

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE,

1858.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

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AUGUSTA:  
STEVENS & SAYWARD, PRINTERS TO THE STATE.

1858.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1858.

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Furniture and repairs, one hundred seventy-five dollars, 175 00 CHAP. 249.

Amounting in the whole to two hundred twenty-seven thousand nine hundred twenty-six dollars, ten cents, \$227,926 10

[Approved March 29, 1858.]

**Chapter 249.**

An act to incorporate the city of Brunswick.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:*

SECT. 1. The inhabitants of the town of Brunswick, in the county of Cumberland, shall continue to be a body politic by the name of the city of Brunswick; and as such, shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and be subject to all the duties and obligations now appertaining to or incumbent upon the inhabitants or selectmen thereof, and may ordain and publish such acts, laws and regulations not inconsistent with the constitution and laws of this state, as shall be needful to the good order of said body politic, and enforce fines and penalties for the breach thereof, not exceeding twenty dollars for any one offence, which may be recovered to the use of said city by action of debt, or on complaint before the municipal court of said city.

Corporate name.

Powers, and liabilities.

May ordain and publish laws, &c.

May impose fines, &c.

SECT. 2. The administration of all the fiscal, prudential and municipal affairs of said city, with the government thereof, shall be vested in one principal magistrate, to be styled the mayor; and one council of seven to be denominated the board of aldermen; and one council of twenty-one to be denominated the common council; all of whom shall be inhabitants of said city, which boards shall constitute and be called the city council; all of whom shall be sworn to the faithful performance of the duties of their respective offices; *provided*, that the city council shall not vote, assess nor appropriate any money for any object or purpose for which the town of Brunswick is not authorized to vote, assess or appropriate money, except for such purposes as are authorized by this act; *and provided further*, that neither the city council nor any agent nor officer of the city, shall borrow or hire any money for or on account of the city or inhabitants thereof, except for the purposes for which the town of Brunswick is now by law authorized to raise money; and all notes, bonds, obligations, scrip or orders given by the city coun-

Government, how vested.

Mayor.

Aldermen.

Common council.

Proviso.

Powers of city officers limited.

## CHAP. 249.

cil or any officer or agent thereof for money or property obtained for any other purposes, shall be void.

Duty and powers of mayor.

SECT. 3. The mayor of the city shall be the chief executive officer thereof. It shall be his duty to be vigilant and active in causing the laws and regulations of the city to be executed and enforced, to exercise a general supervision over the conduct of all subordinate officers, and to cause their violations or neglect of duty to be punished. He may call special meetings of the boards of aldermen and common council, or either of them, when in his opinion the interests of the city require it, by a notice in one or more papers printed in the city, or by causing a summons or notification to be given in hand or left at the usual dwelling place of each member of the board or boards to be convened. He shall from time to time communicate to both of them such information, and recommend such measures, as the business and interests of the city may in his opinion require. He shall preside in the board of aldermen and in the joint meetings of the two boards, but shall have only a casting vote. The salary and compensation of the mayor shall not exceed two hundred dollars a year, which shall not be increased nor diminished during his continuance in office, unless by the vote of the qualified electors in ward meetings called for the purpose, nor shall he receive from the city any other compensation for any service by him rendered in any capacity or agency; *provided however*, that the city council may elect the mayor to any city office and allow him a suitable compensation for such services. The aldermen and common councilmen shall receive no compensation for their services as such.

May call special meetings of council.

To preside in board of aldermen.

Salary.

Proviso.

Powers vested in mayor and aldermen.

Powers vested in mayor, aldermen and common council.

City council, duty of, to appoint subordinate officers, &c.

