

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE.

1891.

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1891.

PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE.

1891.

be necessary for terminal facilities in such manner, however, as not to impair or interfere with public navigation thereof.

SECT. 10. The corporators named as residents of the city of Augusta, shall, within six months from the approval of this act, procure a bona fide subscription of forty thousand dollars to the capital stock of said corporation and the corporators named as residents of the city of Gardiner, shall procure a like subscription of thirty thousand dollars to said capital stock. And the set of corporators failing to procure their proportion of the subscription as aforesaid shall cease to have any authority to act under this charter, and the terminus of said road shall not be required to be built to the city in which said delinquent corporators are residents, but the remaining corporators herein named shall have full power after such failure to proceed with the organization of said corporation in the same manner and with the same rights as if named alone in this act.

Corporators of Augusta and Gardiner shall procure bona fide subscriptions, within six months.

SECT. 11. The first meeting of said corporation may be called by any two corporators above named, by notice therefor in writing, a copy of which shall be given in hand or mailed to each corporator at least seven days before the time named therein for such meeting.

First meeting, how called.

SECT. 12. This act shall take effect when approved.

Approved February 17, 1891.

Chapter 71.

An Act to incorporate the City of Old Town.

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

SECT. 1. The inhabitants of the town of Old Town, in the county of Penobscot, shall continue to be a body corporate and politic under the name of the city of Old Town, and as such shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations, now appertaining to or incumbent on said town as a municipal corporation, or appertaining to or incumbent on the inhabitants or the selectmen thereof, or provided for by this act.

Corporate name.

—rights, powers and privileges

CHAP. 71

Administration of affairs vested in mayor and council.

—council, how constituted.

Executive powers vested in mayor and aldermen.

Powers relating to fire department, vested in mayor and council.

The two boards comprising city council, shall sit separately.

—each board may make rules, etc.

—may expel a member for cause.

—record of proceedings.

—vacancies, how filled.

SECT. 2. The administration of all the fiscal, prudential and municipal affairs of said city, and the government thereof, shall be vested in a mayor and a city council. Said council shall consist of a board of aldermen and a board of councilmen, the latter board to be known as the common council; the board of aldermen shall be composed of as many aldermen as there are wards in said city for the time being, and the common council shall be composed of three times as many councilmen as there are wards in said city for the time being.

SECT. 3. The executive powers of said city generally, and the administration of the police and health departments, with all the powers of the selectmen of said town of Old Town, shall, except as modified by this act, be and hereby are vested in the mayor and aldermen, as fully as if the same had been herein enumerated. All the powers of establishing watch and ward now vested by the laws of the state in the justices of the peace and municipal officers or inhabitants of towns are hereby vested in the mayor and aldermen so far as relates to said city, and said mayor and aldermen are authorized to unite the watch and police departments into one department, and establish suitable regulations for the government thereof.

SECT. 4. All powers relating to the fire department, and all other powers not hereby otherwise provided for, now vested in the inhabitants of said town, or hereby or hereafter vested in the inhabitants of said city or in said city as a body corporate, shall be and are hereby vested in the mayor and city council of said city, to be exercised in accordance with the provisions of this act.

SECT. 5. The city council, in the exercise of the powers appertaining to it, shall, unless otherwise herein provided, act by concurrent vote of the two boards composing it, said boards to sit separately and to have a negative upon each other. Each board may determine the rules of its proceedings, enforce attendance of its members at its sessions by penalties not exceeding twenty dollars for each failure to attend, punish its members for disorderly behavior, and, three-fourths of its full membership concurring, may expel a member for sufficient cause, but shall not expel the same member a second time for the same cause. Each board shall keep a record of its proceedings, to be called its journal; and shall judge the election and qualification of its own members; and in case of vacancy in its membership from any cause may, and if such

vacancy occur before the first day of January, shall, order a new election for the purpose of filling such vacancy for the unexpired term; and whenever such new election is ordered, the board of aldermen shall forthwith issue its warrant therefor. A majority of the full membership of each branch shall constitute a quorum thereof; but a smaller number may, if the actual membership is reduced to less than a quorum by vacancies, order a new election to fill such vacancies, and in any event may adjourn. All meetings of each board, and all joint meetings of the two boards, shall be in open public session, except the sessions of the board of aldermen for consideration of appointments by the mayor; but all votes on confirmation of appointments shall be taken in public. The presiding officer at all such meetings shall have all the powers of moderators of town meetings. At any such meeting, on request of any two members present, the vote shall be taken by yeas and nays, which shall be recorded by the clerk; and on such vote, no member shall be counted for any purpose except those actually voting. The city council shall, by ordinance, determine the time and place of holding stated or regular meetings of the boards and of the city council; but until otherwise provided by ordinance, such meetings shall be held on the first Tuesday of each month, at seven o'clock in the afternoon, at the building now known as the town hall in said town of Old Town. Each board may, when necessary, elect a president, pro tempore, or a clerk, pro tempore, who shall perform the duties of their respective offices for the particular meeting at which they are so elected; and such clerk shall be sworn by the mayor or the city clerk or any justice of the peace.

—quorum.

—meetings,
shall be public.—powers of
presiding
officers.—council, may
fix time and
place of
meetings.—may elect
president pro
tem and clerk
pro tem.

