private sale without previous advertisement by the city treasurer.

**Sec. 518. Payment of notes.** The power and obligation of the city to pay any and all notes hereafter issued by it pursuant to this chapter shall be unlimited and the city shall levy ad valorem taxes on all the taxable property within the city for the payment of such notes and interest thereon without limitation of rate or amount. The faith and credit of the city is hereby pledged for the payment of the principal of and interest on all notes of the city hereafter issued pursuant to this chapter, whether or not such pledge be stated in the notes.

**Sec. 519. Sinking fund.** Until the funded indebtedness, not provided for by serial bonds, of the city of Bath in force at the time of the adoption of this charter, together with any renewal thereof, is fully paid, the city council shall raise and set apart each year for a sinking fund a sum equal to not less than 2% of the total of appropriations for that year. The sinking fund shall be invested as provided by law, and shall be applied only to the payment of such funded indebtedness.

## CHAPTER VI

### Budget

**Sec. 601. Fiscal year.** The fiscal year of the city government shall begin on the first day of April and shall end on the last day of March of each calendar year. Such fiscal year shall also constitute the budget and

accounting year. As used in this charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered. The first budget and appropriation pursuant thereto after adoption of this charter shall be for the period from February 1, 1948 to March 31, 1948, to accomplish the change in budget years, and dates of budget preparation, hearing thereon, and its passage may be correspondingly advanced over dates herein required for normal annual budget and appropriation preparation, hearing and passage.

**Sec. 602. Preparation and submission of budget.** The city manager, on the first Monday in March in each calendar year, shall submit to the council a budget and an explanatory budget message in the form and with the contents provided by sections 613 to 616. For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency estimates of **revenue and expenditure** of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all capital projects pending or which such department head believes should be undertaken (a) within the budget year and (b) within the 5 next succeeding years. In preparing the budget, the city manager shall review the estimates, and may revise them as he may deem advisable.

**Sec. 603. Budget a public record.** The budget and budget message and all supporting schedules shall be a public record in the office of the city clerk open to public inspection by anyone. The city manager shall cause sufficient copies of the budget and budget message to be prepared for distribution to interested persons at least 7 days prior to the public hearing provided for by section 605 of this charter.

**Sec. 604. Publication of notice of public hearing.** At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than 7 days after date of publication, at which the council will hold a public hearing.

**Sec. 605. Public hearing on budget.** At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

**Sec. 606. Further consideration of budget.** After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law or prescribed by subsections (a), (b), (c), (d), (e), (f), (g) and (h) of section 625. The council may not vary the titles, descriptions or conditions of administration specified in the budget.

**Sec. 607. Increase of budget.** If the council inserts additional items, or makes increases, which increase the total proposed expenditures, it shall also increase the total anticipated revenue to at least equal such total proposed expenditures.

**Sec. 608. Adoption of budget; vote required.** The budget shall be adopted by the favorable votes of at least a majority of all the members of the council.

**Sec. 609. Date of final adoption; failure to adopt.** The budget shall be finally adopted not later than the 27th day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the council.

**Sec. 610. Effective date of budget; certification; copies made available.** Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the city manager and city clerk and filed in the office of the city treasurer. The budget so certified shall be printed, mimeographed or otherwise reproduced and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

**Sec. 611. Budget establishes appropriations.** From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

**Sec. 612. Budget establishes amount to be raised by property tax; certification to board of assessors.** From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the city manager and filed by him with the board of assessors, whose duty it shall be to levy such taxes for the corresponding tax year.

**Sec. 613. Budget message; current operations.** The budget message submitted by the city manager to the council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy.

**Sec. 614. Budget message; capital improvements.** As a part of the budget message, with relation to the proposed expenditures for down payments and other proposed expenditures for capital projects stated in the budget, the city manager shall include a statement of pending capital projects and proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts, if any, proposed to be raised therefor by the issuance of bonds during the budget year.

**Sec. 615. Budget message; capital program.** The city manager shall also include in the message, or attach thereto, a capital program of proposed capital projects for the 5 fiscal years, next succeeding the budget year, together with his comments thereon and any estimates of costs prepared by the office, department or agency concerned.

**Sec. 616. Budget message; supporting schedules.** Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital improvements, as the city manager shall believe useful to the council.

**Sec. 617. Budget.** The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (A) A general summary;
- (B) Detailed estimates of all anticipated revenues applicable to proposed expenditures;
- (C) All proposed expenditures.