SECT. 4. The executive powers of the said city generally, and the administration of police and all the powers of the selectmen of towns, shall be vested in the mayor and aldermen, as fully as if herein particularly enumerated; all other powers now vested by law in the inhabitants of towns, and all powers granted by this act and not otherwise vested, shall be vested in the mayor and aldermen and common council of said city, to be exercised by concurrent vote, each board to have a negative upon the other. All elections of officers, (except of the respective boards,) shall be by the city council, by joint ballot of the two boards in convention. The city council shall annually on the first Monday in April, or as soon thereafter as may be convenient, elect and appoint all the subordinate officers and agents for the city for the ensuing year, and if they think proper, a chief engineer and other engineers for the fire department; shall define their duties and fix their compensation in cases where such duties and compensation shall not be defined and fixed by the

laws of the state; and may by a concurrent vote remove officers when in their opinion sufficient cause for removal exists. All officers shall be chosen and vacancies supplied for the current year and until others shall be elected and qualified in their stead, unless sooner removed by the city council. All moneys received and collected for or on account of the city, by any officer or agent thereof, shall forthwith be paid into the city treasury. The city council shall take care that moneys shall not be paid from the treasury unless granted or appropriated; shall ensure a prompt and just accountability, by requiring bonds, with sufficient penalty and sureties, from all persons entrusted with the receipt, custody or disbursement of money; shall have the care and superintendence of 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, not exceeding the sum of ten thousand dollars, not including what the town of Brunswick now owns, as they may think useful and for the public interest; and the city council shall as often as once a year, cause to be published, for the information of the inhabitants, a particular account of receipts and disbursements, and a schedule of the city property; and no money shall be paid from the treasury unless appropriated by the city council, and upon a warrant signed by the mayor, which warrant shall state the appropriation under which the same is drawn.

City council,  
duties and  
powers of.

SECT. 5. Every law, act, ordinance or bill, having passed both branches of the city council, shall be presented to the mayor of the city, and if he approve of the same he shall sign it; if not, he shall return it in seven days, with his objections, to that branch of the city council in which it shall have originated, (or if said branch shall not be in session on the seventh day, then at their next meeting,) which branch shall enter the objections at large on its journal and proceed to reconsider the said law, act, ordinance or bill. If upon such reconsideration a majority of the whole number of that branch shall agree to pass it, it shall be sent together with the objections, to the other branch, by which it shall be reconsidered, and if approved by a majority of the whole number of that branch, it shall have the same effect as if signed by the mayor.

Acts for the ap-  
propriation of  
money to be  
approved by  
mayor.  
Proceedings in  
case of disap-  
proval.

SECT. 6. The city assessors shall be annually appointed by the city council, and shall execute the same powers and be subject to the same duties and liabilities as the assessors in the several towns in this state, under existing laws for the time being; *provided however*, that the city council may appoint one person in each ward, whose duty it shall be to furnish the assessors with all necessary

City assessors,  
powers, duties  
and liabilities.

Proviso.

**CHAP. 249.** information relative to persons and property taxable in his ward, and who shall be sworn to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of this state relative to town taxes; *provided however*, that it shall and may be lawful for the city council to establish additional provisions for the collection thereof.

Assessment and collection of taxes.

Proviso.

Power of city council to lay out streets and estimate damages.

Remedy of persons aggrieved.

County commissioners may lay out roads within said city.

Side walks.

Posts or trees may be placed along the edge of said side walks.

City not liable for damages, &c.

**SECT. 7.** The city council shall have exclusive authority to lay out any new street or public way, or widen or otherwise alter or discontinue any street or public way in the said city, and to estimate the damages any person may sustain thereby, and shall in all other respects be governed by, and subject to the same rules and restrictions as are by law provided in this state for regulating and laying out of public highways and repairing streets. Any person aggrieved by the decision and judgment of said city council, may so far as relates to damages, have them assessed by a committee, or jury, as now by law provided. The county commissioners of the county of Cumberland shall have power to lay out within said city, any part of any new county road that shall by them be laid out in any adjoining town or towns, and shall pass thence into or through said city, according to the provisions of law; and any highway, or town way or bridge, which has been or may hereafter be located within the limits of the city, between high and low water mark, shall nevertheless be deemed to be legally located and established.

