

MAINE STATE LEGISLATURE

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NINETY - THIRD LEGISLATURE

Legislative Document

No. 1294

H. P. 1619

House of Representatives, March 12, 1947.

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

HARVEY R. PEASE, Clerk

Presented by Mr. Labbe of Brunswick by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Amending the Charter of the City of Portland for a Mayor and Aldermen Form of Government.

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

Sec. 1. Corporate existence retained. The inhabitants of Portland shall continue to be a body politic and corporate by the name of the city of Portland, and as such, shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises; and shall be subject to all the duties and obligations now appertaining to or incumbent upon said city, or the inhabitants or municipal authorities thereof; and may ordain reasonable by-laws and regulations for municipal purposes, and impose penalties for the breach thereof, not exceeding \$100, to be recovered for such uses as the municipal authorities may appoint.

Sec. 2. Mayor; city council; overseers of poor; record. The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, except as otherwise in this charter specifically provided, shall be vested in one principal magistrate to be styled the mayor, and in one body consisting of 1 councilor from each ward, which body shall constitute and be called the city council, all of whom shall be and remain during their term of office, inhabitants of said city, and shall be

chosen in the manner hereinafter provided, and shall be sworn or affirmed in the form prescribed by the constitution of the state for state officers. The mayor and members of the city council shall be and constitute the municipal officers of the city of Portland for all purposes required by statute, and (except as otherwise specifically provided) shall have all powers and authority given to, and perform all duties required of municipal officers and aldermen of cities under the laws of this state.

The city council is hereby constituted the overseers of the poor of the city of Portland and shall perform all duties required of the overseers of the poor for cities, by statute or otherwise. As such overseers of the poor, they may authorize the superintendent of poor department, or a clerk or agent to act for them as they may direct, to sign in their name and send written notices and the written answers referred to or required in sections 29 and 30 of chapter 82 of the revised statutes, and such written notices and written answers, so signed, shall have the same effect as if signed by one or more of said overseers and sent by a member or members of said overseers personally.

The city council shall keep a record of its proceedings and judge of the election of its own members.

Sec. 3. Ordinances and regulations. The mayor of said city shall be the chief executive magistrate thereof. It shall be his duty to be vigilant and active in causing the laws of the state, and ordinances and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all administrative and subordinate officers who shall be directly answerable to him for the conduct of their respective offices, and he shall cause violation or neglect of duty on their part to be punished. He shall from time to time communicate to the city council such information, and recommend such measures, as the interests of the city may require. He shall preside at all meetings of the city council, but shall have only a casting vote. He shall be compensated for his services by a salary to be fixed by the city council, payable at stated periods, and shall receive therefor no other compensation, which salary, however, shall not be increased or diminished during his term of office.

Sec. 4. Resolves and orders, approval, etc. Every law, act, ordinance, resolve or order, excepting rules and orders of a parliamentary character, shall be presented to the mayor, and if he approve, he shall sign it; if not, he shall return it with his objections at the next stated session of the city council, provided said stated session is held at least one week after the aforesaid law, act, ordinance, resolve or order is presented to the mayor

for his approval. The city council shall enter the objections at large on its journal and proceed to reconsider the same. If upon such reconsideration it shall be passed by a vote of $\frac{2}{3}$ of all the members of the city council it shall have the same effect as if signed by the mayor. The mayor shall have the right to approve as a whole any resolve or order involving the appropriation and expenditure of money, or to approve or disapprove specific item thereof, and the portions approved shall thereby be in force in like manner as if no part thereof had been disapproved, and the portion or portions disapproved shall thereupon take the same course as herein provided as though said resolve or order had been disapproved as a whole.

Sec. 5. 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 or inhabitants of towns, are vested in the city council, so far as relates to said city; and they are authorized to unite the watch and police departments into one department and establish suitable regulations for the government of same. All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this act, except as otherwise provided, as well as all powers relating to the fire department, shall be vested in said city council.

