

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 453**

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H. P. 751

House of Representatives, February 2, 1951.

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

HARVEY R. PEASE, Clerk.

Presented by Mrs. Hanson of Lebanon.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-ONE

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**AN ACT to Provide a Council-Manager Charter for the Town of Wells.**

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

**ARTICLE I**

**Town Meetings**

**Sec. 1. Regular and special meetings.** Regular annual and special town meetings of the town of Wells, in the county of York, shall be called and held as provided in the revised statutes of Maine. The town meeting shall have all the rights and powers customarily vested in such meetings by the applicable Maine statutes, except that the town council hereinafter provided shall have the power to enact such regulatory ordinances as are legal for town meetings to enact under the general laws.

**ARTICLE II**

**Elections**

**Sec. 1. Officers; terms; ballots.** The following officers shall be nominated and elected by secret ballot on the day of the annual town meeting by the qualified voters of the town: moderator, 7 members of the town council, all of whom shall be elected at large for 1-year terms; 1 member of the superintending school committee for a 3-year term. Vacancies in any elect-

ed office may be filled by council appointment for the unexpired term. The methods of nominating and voting shall be as set forth in the revised statutes governing "secret ballot" elections in municipalities; except that absentee voting shall be permitted in accordance with the procedure governing absentee voting at state elections.

### ARTICLE III

#### Town Council

**Sec. 1. Organization.** Within 24 hours after their election and upon call of the moderator, the councillors shall meet and elect by written ballot, by majority vote, one of their number to be chairman and another of their number to be secretary. A record of the action taken at this organization meeting, signed by a majority of the councillors, shall be submitted by the chairman within a week after said meeting to the town clerk, who shall record it in the permanent town records forthwith.

**Sec. 2. Powers and duties.** The councillors shall be the municipal officers of the town and shall have the duties and responsibilities customarily incumbent upon selectmen of towns and not otherwise provided for herein.

The council shall be empowered to enact such bylaws and ordinances as the revised statutes of Maine permit and as they deem in the best interests of the town. Any ordinance so passed, however, shall be of no force nor effect within the limits of the Ogunquit Village Corporation. The council may also, in times of emergency, approve the transfer of funds between accounts in the budget.

The council shall decide where the town office shall be located and what hours it shall be open for business. The council may permit the town manager to serve concurrently as the manager of a neighboring community, or of a subdivision of the town of Wells; but shall not permit him to engage in any other gainful occupation.

The council shall adopt rules of procedure to govern its own action on legislative matters.

**Sec. 3. Meetings; quorum.** Council meetings shall be open to the public. Official records of council meetings shall be kept in the office of the town clerk and shall be open to public inspection during office hours. Regular meetings shall be held once a month on a day and time decided upon by the council. Special meetings may be called by the chairman, or by a majority of the council, after 24 hours written notice to all members and to the town manager. Four councillors shall constitute a quorum.

**Sec. 4. Appointments.** The council shall appoint, for an indefinite term, a town manager as provided herein. The council shall also choose a qualified auditor, experienced in municipal auditing, to make an annual audit of all funds, collections, disbursements, investments and financial records kept by town officers, who shall report direct to them the results of his audit.

The council may also appoint a budget committee, a town planning board, a board of zoning appeals, a board of registration of voters, wardens and ballot clerks for the polling places, and an acting town manager to serve during temporary absences of the manager and fix their compensation and working conditions. If the council so chooses, it may serve in one or more of those capacities.

**Sec. 5. Compensation.** The councillors shall serve without pay, except that they may be reimbursed for their actual and necessary expenses incurred in the performance of their duty.

#### ARTICLE IV

##### Town Manager

**Sec. 1. Qualifications.** The town manager shall be a person of executive and administrative ability, trained or experienced in municipal management. He need not be a resident of the town of Wells nor of the state of Maine, but he must be a citizen of the United States. He may not be, and may not within 3 years prior to his appointment have been, a member of the council nor of the superintending school committee.

**Sec. 2. Appointment and salary.** The town manager shall be appointed by a majority vote of the council for an indefinite term. The council shall set the manager's salary and shall make such agreement with the manager relative to reimbursement of actual and necessary expenses incurred by the manager in the performance of his duties as seems in the best interests of the town.

**Sec. 3. Removal.** The town manager shall serve at the pleasure of the council and may be removed by them by a majority vote at any regular council meeting after notice of their intentions have been publicly announced at the preceding regular meeting.

**Sec. 4. Powers and duties.** The town manager shall be the chief administrative officer of the town and shall have full charge of all departments of town government except education, and except those departments specially set aside to the Ogunquit overseers in the charter of the Ogunquit Village Corporation. He shall supervise the purchasing of materials

and supplies for all departments under his control. He may organize and reorganize, consolidate and separate the various departments, subject to the approval of the council. He shall keep the council and general public fully informed about town affairs and finances. He shall prepare and execute the municipal budget. He shall, upon request, advise the council in matters of policy; and shall provide the council with such factual information as it may need to determine municipal policy. He shall approve all bills and payrolls prior to payment by the town treasurer; but is not authorized to exceed any budgetary allotment or expense appropriation nor transfer funds between accounts, without written approval signed by a majority of the council. He shall also fix the wages, salaries, expense allowances, working conditions, leaves of absence and other personnel regulations of all town employees under his supervision.