The total of such anticipated revenues shall equal the total of such proposed expenditures.

**Sec. 618. Anticipated revenues.** Anticipated revenues shall be classified as "surplus", "miscellaneous revenues" and "amount to be raised by property tax"; miscellaneous revenues shall be sub-classified by sources and shall be estimated as prescribed in sections 621 to 624 of this chapter.

**Sec. 619. Anticipated revenues compared with other years.** In parallel columns opposite the several items of anticipated revenues there shall be

placed the amount of each such item in the budget of the last completed fiscal year, the amounts of such items actually received during the year, the amount of each item in the budget of the current fiscal year and the amount actually received to the time of preparing the budget plus receipts for the remainder of the current fiscal year estimated as accurately as may be.

**Sec. 620. Surplus.** Surplus shall include:

- (a) Revenue receipts made available by the lapsing of unencumbered appropriation balances at the beginning of the budget year;
- (b) Receipts from unanticipated miscellaneous revenues of the preceding fiscal year;
- (c) Receipts from anticipated miscellaneous revenues of the preceding fiscal year in excess of the estimates in the budget;
- (d) Receipts during the previous fiscal year from taxes or liens against which a complete reserve has been established.

**Sec. 621. Miscellaneous revenues.** Miscellaneous revenues shall include anticipated revenues from the collection of taxes other than the general property tax; the amount of state aid to be received; the amount by which the city is expected to benefit from taxes collected by the state; the amounts estimated to be received from services and sales, fines and forfeitures, pension assessments, special assessments and any other special or non-recurring sources.

**Sec. 622. Miscellaneous revenues; measure of estimates.** No miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year, and that actually realized in the first ten months of the current fiscal year plus that to be received in the remaining two months of the year estimated as accurately as may be, unless the city manager shall determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the council.

**Sec. 623. Miscellaneous revenues; receipts from special assessments.** Revenues from collection of special assessments on property specially benefited shall not be stated in an amount which is in excess of the amount of the receipts so derived which it is estimated will be held in cash on the first day of the budget year.

**Sec. 624. Miscellaneous revenues; from new sources.** No revenue from a new source not previously stated in the budget shall be included unless the city manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and shall certify such determination in writing to the council. If the new revenue is to be received from the state, the anticipated amount shall not exceed the amount which the proper officer of the state shall declare in writing to be the amount which may reasonably be anticipated in the budget year.

**Sec. 625. Proposed expenditures.** The proposed expenditures shall be itemized in such form and to such extent as shall be provided by ordinance. Separate provision shall be included in the budget for at least:

- (a) Interest, amortization and redemption charges on the public debt, including the requirement of section 519 of this charter;
- (b) Other statutory expenditures;
- (c) The payment of all judgments;
- (d) The amount by which the total receipts of miscellaneous revenues in the last completed fiscal year failed to equal the total of the budget estimates of receipts from miscellaneous revenues in that year;
- (e) An amount equal to the aggregate of all taxes levied for the third fiscal year prior to the budget year which are delinquent and outstanding on the 60th day prior to the beginning of the budget year, except to the extent the city may have made provision therefor by reserving the full amount of said delinquent taxes;
- (f) An amount equal to the aggregate of all cancellations, remissions, abatements and refunds of taxes, that have been made during the current fiscal year;
- (g) An amount equal to the aggregate of all special revenue notes which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;
- (h) An amount equal to the aggregate of all emergency notes which it is estimated will be outstanding at the end of the current year;
- (i) Administration, operation and maintenance of each office, department or agency of the city itemized by character and object of expenditure;
- (j) Contingent expense in an amount not more than 3% of the total amount stated pursuant to subsection (i) of this section;

(k) expenditures proposed for capital projects, including provisions for down payments on capital projects, as required by section 627 of this charter.

**Sec. 626. Proposed expenditures; comparison with other years.** In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during such year, the amount of each such item in the budget of the current year and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.

**Sec. 627. Down payments on capital projects.** Under the special caption of "down payments on capital projects," as provided in subsection (k) of section 625 of this charter, there shall be separately stated as to each capital project for which it is expected that bonds will be authorized during the budget year, a sum which is not less than 5% of the amount of bonds to be authorized for that project. For purposes of the down payments, all street improvements expected to be partly financed by the issuance of bonds during the budget year may be considered a single project; likewise all extensions of the sewer system. Such an appropriation for a down payment shall not be required before the issuance of bonds to finance any capital expenditure which is the result of fire, flood, or other disaster, or which is to be met in part, in cash, labor or materials, by any agency of the government of the United States of America, or of this state.

