

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

Legislative Document

No. 1538

H. P. 1073

House of Representatives, April 30, 1957

Reported by Mrs. Smith from the Committee on Legal Affairs and ordered printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Granting a New Charter to the Town of Old Orchard Beach.

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

TOWN CHARTER OF OLD ORCHARD BEACH.

ARTICLE I.

Grant of Powers to the Town.

Sec. 1. Corporate existence retained. The inhabitants of the town of Old Orchard Beach, 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 the "Town of Old Orchard Beach, Maine."

Sec. 2. Powers of the town. Except as otherwise herein provided, the town 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 under the Constitution and general laws of the State of Maine governing municipal corporations.

In this charter, no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the town would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the town may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the town may assume pursuant to state laws and to the provisions of the State Constitution.

ARTICLE II.

Town Officers.

Sec. 1. Division of town into districts; new registration. It shall be the duty of the selectmen elected for the year 1957, prior to November 1, 1957 to

divide the territory of the town into 5 districts, each district to be plainly designated, and to contain approximately an equal number of registered voters.

On or before November 1, 1957 the selectmen shall file a report of their doings with the town clerk with a map or maps and descriptions of the districts. They shall, on or before November 15, 1957 cause a copy of such map or maps and descriptions of the districts to be posted at the town hall; and in at least one public and conspicuous place within each district shall post a map or description of the district. Thereafter, upon any revision of boundaries, the municipal officers shall, on or before September 15th following such revision, file a report of their doings with the town clerk, with a map or maps and descriptions of the districts, and cause a copy of the map or maps and descriptions to be posted at the town hall, and cause to be posted in at least one public and conspicuous place in each district a map or description of that district. The division of the town into districts and any revision of such districts shall take effect upon the date of the filing of the report thereof by the selectmen with the town clerk.

On or before the first day of November, 1957 the selectmen shall certify to the town clerk the total number of registered voters in each district on October 1st and the total number of town meeting members each district is entitled to elect at the next annual election, and thereafter, the council shall annually, in the month of August, revise the list of voters in each district and shall, on or before the 15th day of September, certify to the town clerk the total number of registered voters in each district as of the 20th day of August next preceding, and the number of town meeting members which each district is entitled to elect at the next annual town meeting, and such certification shall be final.

The boundaries of said councilor districts shall be reviewed and if need be, wholly or partially revised, in August of 1958, and in August of any year when so directed by vote of a representative town meeting held not later than December 31st of the previous year. For the purpose of establishing said councilor districts, the selectmen for the year 1957 shall, between the dates of September 1, 1957 and October 1, 1957 call for a registration and party enrollment of all of the voters of said town, and they shall, on or before October 10, 1957 certify to the town clerk a revised voting list in accordance with said new registration and enrollment. Upon completion of said new registration and party enrollment, all registrations and party enrollments prior to September 1, 1957 shall then be void. Thenceforth, the registration and party enrollments shall be in accordance with the general law.

Sec. 2. District voting. It shall not be necessary that the polling place for district voting be within the district; and two or more districts may vote at the same polling place. The voting of each district shall be conducted independently of that of any other district and under separate election officials. The selectmen, prior to November 15, 1957, shall appoint the election officials provided for in precinct voting under the provisions of the general law to act until December 1, 1958; and thereafter, the councilmen shall annually, in the month of November, appoint election officials to act for one year from the first day of December following their appointment.

Sec. 3. Terms of incumbent officers; termination of. The terms of office for all persons whose terms would expire under the general law the first Monday of March, 1958, shall expire on December 31, 1957. The terms of office for all

persons holding office which would expire under the general law on the first Monday of March, 1959, shall expire December 31, 1958. The terms of office for all persons holding office which would expire under the general law on the first Monday of March, 1960, shall expire December 31, 1959.

Sec. 4. Annual election date. The annual election date for each year following the year 1957 shall be the first Monday after the first Tuesday in December of the preceding year. Except as otherwise provided, all elected officials shall be sworn by the town clerk or a justice of the peace to the faithful discharge of their duties and shall assume their offices on the first day of January following their election.

Sec. 5. Officers, how elected. The town shall elect by Australian ballot annually, 5 district councilmen, one by each councilor district, who shall reside in the district from which he is chosen. The town shall elect in the same manner, 2 councilmen-at-large who may reside in any councilor district. The candidate for councilman-at-large receiving the largest number of votes shall be elected for a 2-year term; the candidate for councilman-at-large receiving the second highest number of votes shall be elected for a 1-year term. Thereafter, when the term of a councilman-at-large expires, one councilman-at-large shall be elected for a 2-year term.