Sec. 6. Officers. The following administrative officers shall be appointed by the mayor, subject to confirmation by the city council, and shall hold office for the term of 2 years (unless otherwise provided in this charter), unless sooner removed by the mayor with the consent of the city council, to wit:

- (a) City Clerk
- Treasurer and collector
- Auditor
- Purchasing agent
- Corporation counsel
- Commissioner of public works
- Chief of the fire department
- Chief of the police department
- City messenger
- Superintendent of public and school buildings
- Superintendent of the poor department
- Health officer
- Three assessors of taxes for the term of three years, one to be appointed annually
- Sealer of weights and measures
- Inspector of buildings

(b) The following officers shall be appointed in manner following:

City physician by the health officer

Deputy sealer of weights and measures, city weigher and gauger, and city weigher of hay, by the sealer of weights and measures

Assistant assessors, one from each ward, by the city assessors, with the approval of the mayor, for the term of 1 year, unless sooner removed by the city assessors with the approval of the mayor

Superintendent of parks and superintendent of recreation by park and recreation commission

Secretary to the commissioner of public works by the commissioner of public works

Janitors and engineers of public and school buildings by the superintendent of public and school buildings

All of the foregoing officers shall be appointed for the term of 1 year, and except as herein otherwise provided, may be removed during their term of office by the appointing authority, or by the mayor.

(c) Whenever any vacancy, by death, resignation or removal from office shall hereafter exist in the office of city electrician, deputy chief or district chief of the fire department, a successor in office shall be appointed by the mayor, subject to confirmation by the city council.

(d) Except as herein otherwise provided, and except in police and fire departments all other minor officers and employees shall be appointed by the administrative heads of their respective departments.

(e) The city council may by ordinance authorize appointment by the mayor, with the approval of the city council, of such other administrative officers as may be deemed advisable or are required by statute and define their duties, and may also provide by ordinance for the appointment and define the duties, of such assistants, deputies or other subordinate officers as it may deem necessary or as are required by statute.

(e) The compensation of all city officials and employees whatsoever, shall be fixed and determined by the city council.

(f) Vacancies in any of the offices mentioned in this section, however arising, shall be filled in the manner provided for the original appointment.

Sec. 7. Bonds. No money shall be paid out of the city treasury except on orders drawn and signed by the mayor, designating the fund or appropriation from which said orders are to be paid, nor unless the same shall be first granted or appropriated therefor, by the city council; and the city

council shall secure a prompt and just accountability by requiring bonds with sufficient penalty and surety or sureties, from all persons entrusted with the receipt, custody or disbursement of money; they shall have the care and superintendence of the city buildings and the custody and management of all city property, with power to let or sell what may be legally let or sold, and to purchase and take in the name of the city such real and personal property in addition to that now held, as the city council may find necessary for municipal purposes; and shall as often as once a year cause to be published for the information of the inhabitants, a particular account of receipts and expenditures, and a schedule of city property.

Sec. 8. Assessors; assistant assessors. The assessors shall exercise the same powers and be subject to the same duties and liabilities that similar officers of the several towns and cities in the state may exercise, and are now or may hereafter be subject to under the laws of the state.

It shall be the duty of assistant assessors to furnish the assessors with all the necessary information relative to persons and property taxable in the several wards from which they are appointed or to which they may be assigned and they shall be sworn or affirmed to the faithful performance of their duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of the state relative to town taxes; provided that the city council may establish further or additional provisions for the collection thereof, and of interest thereon.

Sec. 9. City council. The city council shall have exclusive authority to lay out, widen or otherwise alter, or discontinue any and all streets or public ways in the city of Portland, without petition therefor, and as far as extreme low water mark; and to estimate all damage sustained by the owners of land taken for that purpose; but all locations below high water mark shall be subject to the provisions of the laws relating to the commissioners of Portland harbor. A standing committee of the city council shall be appointed, to be called the committee on new streets, whose duty it shall be to lay out, alter, widen or discontinue any street or way in said city, first giving notice of the time and place of their proceedings to all parties interested, by an advertisement in two daily papers printed in Portland, for one week at least previous to the time appointed. The committee shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way to be laid out, altered or discontinued; and shall make a written return of their proceedings, signed by a majority of them, containing the bounds and descriptions of the street or way, if laid out or altered, and the names of the owners of