**Sec. 628. Budget summary.** At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

## CHAPTER VII

### Borrowing for Capital Improvements

**Sec. 701. Definitions.** As used in this charter: "Capital project," or "project," means, (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; (c) the purchase of equipment for any public betterment or improvement when first erected or acquired.



“Pending,” when applied to capital project, means authorized, but not yet completed.

**Sec. 702. Power to incur indebtedness by issuing bonds and notes.** The city may incur indebtedness by issuing its negotiable bonds, and notes in anticipation of bonds, pursuant to this charter, to finance any capital project which it may lawfully construct or acquire.

**Sec. 703. Bond ordinance; vote required.** The city shall authorize the issuance of bonds by a “bond ordinance” passed by the affirmative votes of at least a majority of all the members of its council, as provided by this charter.

**Sec. 704. Form and content of bond ordinance.** A bond ordinance shall contain in substance at least the following provisions:

- (1) An appropriation of a sum of money for a capital project, described in brief and general terms sufficient for reasonable identification;
- (2) To finance the said appropriation, an authorization of the incurring of indebtedness by the issuance of bonds in a stated amount, pursuant to this charter;
- (3) A statement of the estimated maximum cost of the capital project, including any sums theretofore or thereby appropriated;
- (4) A statement of the amount of the down payment appropriated in the budget of that year in anticipation of such bond issue;
- (5) A determination of the period of usefulness of the project, within the limitations of sections 721 and 722 of this charter;
- (6) A determination of the net debt of the city after the issuance of the bonds, thereby authorized, together with a declaration that the bonds thereby authorized will be within the debt limitation prescribed by the constitution of the state of Maine. For the purposes of this section, “net debt” is hereby defined as the total of all outstanding bonds and notes, plus accounts payable, and minus any funds in a sinking fund which are available only for debt retirement.

**Sec. 705. Title of bond ordinance; citation.** The title of a bond ordinance shall state the amount appropriated for an indicated project and the amount of bonds authorized to finance the appropriation. Bond ordinances shall be cited in bonds and notes by title and date of final passage.

**Sec. 706. Form and content when two or more projects are combined.** A bond ordinance may combine two or more projects, in which event it shall, for each project, establish a separate appropriation and state

separately the estimated maximum costs and amounts of down payments, but shall authorize a single issue of bonds to finance the aggregate of the appropriations thereby made. The title of such bond ordinance may state the aggregate of the appropriation, instead of the respective amounts.

**Sec. 707. Form and content; average period of usefulness.** If a bond ordinance combines two or more projects, it shall, in addition to determining the respective periods of usefulness, determine the average period, taking into consideration the respective amounts of bonds for the several projects.

**Sec. 708. Procedure for passage of bond ordinance; publication after final passage.** The procedure for passage of a bond ordinance shall be the same as that prescribed by sections 225, 226, 227, and 228 of this charter for other ordinances of the city, except that when published after final passage, each bond ordinance shall be accompanied by a notice in substantially the following form:

**NOTICE**

The bond ordinance published herewith has been finally passed and the twenty-day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced as provided in the city charter has begun to run from the date of the first publication of this notice.

.....  
City Clerk

**Sec. 709. Referendum on bond ordinances.** Each such ordinance shall be subject to permissive referendum on petition pursuant to the provisions of chapter 9 of this charter, unless the bonds are authorized solely for a capital purpose made necessary as the result of fire, flood or other disaster.

**Sec. 710. Effective date of bond ordinance.** Each bond ordinance shall take effect on the 21st day after its first valid publication after final passage, unless it be submitted to referendum, in which event it shall not take effect unless it be approved by the favorable vote of at least a majority of those voting thereon.

**Sec. 711. No bond ordinance to be passed unless appropriation made for down payment.** No bond ordinance shall be passed unless it states separately for each purpose the amount of the "down payment" specifically appropriated to that purpose in the previously adopted budget. The down payment shall be an available sum of money equal to at least 5% of the amount of bonds authorized. For the purposes of down payments, all

street improvements expected to be partly financed by the issuance of bonds during a single fiscal year may be considered a single project; so also may all extensions of the sewer system.