Except as otherwise provided by this charter, all elections shall be held in accordance with the general law, and all candidates for office must qualify under the general law to have their names placed on the official ballot.

Sec. 6. Officers elected under the general law. The office of town clerk, member of superintending school committee, member of civil service commission and member of park commission shall be filled in accordance with general law by Australian ballot, except insofar as the election dates and tenures of office are modified by the terms of this charter.

ARTICLE III.

Councilmen—Powers and Duties.

Sec. 1. Powers and duties, general. The councilmen shall have the same powers and duties which are now vested in the municipal officers of towns under the general laws of the State of Maine.

Sec. 2. Duties, additional. Except as otherwise provided by this charter, it shall also be the duties of the councilmen to:

I. Appoint by a majority vote of its members and remove for cause, the following officers:

- A. Chief assessor, for a term of 3 years;
- B. Two assistant assessors, each for a term of one year;
- C. Treasurer, for a term of one year;
- D. Chief of police, for a term of one year;
- E. Two constables, each for a term of one year;
- F. Health officer, for a term of 3 years.

II. Appoint, by a majority vote of its members, an Administrator for an indefinite term, and to remove him at its discretion by a majority vote of its members. The Administrator shall hold the office of tax collector, director of public welfare and director of public works, each office to be for a term of one year.

No two of the offices of tax collector, treasurer or assessor may be held by the same person simultaneously.

III. Inquire into the conduct of any office, department or agency of the town, and make investigation as to its municipal affairs.

IV. Adopt plats.

V. Adopt and modify the official map of the town.

VI. Provide for a semiannual audit.

Sec. 3. Councilmen, qualifications. The councilmen shall be qualified voters of the town and shall remain inhabitants of the town during their terms of office. They shall hold no office of emolument or profit under the town charter or ordinances, except that a councilman may hold the office of Administrator. If a councilman shall cease to possess any of these qualifications, his office shall immediately become vacant upon vote of the majority of the remaining members of the council.

Sec. 4. Compensation. Each councilman for the year 1958 shall receive \$7.50 for each council meeting attended, not to exceed in the aggregate the sum of \$250 each. Each year thereafter, the compensation of the councilmen shall be fixed by the town meeting membership. Subject to the right of the town meeting membership to fix salaries and wage scales, the town council shall fix the salaries of all other town officials and employees, except those employees coming within the jurisdiction of the superintending school committee, the civil service commission and the park commissioners.

Sec. 5. Induction of council into office. The town council shall meet the first business day in January following the regular town election, and at said meeting, councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the town clerk.

Sec. 6. Council; regular meetings. The town council shall, at its first meeting, or as soon thereafter as possible, establish by ordinance or resolution, a regular place and time for holding its regular meetings, and shall meet regularly at least once a month. The regular meetings of the council shall be open to the public.

Sec. 7. Council; special meetings. Special meetings of the council may be called on 24-hours' actual personal notice by the chairman, and in the case of his absence, disability or refusal, may be called by a majority of the town council in the same manner.

Sec. 8. Chairman. At its first meeting, or as soon thereafter as practicable, the council shall elect by a majority vote one of its members as Chairman for the ensuing year, and the town council may fill, for an unexpired term, any vacancy

in the office of chairman in the same manner. The chairman shall preside at meetings of the council and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for the purpose of military law.

Sec. 9. Quorum. A majority of the town council shall constitute a quorum for the transaction of business.

Sec. 10. Vote, how taken. In all meetings of the town council, the vote on all matters passed upon shall be taken by "Yeas" and "Nays," and such individual "Yea" and "Nay" votes shall be entered upon the records of the procedure of the council, which records shall be open to the public.

Sec. 11. Officers and employees of the town. The appointment of officers and employees of the town, except as otherwise provided herein, shall be the responsibility of the council, which may delegate this power of appointment insofar as they deem fit to the Administrator or department heads.

Sec. 12. Budget and financial reports. It shall be the duty of the council to prepare a budget to present to the town meeting members on the first Monday in February, and it shall contain:

I. Exact statement of the financial condition of the Town.

II. An itemized statement of appropriations recommended for current expenses and for permanent improvements; with comparative statements in parallel columns of expenditures for the current and next preceding fiscal year. An increase or decrease in any item shall be indicated by a separate column therefor.