the land taken, when known, and the damages allowed therefor; the return shall be filed in the city clerk's office at least 7 days previous to its acceptance by the city council. The street or way shall not be altered or established until the report is accepted by the city council, and the report shall not be altered or amended before its acceptance. A street or way shall not be discontinued by the city council, excepting upon the report of said committee. The committee shall estimate and report the damages sustained by the owners of the lands adjoining that portion of the street or way which is so discontinued; their report shall be filed with the city clerk 7 days at least before its acceptance. Any person aggrieved by the decision or judgment of the city council in establishing, altering, or discontinuing streets, may, so far as relates to damages, appeal therefrom to the next court having jurisdiction thereof in the county of Cumberland, which court shall determine the same by a committee or reference under a rule of court, if the parties agree, or by a verdict of its jury, and shall render judgment, and issue execution for the damages recovered, with costs to the party prevailing in the appeal. Such appeal shall be made to the term of the superior court, which shall first be holden in the county of Cumberland, more than 30 days from and after the day the street is finally established, altered or discontinued, excluding the day of commencement of the session of said court. The appellants shall serve written notice of such appeal upon the mayor or city clerk, 14 days at least before the session of the court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken to the rulings of the court, as in other cases. Co-tenants who are appellants, shall join in their appeal or shall not recover their costs. If a street or way is discontinued before the damages are paid or recovered for the land taken, the land owner shall not be entitled to recover such damages, but the committee in their report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original location of the streets, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to construct or open any street or way thus hereafter established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of the land so taken by removing therefrom materials, or otherwise, until they decide to open and construct said street, provided that if any street or way is not constructed within 2 years, after the laying out of such street or way, the proceedings are void. The city council may regulate the height and width of sidewalks in any public square, places, streets, lanes or alleys in said city; and may authorize posts and trees and other objects permitted by law, to

be placed along the edge of said sidewalks. Nor shall the city be answerable for damages occasioned by poles and wires erected in its streets.

Sec. 10. Repairing of streets. The mayor, or some person by him authorized, may on such terms and conditions as he may think proper, authorize and empower any person or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, crosswalk, bridge, watercourse or drain, or for erecting, repairing, or finishing any building or fences, or for laying or repairing gas or water pipes or conduits, provided that not more than $\frac{1}{2}$ of the width of the street shall be so occupied. Any such material so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city shall not be liable to any person for any damages occasioned by such materials.

Sec. 11. Wards. The city shall remain divided into 9 wards unless and until the city council shall change the number thereof as hereinafter provided. It shall be the duty of the city council, once in 10 years, or oftener, to revise, and if it be needful, to alter such wards in such manner as to preserve, as nearly as may be, an equal number of voters in each, and the city council may, in such manner, but subject to the approval of the legal voters of the city signified in the manner provided by statute in the case of a change in the limits of city wards, change the number of wards. In each of said wards, at the annual municipal election, there shall be chosen by ballot, a warden and clerk, who shall hold their offices for 1 year from the Monday following their election, and until others shall have been chosen and qualified in their places. Said warden and clerk shall be sworn or affirmed to the faithful performance of their respective duties by any justice of the peace of the city; and a certificate of such oaths or affirmations having been administered, shall be entered by the clerk on the records of the ward. The warden shall preside at all ward meetings, with the powers of moderators of town meetings. If at any meeting the warden shall not be present, or shall refuse to preside, the clerk of such ward shall call the meeting to order and preside until a warden pro tempore shall be chosen. If both are absent, or shall refuse to act, a warden and clerk, pro tempore, shall be chosen. The clerk shall record all proceedings, and certify the votes given, and deliver over to his successor in office, all such records and journals, together with all other documents and papers held by him in said capacity. The voters of each ward may choose 2 persons to assist the warden in receiving, sorting and counting the votes.

All regular ward meetings shall be notified and called by warrant from the mayor and councilors, in the manner prescribed by the laws of this

state for notifying and calling town meetings by the selectmen of the several towns.

Sec. 12. Warden; clerk; constables; school committee, etc. The mayor shall be elected by and from the qualified voters of the city voting in their respective wards. One councilor, a warden and clerk and two constables shall be elected from each ward by and from the qualified voters thereof.

At the first election after this charter is in force, to be held on the 1st Monday of December, 1947, and every year thereafter, the qualified voters of the city shall ballot for a mayor for a term of 1 year, and on said 1st Monday of December, 1947, and every year thereafter, the qualified voters of each ward shall at the same time ballot by wards for a councilor from each of said wards for a term of 1 year, and the qualified voters of each ward shall on the 1st Monday of December, 1947, and annually thereafter, ballot by wards for a warden and clerk and 2 constables from each ward, and in case there is more than one voting precinct or any island ward in any ward, then the qualified voters of each said precinct and island ward shall at the same time ballot for a warden and ward clerk for such precinct or island ward.

At each regular municipal election whenever there exists a vacancy in the office of councilor, or member of the school committee from such ward is vacant, shall at the same time, ballot for a councilor or member of the school committee from such ward to fill the vacancy for the unexpired term.