**Sec. 712. Down payment not required in certain cases.** The provisions of section 711 shall not apply to a bond ordinance which authorizes bonds solely to finance expenditures which are the result of fire, flood or other disaster, or authorizes bonds solely to finance an improvement of which any part of the cost is to be met in cash, labor or materials, by any agency of the government of the United States of America, or of this state.

**Sec. 713. Authorization of notes in anticipation of bonds; maturity.** In anticipation of the issuance of bonds, the council may by resolution authorize the issuance of negotiable notes, when it shall have theretofore authorized the issuance of bonds. Each such note shall be designated "bond anticipation note" and, including renewals, shall mature and be paid not more than 14 calendar months after the date of issuance of the original note. Unless otherwise provided by ordinance, all bond anticipation notes may be sold by the city treasurer at private sale without previous offering.

**Sec. 714. Other proceedings by resolution.** All matters in connection with the authorization, sale and issuance of the bonds or notes not specifically required to be provided in the bond ordinance may be determined or provided by subsequent resolutions adopted by the affirmative votes of at least a majority of the members of the council.

**Sec. 715. Special debt statement.** In connection with any bond ordinance and prior to the date of introduction thereof, the city treasurer may prepare, swear to and file for public inspection in the office of the city clerk, a special debt statement which shall set forth (a) the aggregate principal amount of all outstanding bonds and notes of the city, (b) deductions permitted by the constitution and general laws, (c) the amount of the existing net indebtedness, (d) the amount of the net indebtedness after the issuance of the bonds authorized by such bond ordinance and (e) the aggregate principal amount of bonds and notes which the city may issue, pursuant to law.

**Sec. 716. Special debt statement presumed to be accurate.** If the special debt statement provided for by section 715 of this chapter be filed pursuant to the said section and be approved by resolution of the council adopted prior to the final passage of the bond ordinance by the affirmative vote of at least a majority of all the members of the council, and be published with the bond ordinance after final passage thereof, such special debt statement shall be presumed to be accurate.

**Sec. 717. Legal effect of special debt statement.** After the issuance of any bonds or notes in reliance on a special debt statement made, filed, approved and published in accordance with the provisions of sections 715 and 716 of this charter, the accuracy and sufficiency of such special debt statement shall not be contested in any suit, action or proceeding relating to the validity of such bonds or notes and such bonds or notes shall be conclusively presumed to be within all debt or other limitations prescribed by this charter or the constitution or any law of this state.

**Sec. 718. All bonds paid in annual installments.** All bonds issued after the adoption of this charter shall be made payable in consecutive equal annual serial installments.

**Sec. 719. First annual installment.** The first annual installment shall be paid not more than 1 year, or if the bonds are issued to fund notes, not more than 2 years, after the date of final passage of the bond ordinance by virtue of which they are issued.

**Sec. 720. Last annual instalment.** The last annual instalment of each authorized issue of bonds shall be paid not later than the date of expiration of the period of usefulness of the project for the financing of which such bonds are issued, or of the average period of 2 or more combined projects, as determined in the bond ordinance authorizing the issuance of the bonds.

**Sec. 721. Period of usefulness computed from date of passage.** The period of usefulness of each project, and the average period in the case of 2 or more projects combined in one authorized issue, shall be computed from the date of final passage of the bond ordinance by virtue of which the bonds are issued.

**Sec. 722. Period of usefulness.** Every issue of bonds shall be payable within a fixed term of years which shall in no case exceed 30 years.

**Sec. 723. Determination of period of usefulness.** Within the foregoing maximum periods, bonds shall mature not later than the expiration of the period of the probable usefulness of the capital project for which they are issued, as determined by the council, and stated in the bond ordinance.

**Sec. 724. Determination of council conclusive.** The determination of the council, in the bond ordinance, as to the classification of the projects for which bonds are authorized and as to the period of usefulness or average period, shall be conclusive in any action or proceeding involving the validity of the bonds.

**Sec. 725. Public sale.** All bonds issued under this charter, shall be sold at public sale upon sealed proposals after at least 10 days' notice pub-

lished at least once in a publication carrying municipal bond notices and devoted primarily to financial news or to the subject of state and municipal bonds, published in Boston, Massachusetts, and at least 10 days' notice published at least once in a qualified newspaper published in or having a general circulation in the city of Bath.