**SECT. 8.** It shall be lawful for the city council, by a committee, or by instructions to a surveyor or commissioner of streets, to set off and reserve as sidewalks, such parts of the several streets in the said city now or hereafter to be established, as to the said council may appear necessary for the safety and convenience of foot passengers. The city council may permit or direct posts of wood or stone, or trees, to be placed along the edge of said sidewalks, next to the traveled part of the street, in such number and manner as they may deem necessary to protect said sidewalks and persons traveling thereon from damage or inconvenience from teams or carriages. So much of the several streets in said city as shall be reserved as sidewalks as aforesaid, shall be deemed to be reserved exclusively for the convenience and use of persons traveling on foot, and the said city shall not be liable for damages for any injury done or occasioned in consequence of any cart, carriage, wagon, truck or other vehicle, or any team or animal striking against any of said sidewalks, or the posts or trees set to defend the same. The several sidewalks on the streets in said city, now established and used, shall be taken and deemed to be proper and lawful until altered by the city council.

SECT. 9. The city council may on such terms and conditions as they think proper, authorize any person to place in any street for such time as may be necessary, materials for making or repairing any street, sidewalk, crosswalk, bridge, water course or drain, or for erecting, repairing or finishing any building or fences; *provided*, that not more than one-third of the width of the street, and in no case more than one rod of the width, shall be so occupied; and such materials so placed, by license as aforesaid, shall not be considered a nuisance, and the city or persons so placing the same shall not be liable for damages thereby occasioned.

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Materials may be left in streets for certain purposes.

Proviso.

Not liable for damages.

SECT. 10. The city council may make regulations for the measurement of wood, bark or coal, in said city, whether brought by land or water, and may affix suitable penalties for their violation, not incompatible with the public law.

City council may make regulations for measuring wood, bark, &c.

SECT. 11. All laws and regulations now in force in the town of Brunswick, shall continue in force in the city of Brunswick, so far as applicable, until revised or repealed by the city council. Suits which were authorized in the name of said town may be prosecuted in the name and behalf of the city. The municipal court of the town of Brunswick, shall be continued under the name and style of the municipal court of the city of Brunswick, and with its officers shall be and remain vested with all its powers, obligations and rights, as heretofore, until otherwise provided by law.

Laws and regulations now in force to remain, &c.

Municipal court.  
—to be continued without change.

SECT. 12. For the purpose of holding elections, said city shall be divided into seven wards, to contain as nearly as conveniently may be, an equal number of legal voters; and it shall be the duty of the city council, once in ten years and not oftener than five years, to review, and if it be needful, to alter said wards in such a manner as to preserve as nearly as may be an equal number of legal voters in each. In each of said wards there shall annually, on the last Monday of March, be chosen by ballot, a warden and clerk, who shall hold their offices for one year and until others shall have been chosen and qualified in their places; the said warden and clerk shall be sworn to the faithful performance of their respective duties by any justice of the peace of said city or by the person presiding in said ward meeting, or by the clerk of said ward, and a certificate of such oaths having been administered, shall be entered by the clerk on the records of the ward. The warden shall preside at all said meetings with the power of moderators of town meetings; and if at any meeting the warden shall not be present, the clerk of such ward shall call the meeting to order and preside until a warden *pro tempore* shall be chosen and qualified. If neither the warden nor clerk shall be present, any legal voter of the said ward may preside

Wards, division and regulation of.

When to be renewed and altered,

Warden and clerk, election of.

Warden, duties of.



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until a clerk *pro tempore* shall be chosen and qualified. The clerk shall record all the proceedings and certify the votes given, and deliver over to his successor in office all the records, journals, documents or other papers held by him in said capacity. The inhabitants of each ward may choose two persons to assist the warden in receiving, sorting and counting the votes. The list of the names of the legal voters in each ward shall be prepared by the assessors and board of aldermen assisted by the wardens, in the same manner and under the same restrictions as are imposed by the laws of this state on the assessors and selectmen of towns; and all regular ward meetings shall be notified and called by the mayor and aldermen in the manner prescribed by the laws of this state for notifying and calling town meetings by the selectmen of the several towns, excepting that ward meetings for the election of mayor after the second trial may be called within the time provided in such cases in this act.

