

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

OF THE

## FORTY-SEVENTH LEGISLATURE

OF THE

## STATE OF MAINE.

1868.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

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subject to the restrictions of the charter of said company, and to demand and receive the same with the right to prosecute and defend suits in the name of said company, and to do all things which said company itself, or the directors thereof, might or could lawfully do, after paying the running expenses; said city may apply sufficient of the earnings of said road to keep it, its buildings and equipments, in repair, and to prevent any deterioration thereof, and to provide for such new rolling stock as may be necessary, and then to apply the residue of said earnings to the payment of the interest, coupons and scrip or bonds aforesaid; and whenever said interest and all dishonored coupons, scrip or bonds, secured by said mortgage, referred to in this bill, shall have been paid, said city shall relinquish the control of said road and deliver any property of said company in its possession to said company or its assigns; *provided however*, said city, its officers or agents while operating said road under the provisions of this section, shall not be liable except for malfeasance or fraud, and shall have the right to apply any funds received from the earnings of said road in the management of said road for which said city shall be liable in land to third parties, and the delivery back to said company of any property of said company in its possession, shall be no discharge of its lien thereon, nor prevent said city from again taking possession of said road and property on any future breach of the condition of said bond.

Earnings, how applied.

When to relinquish control of road.  
Proviso.

SECT. 17. This act shall take effect when approved.

Approved February 12, 1868.

## Chapter 471.

An act to incorporate the city of Auburn.

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

SECT. 1. The inhabitants of the town of Auburn, in the county of Androscoggin, shall continue to be a body politic and corporate, by the name of the city of Auburn, 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 said town as a municipal corporation, or appertaining to or incumbent upon the inhabitants or selectmen thereof; and may ordain and publish such ordinances, by-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 impose fines and penalties for the breach there-

Corporate name.

Rights, powers, &amp;c.

Ordinances, &amp;c.

Fines, penalties, &amp;c.

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of, 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 any trial justice therein.

Administration vested in mayor, aldermen and council.

SECT. 2. The government of said city, and the administration of all its fiscal, prudential and municipal affairs, shall be vested in one principal magistrate, to be styled the mayor, and one council of five, to be denominated the board of aldermen, and one council of fifteen, to be denominated the common council, which boards shall constitute and be called the city council.

Election of officers.

SECT. 3. The mayor shall be an inhabitant of said city, and shall be elected from the citizens at large, by the inhabitants thereof voting in their respective wards. One alderman and three common councilmen shall be elected by each ward, and shall be residents of the wards for which they are elected. All of said officers shall be elected by ballot, by a majority of the votes given, and shall hold their offices for one year from the third Monday in March, and until others shall be elected in their places, and shall be sworn to the faithful performance of the duties of their respective offices.

Tenure of office.

Oaths.

Wards.

SECT. 4. The selectmen of the town of Auburn, as soon as may be after this act shall have been accepted as hereinafter provided, shall cause a division of said town to be made into five wards, in such manner as to include as nearly as conveniently may be consistently with well defined ward limits, an equal number of inhabitants in each ward, and appoint a warden to preside at the first meeting until a warden is elected.

Wardens.

Organization of government, how to be effected.

SECT. 5. For the purpose of organizing the system of government hereby established, and putting the same in operation, in the first instance, the selectmen of said town for the time being shall seasonably, before the second Monday in March next after the acceptance of this charter, issue their warrants calling meetings of the legal voters of the respective wards of said town, at such place and hour upon said day as they shall deem expedient, for the purpose of choosing a warden and clerk for each ward, and also to give in their votes for a mayor of said city, and one alderman and three common councilmen for each ward. The first business in order in each ward shall be to choose a warden and clerk for the ward, who shall be sworn to the faithful discharge of their duties. At said meeting a list of the voters in each ward, prepared and corrected by the selectmen of the town of Auburn 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. The voters of each ward shall then give in their votes for mayor, one alderman and three common councilmen. All the votes given for said officers shall be sorted, counted, declared and registered as is provided in section six. A transcript of the records of each ward,

Ward meetings and proceedings therein.

Selectmen to prepare lists of voters.

Votes for officers to be counted, declared, &c.