All members of the superintending school committee hereinafter called the school committee shall continue hereafter to be elected on the 1st Monday in December at the annual municipal election and such committee shall consist of 1 member from each ward, elected by a plurality vote, by the qualified voters of the ward of which he is a legal president. The members thereof shall hold office for the term of 2 years and until their successors are elected, except that at the first election of members of the school committee, those elected from wards 1, 3, 5, 7 and 9 shall hold office for 1 year, and until their respective successors are elected and qualified.

All city and ward officers shall be held to discharge the duties of the offices to which they have been respectively elected, notwithstanding their removal, after their election, out of their respective wards into any other wards in the city; but their office shall become vacant on their removal from the city.

Caucuses and meetings of political parties, held for the purpose of naming candidates or choosing delegates to assemble in convention to nomi-

nate any person to any public office, for whose election this charter provides, and whose name shall be placed on the final ballot, shall be held as now or hereafter prescribed by the statutes of the state of Maine, relating to political party caucuses, except as hereinafter provided.

Only those voters enrolled as qualified to vote in such caucuses, as hereinafter provided, shall participate therein; the caucuses of all political parties, entitled by law to nominate candidates to be voted upon at the next succeeding municipal election, shall be held in the several wards of said city on the 2nd Wednesday of November, in each year, on which day the polls will be opened at 3 o'clock in the afternoon and continue open until 9 o'clock in the afternoon, when they shall close; provided that at the caucuses to be held on the 2nd Wednesday of November 1947, the polls shall be opened at 12 o'clock noon and shall be closed at 9 o'clock in the afternoon. Said caucuses shall be conducted by the same officers as elected at the preceding municipal election to have charge of such municipal elections, or their successors in office. No person shall vote at any such caucus unless a legally qualified voter in the ward where any such caucus is held, nor unless enrolled as qualified to vote in a particular political party, then entitled to hold such caucus.

The city clerk of said city shall, in season for such caucuses, prepare suitable ballots containing the names of all persons to be nominated at such caucuses and of a distinguishing color for each political party. Every person legally qualified to vote in such caucuses shall receive, upon application, at such caucuses, to the proper election officer, a ballot marked and designated by such distinguished color as the ballot of that political party in which he is then enrolled and shall not be entitled to receive, nor shall such election officer deliver to him, any other ballot.

Every legally qualified voter of said city shall be entitled to be enrolled as a voter in any political party entitled to hold such caucuses, upon application in writing made to the board of registration of said city, at any time between the date when this charter is adopted and the 15th day of October, 1947, and when so enrolled, shall not be entitled to change such enrolment for the purposes of any of said caucuses within 6 months next prior to the date of the holding of such caucuses. Any voter not previously enrolled may enroll himself during said caucus by subscribing and making oath to the following statement before the chairman of the caucus: "I, do solemnly swear that I am a qualified voter in this city and ward, and have the legal right to vote in the caucus of the party. I am a member of that political party and intend to vote for its

candidates at the election next ensuing. I have not taken part or voted at the caucus of any other political party in the six months last past," and upon such enrolment shall be permitted to vote.

The warden shall indorse on every such enrollment blank, whether the person subscribing and swearing to the same voted at said caucus and shall return the same at the close of said caucus to the board of registration and said board of registration shall thereupon enroll said voter in the enrollment list of the party designated by him. Said enrollment blank and the statement thereon shall be preserved as a public record and shall be prima facie evidence in any court that said person took said oath and voted in said caucus.

The warden may appoint and swear to the faithful performance of their duties such number of enrolment clerks to assist him as may be required, who shall have power to take the oath required of any person so enrolling at said caucus.

All enrolment blanks shall contain the form of statement and oath hereinbefore prescribed but shall otherwise be in such form as the city clerk shall prescribe.

The board of registration shall make up and certify, in season for such caucuses, true and correct lists of all the persons legally entitled to vote in said city, after the same have been corrected, in accordance with the last registration of voters therein, and shall indicate on such lists of voters the political party, if any, in which each of said voters is enrolled; said lists, as so prepared by said board of registration, shall not be altered or amended by any person whatsoever, except said board of registration, and then only upon application to change his enrolment made by a person listed thereon as a legally qualified voter, which application shall not be made to said board within 6 months, prior to the date of the holding of any such caucuses. Such lists, as prepared, shall at the time of the holding of such caucuses be delivered to the warden in each of said wards and shall be used in said wards for the purposes of holding said caucuses and shall be returned intact to said board of registration, after said caucuses are closed and shall be preserved by said board of registration, until the same are superseded by new lists, prepared by said board. Said board of registration shall supply to the political committees of each such political party such number of the copies of such lists and the enrolments noted thereon, as may be reasonably required for the purposes of said committees.