Clerk, duties of.

Assistant warden.

Votes, list of &c.

Ward meetings, how called.

Mayor, aldermen and councilmen, election of.

SECT. 13. The mayor shall be elected from the citizens at large, by the inhabitants of the city, voting in their respective wards; one alderman and three common councilmen shall be elected by each ward, being residents of the wards where elected; all said officers shall be elected by ballot by a majority of the votes given, and shall hold their offices one year from the first Monday of April, and until others shall be elected in their places.

Constable, election of.

SECT. 14. At the annual election holden for the choice of mayor, aldermen and common councilmen, the qualified electors in each ward shall, by ballot, elect a constable from such ward, who shall be denominated city constable, with all the powers, duties and liabilities appertaining to the office of constable for the city.

Officers, city, annual election of.

SECT. 15. On the last Monday of March, annually, immediately after a warden and clerk shall have been elected and sworn, the qualified electors of each ward shall ballot for a mayor, one alderman and three common councilmen; all the votes given for the said several officers respectively, shall be sorted, counted, declared and registered in open ward meeting by causing the names of the persons voted for and the number of votes given for each to be written on the ward record at length. The ward clerk within twenty-four hours after such election, shall deliver to the persons elected aldermen and common councilmen, certificates of their election, and shall forthwith deliver to the city clerk a certified copy of the record of such election; *provided however*, that if the choice of aldermen and common councilmen cannot conveniently be effected on that day, the meeting may be adjourned from day to day to complete such election. If on the second balloting for any alderman, common

Proviso.

councilman, constable, warden or clerk, a choice shall not be effected by a majority vote, then the persons receiving the highest number of votes for any of those offices at the subsequent trial, shall be declared elected; if no one shall then have such highest number, the balloting shall be continued from day to day until a choice is thus effected. The board of aldermen 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 majority of 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 elected, or if the person elected shall refuse to accept the office, the said board shall issue their warrants for another election; and in case the citizens should fail on a second ballot to elect a mayor, the said board shall again issue their warrant for a third election, to be held not less than three nor more than four days thereafter, at which election the candidate having the greatest number of votes shall be declared elected, and notified as aforesaid; if no one shall have such number, further elections shall in the same manner be ordered till a choice shall be made by some one having the highest number of votes; and in case of a vacancy in the office of mayor by death, resignation or otherwise, it shall be filled for the remainder of the term by a new election, in the manner hereinbefore provided for the choice of said officer; and in the mean time the president *pro tempore* of the board of aldermen, shall perform the duties of mayor. The oath prescribed by this act shall be administered to the mayor by the city clerk, or by any justice of the peace in said city. The aldermen and common councilmen elect, shall on the first Monday of April, at nine of the clock in the forenoon, meet in convention, when the oath required in this act shall be administered to the members of the two boards present by the mayor or any justice of the peace, and thereupon the two boards shall separate, and the board of common council shall be organized by the election of a president and clerk.

SECT. 16. The city clerk shall be the clerk of the board of aldermen; he shall perform such duties as shall be prescribed by the board of aldermen or common council; and shall perform all duties and exercise all the powers incumbent upon or vested in town clerks in this state. He shall give notice in a newspaper printed in said city, or by one or more written notices posted up, each in some public place in each ward, of the time and place of regular ward meetings; but the place of regular ward meetings and also the day and hour, when not fixed by law, shall be determined by the board of aldermen. The board of aldermen may, in the absence of the

Mayor to be notified of his election.

Proceedings in case of no election, &c.

—in case of vacancy by death, resignation, &c.

Oaths, how administered.  
—when administered.

City clerk, further duties of,

Mayor, absence of.

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Records, how kept.

Quorum to transact business.

Meeting of the board to be public.

Votes may be taken by yeas and nays.

Meetings, general, may be held.

Wards, city divided into.