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specifying the votes given for mayor, aldermen and common councilmen, certified by the warden and clerk of such ward, shall at said first election be returned to the selectmen of said town of Auburn, who shall examine and compare the same, and give notice thereof to the several persons elected; and in case said election shall not be completed at the first election, then to issue a new warrant, until such election shall be completed, according to the provisions of this act. The aldermen and common councilmen elect shall on the third Monday of March following such election, at ten o'clock in the forenoon, meet in convention at the town hall in Auburn, when the oath required by the third section of this act shall be administered to the mayor by a justice of the peace, and to the members of the two boards by the mayor. The city council, in convention, shall then elect a city clerk, 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. 6. On the first Monday of March, annually, after the first election, the qualified voters of each ward shall ballot for a mayor, one alderman and three common councilmen, warden and clerk; all the votes given for 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* that if the choice of aldermen and common councilmen cannot be conveniently 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 councilman, 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 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 elected, or if the person elected shall refuse to accept the office, the said boards shall issue their warrants for another election; and in case the citizens should fail on a second ballot to elect a mayor, the said boards shall again issue their warrants, for a third election, to be held not less than three nor

Transcript of record of votes to be certified by warden and clerk to selectmen.

Elections may be continued until completed.

Oaths to aldermen and councilmen elect, when, where and by whom administered.

Election of city clerk and president and clerk of common council.

Annual elections.

Certificates of election to be delivered by ward clerk and copy of records to city clerk.

Proviso in case of no choice.

Elections at subsequent meetings, how determined.

Election of mayor, how determined and notified.

In event of no choice of mayor at first meeting, subsequent meetings to be called until election is decided.

CHAP. 471. more than seven 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 then 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 meantime the president pro tempore of the board of aldermen shall perform the duties of mayor.

Vacancy in office of mayor, how filled.

Oaths to mayor, aldermen and councilmen shall be administered by justice of the peace.

The oath prescribed by this act shall be administered to the mayor by any justice of the peace in said city. The aldermen and common councilmen elect shall annually, on the third Monday of March, at ten o'clock in the forenoon, meet in convention, when the oath required by this act shall be administered to the two boards present by 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.

Tenure of office of wardens and clerks.

SECT. 7. The warden and ward clerk, chosen as provided in the preceding section, shall hold their offices until Tuesday next after the first Monday of March of the succeeding year, and until others have been chosen and qualified in their stead. Said warden

Oaths of office to be recorded.

and clerk shall be sworn to the faithful performance of their duties by the person presiding in said meeting, or by the clerk thereof, and a certificate of such oath shall be entered by the clerk on the records of said ward. The wardens shall preside at all ward meetings, with the powers of moderators of town meetings, and if

Powers of wardens.

at any meeting the warden shall not be present, the clerk of the ward shall call the meeting to order, and preside till a warden *pro tem.* shall be chosen. If neither the warden nor the clerk shall be present, any legal voter in the ward may preside till a clerk *pro tem.* 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 such records and journals, together with all other documents and 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 of each ward shall be prepared by the 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 provided in 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

Temporary vacancies of warden and clerk, how filled.  
Duties of clerk.

Lists of voters in wards, by whom and how prepared.

Ward meetings, how notified and called.

second trial, may be called within the time provided in such cases in this act. CHAP. 471.

SECT. 8. The mayor of said city shall be the chief executive magistrate thereof. He shall cause the laws and regulations of the city to be faithfully executed and enforced, exercise a general supervision over the conduct of all subordinate officers, and cause their violations and neglect of duty to be punished. He shall call special meetings of the board of aldermen and common council, or either of them, when in his opinion the interest of the city requires it, 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 convention of the two boards, but shall only have a casting vote.

Duties of mayor.

SECT. 9. The executive powers of said city generally, and the administration of police, with all the powers of the selectmen of the town of Auburn, shall be vested in the mayor and aldermen, as fully as if the same had been herein particularly enumerated. All other powers now vested in the inhabitants of said town, and all powers granted by this act, 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 on the other; *provided* that all elections of officers by the city council shall be by joint ballot of the two boards in convention.

Powers vested in mayor, aldermen and common council.

SECT. 10. The city council shall annually on the third Monday in March, or as soon thereafter as may be convenient, elect and appoint for the ensuing year, a city clerk, treasurer, collector of taxes, street commissioner, three assessors, one or more superintendents of schools, a chief engineer and other necessary engineers of the fire department, and such other necessary subordinate officers and agents as the town of Auburn is now authorized to elect and appoint by existing laws; shall define their duties, and may, by concurrent vote, remove said officers, when in their opinion sufficient cause for their removal exists. All of said subordinate officers and agents shall hold their offices during the ensuing year and until others shall be elected and qualified in their places, unless sooner removed by the city council, and shall exercise the same powers and duties, and be subject to the same liabilities, that similar officers in the several towns of this state may exercise, and are subject to, by existing laws.