On the 2nd Wednesday of November, 1947, and annually thereafter, the persons legally qualified to vote in such political caucuses shall assemble

in their respective wards, and shall nominate by ballot a warden and a clerk, two constables and, if the term of a member of the superintending school committee expires that year or a vacancy exists, also a member of such school committee from such ward, and shall elect a ward committee.

On the 2nd Wednesday of November, 1947, and the 2nd Wednesday of November, 1948, and every year thereafter, said persons legally qualified to vote in such caucuses shall also nominate in each ward by ballot, a councilor from such ward.

On the 2nd Wednesday of November, 1947, and every 2 years thereafter, said persons legally qualified to vote in such caucuses shall also nominate in each ward, by ballot, 5 delegates from each ward to attend a mayoralty convention, for the purpose of nominating a mayor. The delegates elected to such mayoralty convention shall meet in separate conventions for each political party, at such time subsequent to the date of the holding of the said caucuses as shall be designated by the political committee of such political parties.

If at any time a vacancy exists in any office, nomination therefor shall be made prior to an election to fill such a vacancy, in the manner in which nomination for such office is usually and customarily made, as herein provided.

Sec. 13. Certificates of election. The ward clerk, within 24 hours after such election shall deliver to the persons elected, certificates of their election, and shall forthwith deliver to the city clerk, a certified copy of the record of such election, a plain and intelligible abstract of which shall be entered by the city clerk on the city records. If the choice of any such officers is not effected on that day, the meeting shall be adjourned to another day (not more than two days thereafter), to complete such election, and may so adjourn from time to time, until the election is complete. The municipal officers shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor by a plurality of the votes given in all the wards, to be notified in writing of his election. But if it shall appear that no person shall have been so elected, or if the person elected shall refuse to accept the office, the said officers shall issue their warrants for another election; and in case the citizens shall fail on a second ballot to elect a mayor, the city council shall, from the 4 highest candidates voted for at the second election and returned, elect a mayor for the ensuing term; and in case of a vacancy in the office of mayor by death, a resignation or otherwise, it shall be filled for the remainder of the term by

a new election or at the next annual election in the manner in this charter provided for the choice of said officer. The oath or affirmation prescribed by this act, shall be administered to the mayor by the city clerk or any justice of the peace in said city. The councilors-elect shall on the 2nd Monday in December at 10 o'clock in the forenoon meet, when the oath or affirmation required by the second section of this act shall be administered to the members present, by the mayor or any justice of the peace. The city council shall, by ordinance, determine the time of holding its stated or regular meetings and shall also, in like manner, determine the manner of calling special meetings and the persons by whom the same shall be called, but until otherwise provided by ordinance, special meetings shall be called by the mayor by causing a notification to be left at the usual residence or place of business of each councilor.

Sec. 14. Quorum; permanent chairman. After the organization of a city government and the qualification of a mayor, and when a quorum of the city council shall be present, said city council, the mayor presiding, shall proceed to choose a permanent chairman, who, in the absence of the mayor, shall preside at all meetings of the council, and in case of any vacancy in the office of mayor, he shall exercise all the powers and perform all the duties of the office, so long as such vacancy shall remain, but while exercising such powers and duties, shall have a casting vote only, and shall have the veto power. The city council in the absence of the mayor and permanent chairman at any meeting, shall choose a president pro tempore who shall preside at such meeting.

Sec. 15. Elections and election officers on islands within city. Nothing contained in this charter shall alter or repeal the provisions of section 56 and 57 of chapter 5 of the revised statutes of Maine relative to elections and election officers on the several islands within the city of Portland.

Sec. 16. Rewards for prevention of crime; harbor to be kept open; etc. The city council, in behalf of the city, may offer rewards for the prevention of crimes or detection of criminals. They may remove all sunken wrecks in the harbor or its entrances, and dispose of the same to defray the expense of removal, and may, at the expense of the city, cause its harbor to be kept open and unobstructed by ice. They may also require all boats not under register or license, kept for hire in said harbor, to be examined and licensed for that purpose, and to be furnished with airtight compartments; and may establish such regulations respecting such boats as they may deem expedient. They may also make and enforce by penalties, regulations respecting the enclosure of lots abutting on any street or

way in the city, which may for want of such enclosure, be dangerous to the public; and after notice to the owners or lessees of such lots, may, if the same are not enclosed in a reasonable time, cause the same to be enclosed at the expense of the owners or lessees. They may assess money for celebration of the anniversary of our national independence, and other public celebrations.