Organization of city government, choice of officers for.

Votes, at the first meeting for city officers, to be returned to the selectmen of Brunswick.

In case election not completed, how to proceed.

mayor, choose a president *pro tempore*, who shall preside at joint meetings of the two boards. Each board shall keep a record of its proceedings and judge of the election of its own members, and in case of failure of election, or vacancy by death, resignation or otherwise, may order new elections. A quorum for the transaction of business shall in each board consist of a majority of the members thereof. All meetings of the aldermen and common council, and all meetings of the two boards in convention shall be open to the public, and the presiding officer of each of them shall have the power of moderators of town meetings. At either of said meetings, when one-fifth of the members present shall request it, the vote shall be taken by yeas and nays, which shall be recorded by the clerk.

SECT. 17. General meetings 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 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 aldermen upon the requisition of thirty qualified voters of said city.

SECT. 18. It shall be the duty of the selectmen of the town of Brunswick as soon as may be after this act shall have been accepted, as herein provided, to cause a division of said town to be made into seven wards in such manner as to include as nearly as conveniently may be, consistently with well defined limits to each ward, an equal number of voters in each ward.

SECT. 19. For the purpose of organizing the system of government hereby established and putting the same in operation in the first instance, the selectmen of the town for the time being shall seasonably, before the first day of May next after the acceptance of this charter, issue their warrants for calling meetings of the said citizens at such place and time as they shall think expedient for the purpose of choosing a warden and clerk for each ward and also to give their votes for a mayor to be taken from the city at large, and an alderman and three common councilmen, and one constable for each ward; the transcript of the records of each ward specifying the votes given for mayor, one alderman and three common councilmen, and one constable for each ward, certified by the warden and clerk of each ward, shall at said first election be returned to the said selectmen of the town of Brunswick, whose duty it shall be to examine and compare the same, and in case the said elections shall not be completed at the time first appointed, then to issue a new warrant and so on until such elections shall be made agreeably to this act, and to give notice thereof in the manner hereinbefore directed to the sev-

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eral persons elected. At said first meeting any inhabitant of the said ward being a legal voter may call the citizens to order and preside until a warden shall have been chosen, and at said first meeting a list of voters in each ward prepared and corrected by the selectmen of the town of Brunswick for the time being, shall be delivered to the clerk of each ward when elected to be used as provided by law in town meetings. It shall be the duty of the city council in convention immediately after their first organization to elect by ballot a city clerk and all other necessary city officers, who shall hold their offices respectively till others are chosen and qualified in their places.

First meeting, how organized, &c.

Voters, list of, to be prepared.

City clerk, &c. how elected.

SECT. 20. This act shall take effect and be in full force when the same shall have been accepted by the inhabitants of said town of Brunswick, qualified to vote in town affairs, at a legal town meeting called for that purpose to meet within thirty days after this act shall be approved by the governor; at such meeting the inhabitants of said town shall vote by written ballots; those in favor of accepting this act having on their ballots the word "yes," and those opposed having on their ballots the word "no," and if a majority of all the ballots received are in favor of accepting the same it shall then become a law and take effect; and it shall be the duty of the clerk of the said town to file a copy of the record of the votes of the said town accepting the same with the clerk of the city of Brunswick when elected who shall transcribe such copy into the records of the city, and such records shall be conclusive evidence that this act has been accepted. And the clerk of said city shall file a certificate thereof with the secretary of state, within thirty days from the organization of said city of Brunswick; *provided*, that nothing in this act shall be construed to authorize more than one town meeting at which the people of said town shall vote upon the foregoing question.

Act when to take effect.

Vote on acceptance, how taken.

Town clerk, duty of.

City clerk, duty of.

—to file certificate with secretary of state.

Proviso.

SECT. 21. All acts and parts of acts inconsistent with the provisions of this act are, so far as inconsistent, hereby repealed from and after the time that this act shall have been accepted as aforesaid, and the new system of government organized as herein provided.

Inconsistent acts repealed.

[Approved March 29, 1858.]