III. An itemized statement of estimated revenue from all sources other than taxation; and a statement of taxes required with comparative figures from the current and next preceding year.

IV. Such other information as may be required by the Town Meeting.

Sec. 13. Administrator, duties. It shall be the duty of the Administrator to:

I. 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 Town for the preceding year, as well as a cumulative monthly report of the condition of all appropriation accounts, showing appropriations, income and anticipated income to each account, expenditures to date, balance remaining, and anticipated expenditures for the remainder of the year.

II. Make such recommendations as may seem to him desirable after consultation with respective department heads.

III. Perform such other duties as may be prescribed by this Charter or required of him by the Council, not inconsistent with this Charter.

Sec. 14. Directors of departments. At the head of each department, except the department of education, there shall be a director or chief, who shall be an officer of the town and shall have supervision and control of the department, subject to the town council.

Sec. 15. Department of public welfare. There shall be a department of public welfare, the director of which shall be the Administrator. The director of public welfare shall exercise all of the powers and perform all of the duties conferred or imposed by law upon overseers of the poor.

Sec 16. Director of public works. The Administrator shall be the director of public works. The director of public works shall exercise all of the powers and perform all the duties conferred or imposed by law upon road commissioners, and shall exercise such other powers and perform such other duties as are delegated to or required of him by the council.

Sec. 17. Health officer. The town council shall appoint for a term of 3 years, a health officer, who shall exercise such powers and perform such duties as may be conferred or imposed by law. The health officer shall meet such qualifications as may be specified for such positions by the State Commissioner of Health and Welfare.

Sec. 18. Fiscal year. The fiscal year shall begin January 1st and end December 31st.

Sec. 19. Appropriations lapse at end of fiscal year. Except as otherwise provided by law, all appropriations shall lapse at the end of the fiscal year, and all surpluses shall be appropriated at the next annual town meeting.

Sec. 20. Borrowing in anticipation of other revenues. In any fiscal year, in anticipation of the collection or receipt of taxation and of other revenues of that fiscal year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the town, each of which shall be designated "Special Revenue Note for the year. . . .". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year in which the original note shall have been issued.

Sec. 21. Town treasurer, powers and duties. The powers and duties of the town treasurer shall be the same as provided for town treasurers under the general laws of the State of Maine.

ARTICLE IV.

Division of Assessment.

Sec. 1. Assessors. There shall be established a division of assessment, which shall consist of a chief assessor and 2 assistant assessors, whose appointments have hereinbefore been provided for, who shall exercise the same powers and be subject to the same duties and liabilities as assessors under the general laws of the State of Maine, subject to those powers hereinafter vested in the board of assessment review.

Sec. 2. Board of assessment review. There shall be a board of assessment review which shall consist of 5 members. Beginning with the year 1958 and each 3rd year thereafter, said board members shall be elected, one from each council or district for a term of 3 years at the annual town meeting upon nomination of the majority of the town meeting members of his district. Vacancies in the

membership of such board shall be filled by appointment by the town meeting membership in the same manner as aforesaid.

Sec. 3. Board of assessment review; powers and duties.

I. The Board shall adopt regulations regarding the procedure of assessment review, administering oaths, taking of testimony and the holding of hearings.

II. On written request by any property owner, stating therein a grievance concerning an assessment by the division of assessment, the board shall hold a hearing to receive evidence concerning said grievance, and wherever the evidence shall warrant the same, they shall recommend a review and revision of said assessment by the division of assessment in accordance with their findings.

Any taxpayer desiring to appeal from the decision of the board of assessors and the board of assessment review must qualify under the general laws of the State of Maine.

ARTICLE V.

Purchasing.

The town council shall act as purchasing agent and shall have under its supervision and management the purchase of all supplies, materials and equipment for the use of the town in the operation and maintenance of its several departments and boards, excepting supplies for schools, which shall be purchased only on requisition from the superintending school committee.

The town council may delegate its purchasing powers to the administrator and to the heads of the various departments; provided, however, that any purchase in excess of \$100 must be by the specific authority of the council.

Before the town council makes any purchase of or contracts for supplies, materials, equipment, services or improvements involving a sum in excess of \$500, it shall provide ample opportunity for competitive bidding.

ARTICLE VI.

Town Meetings.

Sec. 1. Annual town meeting; when held. Annual town meetings shall be held on the first Monday in February.