Sec. 17. City clerk, duties. The city clerk shall be clerk of the city council. He shall perform such duties as shall be prescribed by the mayor or the city council and shall also perform all the duties and exercise all the powers now incumbent on him by law. He shall give notice in 2 of the papers printed in said city, of the time and place of regular ward meetings; the time of such meetings when not fixed by law, shall be determined by the city council. In case of the temporary absence of the city clerk, the mayor, subject to confirmation by the city council, may appoint a city clerk pro tempore.

Sec. 18. Redress of grievances. General meeting of the citizens qualified to vote in city affairs, may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the constitution of this state; and such meetings shall be duly warned by the mayor and city council upon requisition of 60 qualified voters. The city clerk shall act as clerk of such meetings, and record the proceedings upon the city records.

Sec. 19. Compensation of members of city council. Each member of the city council shall be entitled to receive as compensation for the discharge of his duties, the sum of \$500 per annum, payable quarterly, and he shall not be eligible to any other office of profit or emolument, the salary of which is payable by the city. For failure on the part of any member of the city council to attend any stated or other duly called meeting of the city council or of the municipal officers, there shall be deducted from his compensation the sum of \$2; and all departments, boards, officers and committees, acting under the authority of the city, and entrusted with the expenditure of public money, shall expend the same for no other purpose than that for which it is appropriated; and shall be accountable therefor to the city, in such manner as the city council may direct.

Sec. 20. Treasurer and collector of taxes. The treasurer of the city of Portland shall also be the collector for said city with all the powers of collectors of taxes under the laws of this state. He shall be styled "treasurer and collector," and shall give but one bond for the faithful performance

of his duties; said bond to be approved by the mayor and city council; and may appoint assistants and deputies as provided by law. All warrants directed to him by the assessors and municipal officers shall run to him and his successors in office, and shall be in the form prescribed by law, changing such parts only as by this act are required to be changed. The method of keeping, vouching and settling his accounts shall be subject to such rules and regulations as the city council may establish. Said treasurer and collector shall collect all such uncollected taxes and assessments in whatever year assessed, as may be collected during his term of office; and at the expiration of said term, his powers as collector shall wholly cease; all sales, distresses, and all other acts and proceedings, lawfully commenced by him as such treasurer and collector, may be as effectually continued and completed by his successor in office as though done by himself; and all unreturned warrants, which would otherwise be returnable to him, shall be returned to his successor in office.

Sec. 21. Location of streets, ascertained. The original location of all streets and ways in said city shall, once in 10 years, or oftener, be ascertained by the commissioner of public works, under the direction of the city council, as accurately as practicable, the location of different streets being ascertained by him from time to time, when expedient. He shall make a written report of his doings to the committee on new streets, which shall give 20 days' notice, by advertisement in 2 or more public papers in the city of the time and place at which it will act upon said report. Any person may appear and object to the report, and after a full hearing of all parties interested, the committee may accept, alter, or amend the report as it shall think right, and shall report their proceedings to the city council, who shall thereupon determine the lines for such streets and ways in said city, according to the original location thereof, and shall order the same to be designated anew by fixed and permanent boundaries, as and for the original boundaries; and a record of the location thereof to be made upon the city records, and a copy of the last record of such proceedings respecting any street, with evidence of the location of the boundaries therein designated, shall in all judicial proceedings, be prima facie evidence of the place of the original location of said street.

Sec. 22. Regulation of vehicles on streets; erection of wharves regulated. The mayor and city council of said city may on public occasions, by their order, forbid the passing, temporarily, of horses, carriages or other vehicles, over or through such streets or ways in said city, as they may deem expedient. No existing wharf in Portland shall be extended into the harbor a greater distance below low water mark than the same now

exists, and hereafter no such new wharf shall be extended below low water mark into the harbor, without in either case the written assent of the mayor and city council. No wharf or incumbrance shall hereafter be erected or extended into said harbor beyond the harbor commissioner's line.

Sec. 23. Drains and sewers; sidewalks and footways. No existing act of the legislature, general or special, pertaining to the powers and duties of the city of Portland and its municipal officers, with respect to drains and sewers and the construction and maintenance of sidewalks and footways and assessment of the owners of adjacent lots for a proportional part of the cost thereof, shall be by this charter, in any wise affected or modified except as in this charter specifically provided.

Sec. 24. Superintending school committee. The superintending school committee shall have the powers and perform the duties appertaining to the care and management of the public schools of said city now conferred and imposed upon superintending school committees by law, except as otherwise provided in this charter.