**Sec. 726. Short period of limitations.** When 20 days shall have elapsed after the publication after final passage of a bond ordinance as provided by this charter, (a) any recitals or statements of fact contained in such bond ordinance, or in the preambles or recitals thereof, shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized and the city and all others interested shall forever thereafter be estopped from denying the same, (b) such bond ordinance shall be conclusively presumed to have been duly and regularly passed by the city and to comply with the provisions of this charter and of all laws, and (c) the validity of such bond ordinance shall not thereafter be questioned by either a party plaintiff or a party defendant, except in a suit, action or proceeding commenced prior to the expiration of such 20 days.

**Sec. 727. Payment of bonds and notes.** The power and obligations of the city to pay any and all bonds and notes hereafter issued by it pursuant to this charter shall be unlimited and the city shall levy ad valorem taxes upon all the taxable property within the city for the payment of such bonds or notes and interest thereon, without limitation of rate or amount. The faith and credit of the city is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the city hereafter issued pursuant to this charter, whether or not such pledge be stated in the bonds or notes, or in the bond ordinance authorizing their issuance.

## CHAPTER 8

### Nominations and Elections

**Sec. 801. Councillors, school board, warden, ward clerk, ward constable.** On the 2nd Monday of February, A. D. 1948 the qualified voters of the city, in their respective wards, shall elect 14 members of the city council pursuant to the terms of subsection (a) of section 210 of this charter; 1 member of the board of education; and the qualified voters of each ward shall, at the same time, elect a warden, ward clerk and ward constable for their ward.

Thereafter, on the 2nd Monday in February annually, a regular municipal election shall be held and the qualified voters of the city in their respective wards shall elect 7 members of the city council pursuant to the

terms of subsection (b) of section 210 of this charter; 1 member of the board of education together with such members as are necessary to fill any vacancies which then may exist in said board; and the qualified voters of each ward shall at the same time elect a warden, ward clerk and ward constable for their ward.

All votes cast for the several offices shall be sorted, counted, declared and registered in open ward meeting as required by law. The ward clerk shall forthwith deliver to the city clerk a certified copy of the records of such election.

After the 1st election held under this charter, the then municipal officers, and thereafter, following the regular city election, 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 persons who shall have been elected members of the city council, and the persons who shall have been elected members of the school board, wardens, ward clerks, and ward constables, to be notified in writing of their election. If it shall appear that one or more of the offices to be filled by said election has not been filled, or if at any election the person shall refuse to accept the office for which he has been elected, warrants for another and special election to fill such vacancy or vacancies shall be issued forthwith.

At any election, the person or persons having the highest number of votes for an office, not exceeding the number to be chosen, shall be deemed and declared elected to such office.

**Sec. 802. Term of office; ward meetings.** The warden, ward clerk, and ward constable chosen as provided in the preceding section, shall be residents of the ward from which they are elected, and shall hold their office for 1 year from the 1st Monday in March following their election and until others have been chosen and qualified in their stead. The warden, ward clerk and ward constable shall be sworn to the faithful performance of their duties by a justice of the peace or by the clerk of the ward meeting or by any legal voter of said ward, and a certificate of such oath shall be entered by the clerk on the records of said ward. The warden shall preside at all 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 rights and powers now held by the warden of such ward. If neither the warden nor 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 all rights and perform all duties now had 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 ward meetings.

**Sec. 803. Nomination of candidates to be by petition.** The nomination of all candidates for elective offices provided for by this charter shall be by petition. The petition of candidates for warden, ward clerk and ward constable shall be signed by not less than 15 nor more than 30 qualified voters of the ward in which said candidates are residents. The petition of each candidate for member of the city council shall be signed by not less than 25 nor more than 50 qualified voters of the ward in which said candidate is a resident. No voter shall sign petitions for more than 1 candidate for each office to be filled at the election and should he do so his signature shall be counted only upon the first petition filed, and shall be void upon all other petitions.

**Sec. 804. Nomination papers, signatures to; form of petition.** The signatures to nomination papers need not all be affixed to 1 petition, but to each separate petition there shall be attached an affidavit of the circulator hereof 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 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  
Notary Public

If this petition is deemed insufficient by the City Clerk he shall forthwith notify by mail ..... at No. .... Street.”

**Sec. 805. Nomination petitions to be assembled into 1 petition; validity.** The nomination petitions for any 1 candidate shall be assembled and united into 1 petition and filed with the city clerk not earlier than 60 nor later than 30 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 30 days before the day of election, his consent accepting the nomination, agreeing not to withdraw, and if elected, to qualify.