Action of boards to be concurrent except in election of officers.

Subordinate officers of city, when and how elected.

Duties, terms of office and powers of same, to be determined by city council.

SECT. 11. The compensation of the officers of said city, including the salary of the mayor, shall be annually fixed by the city council; *provided*, that the aldermen and common councilmen shall

Salaries and compensation of officers.



**CHAP. 471.** not receive any salary or compensation for any services by them performed as such.

Aldermen  
may choose  
president  
*pro tem.*

SECT. 12. The board of aldermen may, in the absence of the mayor, choose a president *pro tempore*, who shall preside at the 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 and public, and the presiding officer in each of them shall have the power of moderators of town meetings. At either of said meetings, when any two members shall request it, the vote shall be taken by yeas and nays, which shall be recorded by the clerk.

Quorum in  
each branch to  
be majority of  
members.

Meetings to be  
open and  
public.

Yeas and nays,  
how called, &c.

Appropriations  
of money sub-  
ject to approval  
of mayor.

Proceedings in  
case of veto  
by mayor.

Majority of  
whole number  
in each branch  
may pass bills  
over veto.

Treasurer to  
make payment  
of moneys  
upon order of  
the two  
branches.

Moneys col-  
lected by any  
officer to be  
paid into city  
treasury.

Appropriations  
and how paid.

Powers and  
duties of city  
council.

SECT. 13. Every law, act, ordinance, or bill appropriating money, having passed both branches of the city council, shall be presented to the mayor, and if he approves the same he shall sign it, if not he shall return it within seven days, with his objections, to that branch of the city council in which it shall have originated, which branch shall enter the objections at large on its journals, and proceed to reconsider the 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 that branch, it shall have the same effect as if signed by the mayor, and it shall be the duty of the mayor to sign any warrant necessary for the execution of such law, act, ordinance or bill, and in case of his refusal, such branches may order the treasurer to pay the same, and their order shall be a sufficient authority and voucher to the treasurer therefor.

SECT. 14. 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. No money shall be paid from the city treasury, unless the same be 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. The city council shall secure a prompt and just accountability, by requiring bonds, with sufficient sureties, from all persons trusted with the collection, custody or disbursement of the public money; shall have the care and superintendence of all the city property, with power to let or sell what may be legally let or sold, and to purchase, in the name of the city, such real and personal estate as they deem of public utility; and shall, as often as once a year, cause to be published, for the information of the inhabitants, an account of receipts and expenditures, and a schedule of city property.

SECT. 15. All taxes shall be assessed, apportioned and collected in the same manner prescribed by the laws of this state relative to town taxes; *provided* that it shall be lawful for the city council to establish further and additional provisions for the collection thereof; *provided further*, that the city council may appoint one person in each ward, whose duty it shall be to furnish the assessors with all necessary information relative to persons and property taxable in his ward, and who shall be sworn to the faithful performance of his duty.

Taxes, how assessed, apportioned and collected.

SECT. 16. The city council shall have the same power and authority to lay out, widen, alter and discontinue ways and streets in said city, and be subject to the same rules and restrictions relating thereto, that the town of Auburn now has and is subject to by the existing laws of this state; and shall also have power and authority to establish the grade of any way, county road, or street in said city; and any persons aggrieved by the decision of the city council in laying out, widening or altering any way or street, or in establishing the grade of any way, county road or street, may, so far as relates to damages, have them assessed by a committee or jury, as is now by law provided, respecting the laying out and altering of highways.

Powers of city council in regard to ways.

Damages to individuals in construction of streets, &c., how assessed.

SECT. 17. The city council shall have power to appropriate, set off, and reserve as sidewalks, such portion of the several streets in said city, now or hereafter established, as to said council appears necessary for the safety, convenience and accommodation of foot passengers, and may direct or permit posts or trees to be placed along the edge of sidewalks, next to the travelled part of the street, for hitching places, or for shade or ornament. So much of the several streets in said city as shall be appropriated and reserved as sidewalks, agreeable to the provisions of this act, shall be taken and deemed to be reserved exclusively for the accommodation, convenience and use of persons travelling on foot; and said city shall not be liable to damages for any injury done or occasioned in consequence of any cart, carriage, wagon, or other vehicle, or any team, or animal, striking against any of said sidewalks, or the posts or trees set or placed there for the purposes aforesaid. The several sidewalks on the streets in said city, as at present used, shall be taken and deemed to be the proper and lawful reservation for that purpose, until altered, or otherwise established, by proper authority.