He shall attend all meetings of the council, except when his removal is being considered, but shall have no vote in council decisions. He shall enforce all laws of the state and ordinances of the town, and execute the policies determined by the council.

The town manager shall appoint department heads for each department of the town government under his supervision. He may designate himself to head one or more departments and he may permit 1 appointee to head more than 1 department. In any event he shall appoint a town clerk; a town treasurer; a tax collector; 1, 2 or 3 assessors; a road commissioner; a health officer; and such other municipal officials as are required by law or ordinance. One person may hold more than 1 office, except that an assessor may not also be the tax collector; and neither the tax collector nor the town clerk may also be the town treasurer.

All appointments made by the manager shall be subject to confirmation by the council.

In general, the manager may appoint only those officers and employees who report directly to him, and he may delegate to them the duty of appointing their subordinates.

## ARTICLE V

### Superintending School Committee

**Sec. 1. Duties.** The superintending school committee, elected as herein provided, shall have the same powers in relation to the schools of said town as are now or shall be in the future provided by statute, and shall be subject to the same duties in relation thereto.

## ARTICLE VI

### Appointed Officers

**Sec. 1. Appointed by town manager.** The town clerk, tax collector, town treasurer, assessor, road commissioner and health officer shall have the duties now or subsequently provided by statute for such offices. They and the department heads shall serve at the pleasure of the manager and may be dismissed by him with 1 month's notice, if he deems such removal in the best interests of the town.

**Sec. 2. Appointed by the council.** The boards, committees and officials appointed by the council shall be as follows and have the following terms of office and duties :

1. Budget committee—1-year term. To consider prior to the annual meeting, the town budget for the ensuing fiscal year and to make recommendations thereon to the town.

2. Planning board. Term and duties as set forth in the revised statutes of Maine.

3. Board of zoning appeals. Term to be decided by council. To consider appeals and special permits under the town zoning ordinance.

4. Board of registration of voters—2-year term. To register voters and maintain voting lists in accordance with the applicable provisions of the revised statutes of Maine.

5. Wardens—2-year terms. To preside at polling places on election days.

6. Ballot clerks—2-year terms. To be appointed upon recommendation of the town political party committees in accordance with applicable provisions of the revised statutes. Duties as prescribed in the revised statutes.

## ARTICLE VII

### Miscellaneous Provisions

**Sec. 1. Payments.** No money shall be paid out by the town treasurer, except on written order of the town manager. It will be the manager's responsibility to see that appropriations are not overdrawn, and that money is not illegally expended.

**Sec. 2. Sales of town-owned property.** Town owned real estate may be sold only by the council, and by them only if the town meeting so authorizes

them. The town council may authorize the town manager to execute legal documents in their name, however, in connection with such sales.

**Sec. 3. Fees.** All fees, taxes and other moneys collected by municipal officials shall be paid over to the town treasurer monthly or oftener, and shall be placed by him in the general funds of the town. No fees may be retained by the collecting official, either in lieu of or in addition to his salary.

**Sec. 4. Insurance and bonds.** In the absence of an applicable vote of the town meeting, the council shall require surety bond coverage and such other insurance protection as in their best judgment is necessary, both in such amounts and written by such companies as they deem satisfactory, sufficient to protect the town from loss due to careless or criminal acts on the part of those employees and officials who are trusted with town moneys. Premiums on such bonds and insurance shall be paid by the town.

**Sec. 5. Officers to be sworn.** All persons elected or appointed to statutory offices shall be sworn to faithful performance of the duties of their respective offices by competent officials.

**Sec. 6. Inconsistent acts repealed.** All acts or parts of acts, and all ordinances, bylaws and regulations, inconsistent herewith insofar as they relate to the town of Wells in the county of York, are hereby repealed; provided, however, that this act shall in no way affect the Ogunquit Village Corporation or any of the powers, rights and duties now vested in that corporation by its charter or by votes of the town of Wells. And provided further, that this act shall not affect any of the private and special acts and resolves pertaining to the town of Wells which are not inconsistent with this act; and provided further that in all matters not covered by this act and not inconsistent herewith, the statutes shall prevail.

**Sec. 7. Saving clause.** If any part or parts of this act shall be deemed unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the other parts thereof.

**Referendum; effective date; certificate to secretary of state.** This act shall take effect 90 days after the adjournment of the legislature, only for the purpose of permitting its submission to the legal voters of the town of Wells at an annual or special town meeting called and held for the purpose not later than 2 years after the effective date of this act. Such special town meeting shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration of said town shall not be required to prepare for posting nor the town clerk to post a new list of voters, and for

the purpose of registration of voters, said board shall be in session 1 hour preceding such election. The vote shall be by written "Yes" and "No" ballot upon the question: "Shall the Act to Provide a Council-Manager Charter for the Town of Wells be accepted?" The question must be separately considered and there must be full opportunity for debate on the question. The result of said election shall be declared by the municipal officers of the town of Wells and due certificate thereof filed by the town clerk with the secretary of state. This act shall take effect for all the purposes thereof at the annual town meeting in the succeeding calendar year following its acceptance by a majority of the legal voters voting at said meeting.