

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 1027**

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H. P. 933

House of Representatives, February 19, 1953.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Downing of North Kennebunkport by request.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-THREE

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

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

**Sec. 1. Date of town meetings.** On and after the passage of this act and its adoption by the town as hereinafter provided, annual town meetings shall be held in the town of Old Orchard Beach, in the county of York, on the 1st Monday of March in each year, and the voters shall then choose by ballot, as now provided by law, a moderator.

**Sec. 2. Officers; how elected.** At such meetings, the voters shall choose by secret ballot in accordance with sections 46 to 60, inclusive, of chapter 80 of the revised statutes of 1944, as amended, a town clerk, a member of the superintending school committee, and as hereinafter provided, 5 inhabitants of said town to be known as councillors.

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

**District No. 1** shall consist of all that part of the town northeasterly of a line based on the center of Old Orchard street, lengthwise, as said line

extends to low water mark of the Atlantic ocean and to the boundary line of the city of Saco in a straight line to the ends of said line.

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

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

Councillors shall be elected by a plurality vote of the qualified voters of the town.

At the first meeting held under the provisions of this act, said councillors shall be chosen as follows: The district councillor polling the greatest number of votes shall serve for a term of 3 years; the district councillor polling the next highest number of votes shall serve for a term of 2 years; the district councillor polling the next highest number of votes shall serve for a term of 1 year; and thereafter as their respective terms expire, a district councillor shall be chosen for a term of 3 years. The councillor-at-large polling the greatest number of votes shall serve for a term of 2 years; the councillor-at-large polling the next highest number of votes shall serve for a term of 1 year; and thereafter as their terms expire, a councillor-at-large shall be chosen for a term of 2 years. Vacancies in the office of councillor due to death, resignation, or other cause shall be filled at the next annual town meeting for the unexpired term.

The councillors shall appoint, when a vacancy occurs, a health officer, subject to the approval of the state commissioner of health and welfare as now provided by general law, a police chief and a town manager with duties hereinafter defined. Said health officer shall appoint a plumbing inspector, subject to the approval of the state commissioner of health and welfare as now provided by general law. Except as above and hereinafter provided, all other necessary town officers as now or hereinafter provided under any statute or by-law shall be appointed by the town manager, subject to approval by a majority of the council.

Except as otherwise provided by general law, all appointed town officers shall hold office for an indefinite term, but may be removed for cause at any time. Any town officer removed from office may request a public hearing before the council upon the question. Within 30 days of the date of such request, the council shall hold such hearing and the decision of the council shall be final.

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

**Sec. 4. Organization meeting.** The councillors elected as herein provided shall meet as soon as may be after their election, and shall choose by ballot 1 of their number to be chairman, and shall appoint a secretary; an affidavit of such choice of chairman with the appointment of the secretary, signed by a majority of the councillors, shall be recorded by the town clerk in the records of said town. Thereafter, records shall be kept by the council of all doings of said council, said records to be public records, and shall be open to the inspection of any citizen of said town at the office of the council.

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

**Sec. 6. Superintending school committee.** The present members of the superintending school committee whose terms of office have not expired shall continue to serve until the expiration of their present term of office. The 3rd member shall be chosen in the manner provided for in section 2 for a term of 3 years, and thereafter a member of the superintending school committee shall be elected annually by the voters for a term of 3 years. The superintending school committee, constituted or elected as herein provided, shall have the same powers in relation to schools of said town as now provided by statute, and shall be subject to the same duties in relation thereto.

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

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

**Sec. 8. Town manager; fees.** The town manager shall not be a member of the council and he may or may not be a resident of Old Orchard Beach or the state of Maine at the time of his appointment. The councillors shall by a majority vote, as soon as may be after a vacancy occurs, appoint a town manager. The town manager so appointed shall bear the title, have all the authority of, and perform the duties of town treasurer, tax collector and road commissioner, and as such shall have the same powers as though elected under the provisions of the general statutes. He shall also, when authorized and directed by the town councillors, be clerk or agent for them as overseers of the poor, to sign and send the written notices and written answers referred to in sections 29 and 30 of chapter 82 of the revised statutes of 1944, as amended. Any act performed by the town manager in said capacity shall have the same effect as if performed by the members of the council as overseers of the poor. All fees collected by the town manager while in the performance of his duties in every capacity shall be the property of the town.