**Sec. 806. List of candidates to be certified.** The city clerk shall certify a list of candidates and shall cause to be published, in 1 or more of the newspapers published or having general circulation in the city of Bath, the names, residences and offices to which nominated, of the candidates who have duly filed the above described petition and acceptances.

**Sec. 807. Preparation of ballots.** Specimen ballots and official ballots for use in all city elections shall be prepared by the city clerk at the expense of the city.

**Sec. 808. Determination of position of names upon ballot.** The position upon the ballot of the names of the candidates nominated, as hereinbefore provided, shall be determined by lot and said names shall be so placed upon said ballot under the title of the office to be filled. Said determination of said position by lots shall be conducted by the city clerk at which said 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 ballot shall be without party mark



or designation. The name and residence of each candidate shall be given. At the right of each name shall be a square within which the voter shall place a cross (X) to designate his choice. A blank space 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:

(Back of the Ballot)

“OFFICIAL BALLOT”

BATH

WARD .....

Monday ..... A. D.

(Facsimile of Signature)

City Clerk.

(Face of the Ballot)

To vote for a candidate mark a cross (X) in the square at the right of the candidate's 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 of Candidate	Residence
FOR BOARD OF EDUCATION	Vote for
Name of Candidate	Residence
FOR WARDEN	Vote for One
Name of Candidate	Residence
FOR WARD CLERK	Vote for One
Name of Candidate	Residence
FOR WARD CONSTABLE	Vote for One
Name of Candidate	Residence

Mark a cross (X) in the square at the right of your answer.”

**Sec. 809. Municipal elections.** The provisions of the laws of the state of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers and all other particulars in respect to preparation for, conducting, and management of elections, so far as they may be applicable, shall govern all municipal elections except as otherwise provided in this charter.

**CHAPTER 9**

**Initiative and Referendum**

**Sec. 901. Power of initiative.** The electors of the city of Bath shall have power to propose any ordinance, except an ordinance appropriating

money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Such initiated ordinance may be submitted to the city council by a petition signed by at least 500 qualified electors of the city of Bath.

**Sec. 902. Power of referendum.** The electors of the city of Bath shall have power to approve or reject at the polls an ordinance passed by the city council, or submitted by the council to a vote of the electors, except the regular annual budget or appropriation ordinance and except any bond ordinance authorized solely for a capital purpose made necessary as result of fire, flood, hurricane or other disaster, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the council shall be subject to the referendum in the same manner as other ordinances. Within 20 days after the enactment by the city council of any ordinance which is subject to a referendum, a petition signed by at least 500 qualified electors of the city of Bath, may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

**Sec. 903. Form of petitions.** The petitions used to invoke the initiative or the referendum shall be substantially in the following form:

PETITION TO THE BATH CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy of which is hereto attached, be adopted?

We, the undersigned, under oath, depose and say that we are duly 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 foregoing question to the voters of the city of Bath.

NAMES	RESIDENCES	DATE
.....	.....	.....
.....	.....	.....
Name .....	Street and Number .....	

Being duly sworn deposes and says that he is the circulator of 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  
Notary Public

**Sec. 904. Signatures to petitions.** The signatures to petitions need not all be affixed to 1 petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, 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.

**Sec. 905. Filing, examination and certification of petitions.** All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Within 20 days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulators, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective.

**Sec. 906. Effect of referendum petition.** Whenever there has been originated as aforesaid a petition for the reference to the people of any such ordinance passed by the city council, and the required number of valid signatures has been obtained thereon for its presentation to the city council, the same shall be suspended from going into operation.

**Sec. 907. Consideration by council.** Whenever the city council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the

proposed ordinance. The city council shall take final action on the initiative ordinance not later than 60 days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance, shall be reconsidered by the council and its final vote upon such reconsideration which shall be not later than 60 days after the date on which such certified referendum petition was submitted to the city council by the city clerk, shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?" In the case of the referendum the entire repeal of the ordinance sought to be referred, and in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under said petition.

**Sec. 908. Submission to electors.** If the city council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the city council fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than 30 days nor more than one year from the date the council takes its final vote thereon. The city council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.