Sec. 2. Town meeting membership. The town meeting membership shall consist of one member for each 100 registered voters and one for any major portion thereof; but in no case, less than 5 from each councilor district.

Sec. 3. Town meeting membership; how elected. At the annual election for the fiscal year 1958, each councilor district shall elect a one-year member, a 2-year member, a 3-year member, a 4-year member and a 5-year member, and as many more 5-year members as the population of their district entitles them to members in excess of five. The candidate receiving the largest number of votes shall be declared elected as a 5-year member; the candidate receiving the second largest number of votes shall be declared a 4-year member; the candidate re-

ceiving the third largest number of votes shall be declared a 3-year member; the candidate receiving the fourth largest number of votes shall be declared a 2-year member and the candidate receiving the fifth largest number of votes shall be declared a one-year member. Each year after the year 1958, vacancies shall be filled by election for the term of 5 years, or for the remainder of unexpired terms, as the case may be.

Town meeting members, as aforesaid, shall be the judges of the election and of the qualifications, according to the provisions of this charter, of their members.

Sec. 4. Town meeting members, compensation. Town meeting members shall serve without compensation as such.

Sec. 5. Town meeting membership, quorum. A quorum shall consist of a majority of the membership.

Sec. 6. Town meeting membership, powers. The town, after the acceptance of the charter, shall continue to have the capacity to act through and to be bound by its town meeting members, who shall, when convened from time to time as herein provided, constitute representative town meetings; and the representative town meetings shall exercise exclusively, so far as will conform to the provisions of this charter, all powers vested in the municipal corporation. Action in conformity with all provisions of law now or hereafter applicable to the transaction of town affairs in town meeting shall, when taken by any representative town meeting in accordance with the provisions of this charter, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment in said town of representative town meeting government.

The calling of, the warrant for, election of a moderator and all other procedure pertaining to the town meetings, shall be in accordance with the general laws of the State of Maine, except as herein provided.

Sec. 7. Power of representative town meeting limited. No article which purports to increase the bonded indebtedness of the town shall be effective without action thereon by the voters of the town at large, using the ballot and the check list therefor.

Sec. 8. Power of initiative. The voters of the town of Old Orchard Beach shall have the power to require the town council to call a special town meeting and to require of the council to insert in the warrant for said special town meeting or any annual town meeting, any article of their choosing by petition to the council requesting the same and containing at least 300 signatures of registered voters of the town. If, after receiving such petition, the council unreasonably refuses to call said special town meeting or insert said article in the warrant for a special town meeting or annual town meeting, the voters may, by petition of not less than 300 registered voters of the town, apply in writing to a justice of the peace in the county, who may issue his warrant for calling such meeting.

Sec. 9. Recall. The power of recall of elective officers shall be in accordance with the Constitution and the general laws of the State of Maine.

ARTICLE VII.**General Provisions.**

Sec. 1. Ordinances not inconsistent to continue in force. All ordinances and by-laws of the town of Old Orchard Beach in force at the time this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

Sec. 2. Publicity of records. All records and accounts of every office, department or agency of the town shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the town 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. 3. Repealing clause. All acts and parts of acts of the private and special laws of Maine relating to the town of Old Orchard Beach, inconsistent with the provisions of this charter, are hereby repealed.

Sec. 4. 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. 5. Short title. This charter shall be known and may be cited as the "Town Charter of Old Orchard Beach." The town clerk shall cause it to be printed and made available to the public promptly.

Sec. 6. 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 qualified voters of the town of Old Orchard Beach at a special meeting to be called by the selectmen and held no later than 30 days after the effective date of this act. Such special meeting shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the municipal officers 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 municipal officers shall be in session the 3 secular days next preceding such election, the 1st and 2nd days thereof to be devoted to registration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up its records of said session. 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 Granting a New Charter to the Town of Old Orchard Beach, passed by the 98th Legislature, be accepted?" and the voters shall indicate by a cross or check mark placed against the words "Yes" or "No" their opinion of the same. This act shall take effect for all the purposes hereof immediately upon its acceptance by a majority of the legal voters voting at said meeting; provided that the total number of votes cast for and against the acceptance of this act at said meeting equaled or exceeded 20% of the total number of votes cast in said town for all candidates for Governor at the next previous gubernatorial election.

The result of the vote shall be declared by the municipal officers of the town of Old Orchard Beach and due certificate thereof filed by the town clerk with the Secretary of State.