Powers of council in regard to sidewalks.

May allow posts or trees thereon for certain purposes.

Sidewalks to be for exclusive use of foot passengers.

City not liable for damages to vehicles, &c., against same.

Present sidewalks to be maintained for certain time.

SECT. 18. The city council shall have power, on such terms and conditions as they think proper, to authorize or 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, cross-walk, bridge, water-course, or drain, or for erecting and repairing any building or fences, also to lay gas pipes in any

Regulations as to repairs of streets, buildings, fences, and laying of gas pipes.

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Occupancy of streets restricted to one-third of width of same.

City exempted from damages in such cases.

Powers of city council in regard to schools.

Restrictions as to appropriations, loans, &c., made by city council.

Special meetings of citizens, how and for what purpose to be called.

Act to be accepted by legal voters of Auburn and time allowed for same.

Regulations and proceedings at meeting for acceptance of charter.

street; *provided*, that not more than one-third of the width of the street shall be so occupied; and such materials so placed and excavations made for laying gas pipe, by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in said street, and the city shall not be liable for any damages occasioned by the same.

SECT. 19. All the power and authority now vested in the inhabitants of the several school districts of the town of Auburn, by virtue of the laws of this state relating to the education of youth, shall be, and the same are hereby, vested in the city council of said city, and they are authorized to consolidate the several school districts of said city, arrange all the affairs of the same as one district, and also, when such consolidation shall take place, to assume the liabilities of the several districts, and provide for them in the same manner as if the debts were contracted by the city.

SECT. 20. The city council shall not vote, assess or appropriate any money, for any object or purpose, for which the town of Auburn is not authorized to vote, assess and appropriate money, except for such purposes as are authorized by this act. Neither the city council, nor any agent or officer of said city, shall borrow or hire any money for or on account of said city, or inhabitants thereof, except for the purposes for which the town of Auburn is now authorized by law to raise money; and all notes, bonds, obligations or orders, given by the city council, or by any officer or agent thereof, for money or property obtained for any other purpose, shall be void.

SECT. 21. 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 any grievances according to the right secured to the people by the constitution of this state; and such meeting shall be duly warned by the mayor, upon the request of fifty qualified voters.

SECT. 22. This act shall take effect and be in force when the same shall have been accepted by the inhabitants of said town, qualified to vote in town affairs, at a legal meeting called for that purpose by the selectmen of the town of Auburn; *provided*, that it shall be accepted within five years from the passage of this act; but not more than one meeting for that purpose shall be called in any one year. At such meeting the inhabitants of said town shall vote by written ballot, those in favor of accepting this act having on their ballot the word "yes," and those opposed having on their ballot 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 said town to file

a copy of the record of the vote of said town accepting the same, with the clerk of the city of Auburn when elected, who shall transcribe such copy into the records of the city, and such record shall be conclusive evidence that this act has been accepted.

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Duty of town and city clerk in regard to record of acceptance.

SECT. 23. All acts and parts of acts inconsistent with this act are hereby repealed, from and after the time when this act shall have been accepted as aforesaid, and the government shall have been organized as herein provided.

Acts inconsistent herewith, repealed.

SECT. 24. This act shall take effect when approved by the governor, so far as to authorize its submission to the legal voters of the town of Auburn in the manner herein prescribed, and when accepted by said voters, shall be in full force and effect.

When to take effect.

Approved February 12, 1868.

### Chapter 472.

An act to authorize I. A. Clark and O. B. Jones to extend a wharf into the tide waters of Seal harbor.

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

SECT. 1. I. A. Clark and O. B. Jones, of South Thomaston, in the county of Knox, their heirs, associates and assigns, are hereby authorized and empowered to build and maintain, in front of their granite quarry, on the western end of Spruce Head island, in said town of South Thomaston, a wharf extending along the breadth of said granite quarry, on said island, and into the tide water of Seal harbor two hundred feet, in a northwesterly direction.

Location.

Limits.

SECT. 2. This act shall take effect when approved.

Approved February 12, 1868.

### Chapter 473.

An act to authorize Ezra Hall to extend a wharf into the tide waters of Camden harbor.

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

SECT. 1. Ezra Hall, of Camden, in the county of Knox, his heirs, associates and assigns, are hereby authorized and empowered to build and maintain in front of his land, on the easterly side of Camden harbor, in said Camden, a wharf extending along the

Location.

Limits.