The superintending school committee shall annually, as soon after the organization of their board as practicable, furnish to the city council a statement in detail as a budget, of the several sums which they estimate will be required during the ensuing municipal year for the support of public schools. Nothing in this charter or general law contained shall impair the right, which is hereby granted, for the city council to alter or amend any budget so presented, and make its appropriation accordingly, provided, however, that the total appropriation shall not be less than that required by section 23 of chapter 37 of the revised statutes of Maine and amendments thereof, and that the portion of any such appropriation applicable to salaries of superintendent and teachers, shall not, without the consent of said superintending school committee, be reduced below the amounts specified therefor in the preceding annual school appropriation of the city council.

Sec. 25. Commissioner of public works. The commissioner of public works except as otherwise provided in this charter, shall continue to be vested with all the authority now exercised by and shall perform all duties now incumbent upon said commissioner as provided by law.

There shall be annually prepared and presented to the city council by the park and recreation commission, acting as a planning board, and said commissioner, a joint recommendation and estimate of cost covering specifically all work, including construction, maintenance, repair and permanent improvement, necessary in their opinion to be performed by the

department of public works for the year, and said city council shall appropriate such sum of money as it deems necessary to carry out such recommendations or any part thereof, but shall not order or appropriate money for any work which is not in accordance with said recommendations.

Sec. 26. Park commission. The members of the city council shall be and constitute the park commission and shall have the powers and perform the duties given to and prescribed for the park commission of the city of Portland by the laws of the state of Maine but they shall receive no compensation as such commissioners.

The assessors of the city shall assess annually a tax of $\frac{4}{5}$ of 1 mill on the dollar upon all estates and property subject to taxation in said city to be taken at the last regular valuation. The amount of said tax when raised shall be appropriated as a special fund and expended by said park and recreation commission for the duties and work prescribed for said park and recreation commissions by the laws of this state and by this charter; provided however, that in lieu of the amount now provided by law to be expended by said recreation commission for its purposes, there shall be set aside and expended by said park and recreation commission for said purposes 10% of the aforesaid fund; and provided further, that 1% of the amount of said mill tax shall be reserved by the city treasurer to cover any uncollected portion of said tax and carried to the credit of the account known as overlays and abatements.

In addition to the powers and duties heretofore vested in the park commission for the city of Portland and the recreation commission for the city of Portland, said park and recreation commission for the city of Portland shall keep itself informed of the progress of city planning in this and other countries; make studies and recommendations for the improvement of the plan of the city, with a view to the present and future movement of traffic, the convenience, health, recreation, general welfare and other needs of the city, dependent on the city plan; of all new public streets, ways, sewers, conduits, land, buildings, bridges and all other public places and structures, of additions and alterations in those already existing, and of the layout or plotting of new subdivisions of the city, and shall keep itself informed of all actions or contemplated actions by the city council affecting the same.

The city council may at any time call upon the park and recreation commission to report on recommendations, and said commission of its own volition may also report to the city council with recommendations

on any matter which in the opinion of either body affects the plan of the city. Any matter referred by the city council to said commissioner shall be acted upon by said commission within 30 days of the date of reference, unless a longer or shorter period is specified by the city council.

The commission shall submit to the city council an annual report summarizing the activities of said commission for the then past fiscal year, and recommendations made to it by the city council during that year, and what, if anything, has been done by the city council or otherwise in connection with said recommendations.

The park commission of the city of Portland and the recreation commission of the city of Portland as heretofore existing are hereby abolished as of the 2nd Monday of December, 1947, or as soon thereafter as the park and recreation commission herein provided for shall be appointed.

Sec. 27. Purchasing agent. The purchasing agent shall purchase supplies for the city and for the several departments and boards thereof as the city council may from time to time provide by ordinance. He shall see to the delivery of supplies purchased by him to each department and board to whom they belong, and take and file receipts therefor and shall have such other powers and perform such other duties as the city council shall provide by ordinance.