**Sec. 9. Powers and duties of town managers.** The town manager shall be chosen by the council solely on the basis of his executive and administrative qualifications and his knowledge of municipal management, and he shall be the administrative head of the town government, and shall be responsible to the council for the administration of all departments of the town over which the council has control under this act and the general statutes, and his powers and duties, where not otherwise herein provided, shall be generally as follows:

To see that the laws and ordinances are enforced.

To collect the taxes committed to him in his capacity as tax collector and to collect the automobile excise tax imposed by law, and daily pay the same over to the town treasurer, receiving a duly executed receipt therefor.

To have custody and safekeeping of all funds of the town government, receive all money that may be due the town in his capacity as town treasurer and to deposit the same at least weekly in a depository designated by the council.

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

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

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

To prepare and submit annually before the last day of January, a budget to the council.

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

The town manager shall devote his entire time to his said office, and shall receive for his services a rate of compensation to be fixed by the council, and the actual and necessary expenses incurred in the performance of his duties. He shall maintain an office at such place as the councillors deem advisable and shall be provided with such clerical assistance as the council may decide.

**Sec. 10. Non-interference by the council.** Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the town manager nor by any of his subordinates. Neither the council nor any member thereof shall give orders to any subordinates of the town manager, either publicly or privately. Any councillor violating the provisions of this section, or voting for a resolution or by-law in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a councillor.

**Sec. 11. Compensation of appointees.** When not otherwise provided herein, the compensation of appointed officers and employees of said town shall be fixed by the appointing power with the consent of the council.

**Sec. 12. Officers to be sworn.** All town officers elected or appointed shall be sworn to the faithful performance of the duties of their respective offices by a justice of the peace or notary public.

**Sec. 13. Payments from treasury.** All accounts for the purchase of supplies and materials and work performed for said town, with the exception of the accounts of the school department, shall bear the approval of the town manager when presented to the council for payment. No money shall be paid out of the town treasury, except by order signed by a majority of the councillors or their representative authorized for the purpose and presented to the treasurer of said town at the time of payment.

**Sec. 14. Bonds of officials.** The council of said town shall require a bond from a surety company satisfactory to said council, from all persons trusted with the collection, custody or disbursement of any of the moneys of said town, in such form as they deem sufficient. The premiums on said bonds shall be paid by the town.

**Sec. 15. Repealing clause.** All acts or parts of acts and by-laws inconsistent herewith insofar as they relate to the town of Old Orchard Beach, in the county of York, are hereby repealed. Provided, however, that this act shall not affect any of the private or special acts or resolves pertaining to the town of Old Orchard Beach which are not inconsistent with this act; and provided further, that in all matters not covered by this act and not inconsistent herewith, the general statute shall prevail.

**Sec. 16. Referendum; effective date; certificate to secretary of state.** This act shall take effect 90 days after adjournment of the legislature, only for the purpose of permitting its submission to the legal voters of the town of Old Orchard Beach at a special meeting called and held for the purpose or at an annual town meeting of the town of Old Orchard Beach. Such special meeting or annual town meeting shall be held not later than 9 months after the effective date of this act. In the event a special meeting is called for the purpose, it shall be called, advertised, and conducted according to the law relating to municipal elections; provided, however, that the board of registration in said town of Old Orchard Beach 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 the 3 secular days next preceding such special meeting, the 1st and 2nd days thereof to be devoted to the registration of voters, and the 3rd day to enable the board to verify the corrections of said list and to complete and close up their records of said sessions. The town clerk shall prepare the required ballots, on which he shall reduce the subject matter of this act to the

following question: "Shall the act to provide a town council and manager form of government for the town of Old Orchard Beach be accepted?" and the voters shall indicate by a cross or check mark placed over the words "Yes" or "No" their opinion of the same. The result in said town shall be declared by the municipal officers of the town of Old Orchard Beach, and due certificate filed by the town clerk with the secretary of state.