**Sec. 909. Publication.** Whenever any ordinance is required by the provisions of this chapter to be submitted to the voters of the city at any election, the city council must order one publication of the complete text thereof to be made in one, or more should the city council deem it best, of the newspapers published or having a general circulation in the city of Bath, such publication to be made not less than 10 days, nor more than 15 days prior to the election, or in lieu thereof, the city council may cause the ordinance to be printed and mailed to each voter at least 5 days prior to the election.

**Sec. 910. Form of ballot.** The ballots used when voting on such proposed ordinance, shall set forth the title thereof in full and state its general nature, and shall contain the words: "For the ordinance" and "Against the ordinance."

**Sec. 911. Result of election.** If a majority of the qualified voters voting on said proposed initiative ordinance or said referred ordinance shall vote in favor thereof, such ordinance shall take effect 5 days after the declaration of the official canvass of the return of said election. A referred ordinance which is not approved by a majority of the electors shall thereupon be deemed repealed.

**Sec. 912. Conflicting ordinances.** Any number of proposed or referred ordinances may be voted upon at the same election. In the event that 2 or more ordinances adopted at the same election shall contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall prevail to the extent of such conflict.

**Sec. 913. Repeal of popular ordinances enacted by the people.** No ordinance proposed by petition and adopted by vote of the people shall be repealed or amended except by a vote of the people unless such ordinance shall otherwise expressly provide.

**Sec. 914. Ordinances submitted to popular vote.** The city council may submit, on its own initiative, a proposition for the enactment, repeal or amendment of any ordinance except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the votes cast thereon at such election, such ordinance shall be enacted, repealed or amended accordingly.

**Sec. 915. Further regulations.** The city council shall, by ordinance, make such further regulations as shall be necessary to carry out the provisions of this chapter.

## CHAPTER 10

### General Provisions

**Sec. 1001. Bonds.** The city council shall require a corporate surety bond in such amount as it may specify, from all persons trusted with the collection, custody or disbursement of any of the public moneys, supplies or materials, and may require such bond from such other officials as it may deem advisable. Every bond shall be approved by qualified legal advice as to form and sufficiency of surety prior to its acceptance by the city. The premiums on such bonds shall be paid by the city.

**Sec. 1002. Contracts extending beyond 1 year.** No contract involving the payment of money out of the appropriations of more than 1 year, (other than contracts in which rates are subject to approval of the public utilities commission) shall be made for a period of more than 5 years; nor shall any such contract be valid unless made or approved by ordinance.

**Sec. 1003. 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. 1004. Investigation by council or city manager.** The council, the city manager, or any person or committee authorized by either of them, shall have power to inquire into the conduct of any office, department, agency or officer of the city and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punished by a fine of not more than \$50, or by imprisonment for not more than 60 days, or by both such fine and imprisonment.

**Sec. 1005. Oath of office.** Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the charter and ordinances of the city of Bath, and will faithfully discharge the duties of the office of .....

**Sec. 1006. Ordinances not inconsistent continue in force.** All ordinances of the city of Bath 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.

**Sec. 1007. Publicity of records.** All records and accounts of every office, department or agency of the city shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the city council, except records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish, and except such records as are required by state law to be kept confidential.

**Sec. 1008. Repealing clause.** Chapter 5 of the private and special laws of the state of Maine for the year 1847, all acts amendatory thereto, and all acts and parts of acts relating to the city of Bath inconsistent with the provisions of this charter are hereby repealed.

**Sec. 1009. Separability clause.** If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

**Sec. 1010. Short title.** This charter shall be known and may be cited as the "Council-Manager Charter of Bath"; the city clerk shall cause it to be printed and made available to the public promptly.

## CHAPTER 11

### Succession in Government

**Sec. 1101. Referendum.** This act shall be submitted for approval or rejection to the qualified voters of the city of Bath at a special city election to be held on the 2nd Monday in September, 1947 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 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 1947 entitled 'An Act Creating a council-manager form of government for the City of Bath' 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 a 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. 1102. 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 90 days after the adjournment of this legislature as provided in the constitution of the state, but it shall not take further 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 hereunder shall take effect on the date of its adoption by the voters, and for all other purposes this act shall take effect immediately following the first election held under provisions of the charter on the 2nd Monday in February, 1948.

**Sec. 1103. Expiration of term of present elected officials.** The term of the present mayor, and the terms of the present members of the city council shall expire at 7:30 P. M. on the first Monday in March, 1948.

**Sec. 1104. Continuance of present administrative officers.** All persons holding administrative office at the time this charter takes effect shall continue in office and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuation of such office.