Sec. 28. Bonds may be issued for certain purposes. Money may be borrowed, within the limits fixed by the constitution and statutes of the state now or hereafter applying to said Portland, by the issue and sale of bonds or notes pledged on the credit of the city, the proceeds to be used for the payment of indebtedness of the city contracted for the acquisition of land, the construction and equipment of buildings and other permanent public improvements, and the payment or refunding of bonds, notes, and certificates of indebtedness previously issued. No order providing for the issue of bonds shall be passed without public notice given by posting notice of the same in 2 public places in the city of Portland, and publishing said notice in at least 2 daily newspapers published in said Portland at least 2 weeks before final action by the city council, and the approval of 2/3 of all the members of the city council. Every issue of bonds shall be payable within a fixed term of years; if said bonds are issued in payment of indebtedness incurred for a permanent improvement the term of such bonds shall not exceed the estimated period of utility of said improvement but the declaration of the city council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made pay-

able shall in no case exceed 30 years. Bonds issued after the adoption of this charter shall be made payable in equal, annual, serial installments as pertains to principal, and interest shall be made payable semiannually. Every order for the issue of bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual, serial installment of principal and interest; and such amounts shall be included in the tax levy for each year until the debt is extinguished; provided, however, that bonds issued to refund any indebtedness of the city of Portland existing prior to the adoption of this charter or bonds issued to refund such bonds shall not be subject to the aforesaid requirement of being made payable in equal, annual, serial installments.

Sec. 29. Public utility franchises. All public utility franchises, hereafter granted, and all renewals, amendments, and extensions thereof shall be granted or made only by a 4/5 vote of the voting members of the council. No franchise and no renewal or amendment thereof shall be granted or made within 3 months after the application therefor is filed with the city clerk nor within 30 days after the publication in full of the proposed franchise in its final form, nor until a public hearing has been held thereon. No public utility franchise shall be transferable except with the approval of the city council.

All orders providing for grants, renewals, amendments or extensions of public utility franchises shall retain to the city the following rights:

- (a) To repeal the same by order at any time for non-use, or for failure to begin construction within the time prescribed, or for failure to otherwise comply with the terms prescribed;
- (b) To require proper and adequate extension of plant and service, and the maintenance of the plant and fixtures at the highest practicable standard of efficiency;
- (c) To establish reasonable standards of service and quality of products and prevent unjust discrimination in service or rates;
- (d) to impose such other regulations as may be conducive to the safety, welfare, and accommodation of the public.

Sec. 30. Certain ordinances and rules and regulations to continue in force. All ordinances in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

All rules and regulations of the municipal officers of the city of Port-

land in force at the time when this charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

The powers and duties of any committee of the city council of the city of Portland heretofore conferred or prescribed by statute, may by ordinance be conferred upon or prescribed for any committee of the city council.

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 therewith, shall be enforced, continued or completed in all respects as though begun or executed hereunder.

Sec. 31. Saving clause. Nothing in this act shall be construed as repealing or amending any law of the state, or ordinance of the city of Portland relative to the appointment, term of office, removal, retirement or pension of the members of the police department, the fire department and of the electrical department of the city of Portland, except so far as relates to the appointment, removal and term of office of the chief of the fire department, chief of the police department, appointment and removal of the city electrician and the appointment of the deputy and district chiefs of the fire department.

The passage and acceptance of this act shall not, except as specifically provided therein, affect the term of office of such officers, trustees, members of commissions, or departments, as may be holding office, with a definite term of years fixed by statute, at the time this charter takes effect, but such officers, trustees, members of commissions, or departments, shall complete the term of office to which they have been elected or appointed, subject to removal by the mayor, with the consent of the city council, for cause.

Sec. 32. Effective date. So much of this act as authorized the submission of the acceptance of this charter to the electors of the city of Portland shall not take further effect unless adopted by the electors of the city of Portland as hereinafter provided. If adopted by the electors 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 electors, and for all other purposes this act shall take effect on the 2nd Monday of December in the year 1947.

Sec. 33. P. & S. L., 1923, c. 109, as amended, inconsistent acts repealed. All provisions of the present charter of the city of Portland not incon-

sistent with this act are hereby expressly continued in full force and effect, but all acts and parts of acts inconsistent with this act are hereby expressly repealed.

Sec. 34. Referendum. This act shall be submitted for approval or rejection to the qualified voters of the city of Portland at an election to be held the 2nd Monday in September, A. D. 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 at the several ward meetings of said city, there to cast their ballot for the approval or rejection of this act. The question proposed on said ballot shall be in substantially the following form: "Shall 'An Act Amending the Charter of the City of Portland for a Mayor and Aldermen Form of Government', passed by the 93rd legislature, be accepted?" and the voters shall indicate by a cross placed over the words "Yes" or "No" their opinion of the same. If this act has been accepted by a majority of the legal voters voting at such meeting, this act shall take effect on the date of its adoption by the voters.

The result of the vote in the city of Portland shall be declared by the city clerk and a certificate thereof filed by the city clerk with the secretary of state.