SECT. 6. The terms for which the the officers of said city shall hold their respective offices, unless otherwise fixed or terminated by or under the provisions of this act or of the law of the state, by the implied or express limitations of the duties of the particular office, or by some legal cause creating a vacancy therein, shall be as follows: mayor, aldermen, councilmen, wardens, and ward clerks, one municipal year, beginning on the last Monday in March of each year and ending on the last Monday in March of the following year; assessors, overseers of the poor and members of the school board, three years, beginning on the first Monday in April of each year and ending on the first Monday in April of the third

Tenure of
officers.

CHAP. 71

following year; and all other officers, one year, beginning on the first Monday in April of each year, and ending on the first Monday in April of the next following year: provided always, that each of said officers, unless his term shall be ended by some cause other than the expiration of the time hereby fixed therefor, shall continue to hold his office and be held to perform its duties until some person has been duly chosen or appointed and qualified in his stead. Whenever a vacancy is created in any office prior to the expiration of the regular term thereof, the person elected or appointed to fill said vacancy shall be elected or appointed for the unexpired portion only of the original term thereof.

—vacancies for unexpired term, how filled.

Qualification, duties and powers of mayor.

SECT. 7. The mayor shall be a qualified voter in said city, and shall be chosen by the qualified voters of the whole city. He shall be the chief executive magistrate of the city, and shall be vigilant, impartial and active in causing the laws, ordinances and regulations of the city to be executed and enforced, and in securing to the extent of his power an honest, efficient and economical conduct of the entire executive and administrative business of the city. He shall exercise a general supervision over the conduct and official acts of all subordinate officers, and cause every violation or neglect of duty to be punished. He may call special meetings of the board of aldermen or the common council or the city council when in his opinion the interest of the city requires, by a notice published at least one week prior thereto in one or more of the newspapers published in said city, or by causing a notification to be left at the usual place of abode, of each member of the board or boards to be convened. He shall from time to time, communicate such information and recommend such measures to both or either of said boards or to the city council as the business and interest of the city may in his opinion require. He shall be, ex-officio, the presiding officer of the board of aldermen and of all joint meetings of the two boards; but he shall have no vote therein, except that in case of a tie vote he may have a casting vote on all matters. He shall not receive from the city for any services rendered by him in any capacity any other compensation than the salary hereinafter mentioned, except that the city council may elect him to any city office to which he is eligible, and allow him a reasonable compensation for services rendered in such office. His salary and compensation as mayor shall,

—salary.

until otherwise fixed by the city council, be two hundred dollars payable at stated periods; but the city council may from time to time change the amount of said salary as it deems advisable, provided always, that no such change shall take effect during the then current municipal year. —proviso.

SECT. 8. When the office of mayor is vacant by reason of death, resignation, or other cause, the board of aldermen shall issue its warrants for an election of mayor, and such election shall be governed by the same rules, so far as applicable, and conducted in the same manner as hereinafter provided for the regular election of mayor. In the meantime the president of the board of aldermen shall be sworn and known as acting mayor, and shall do and perform all the duties incumbent upon the mayor so long as said vacancy exists, except that he shall not have the right to exercise the veto power. In case of the physical or mental inability of the mayor to perform the duties of his office, the president of the board of aldermen shall, upon being requested by the mayor and with the consent of the city council in the one case, and upon being required by the city council in the other case, assume the position of acting mayor until the mayor shall become able to perform said duties; and in such case the acting mayor shall be duly sworn.

Vacancy in
office of mayor,
how filled.

SECT. 9. Every law, act, ordinance, order or resolve, except parliamentary rules and orders, and except votes on a question of the convention of the two branches of the city council, shall, after being passed by both of said branches, be presented to the mayor. If he approves the same, he shall sign it, and without his signature it shall not take effect, except as hereinafter provided; if he do not approve it, he shall return it at the next regular session of the city council with a written statement of his objections thereto, to the board in which it originated, which shall enter said objections at large upon its journal and proceed to reconsider it. If upon such reconsideration two-thirds of the whole number of that board shall, notwithstanding such objections, vote to pass the same, it shall, together with said objections, be sent to the other board, by which it shall be reconsidered, and if passed by a two-thirds vote of the whole number of that board, it shall be in force as if signed by the mayor. In every such case the vote shall be taken by yeas and nays. If such law, act, ordinance, order or resolve shall not be

Laws, etc., to
be approved by
mayor.

—proceedings,
in case of veto.

CHAP. 71

returned by the mayor at the next regular meeting of the city council as aforesaid, it shall be as valid as if signed by him. The mayor may except from his approval of any law, act, ordinance, order or resolve to which he has the power to refuse his approval as aforesaid, any portion involving a distinct item of expenditure; and in such case, instead of returning the original, he shall transmit a copy of such portion not approved, which portion shall be reconsidered in the manner and with the effect above provided. If the office of mayor is vacant when such law, act, ordinance, order or resolve is finally passed, the same shall be valid without approval. The approval of the mayor shall likewise be required to, and he shall have with like limitations a similar power of veto over, any order, resolution or vote of the board of aldermen which involves the exercise of any of the powers conferred by law upon the mayor and aldermen or upon the board of aldermen as a separate board; but nothing herein contained shall affect the powers of the board of aldermen in relation to votes cast at elections, nor shall the veto power of the mayor extend to elections of any city officers or agents, or to the issuing of warrants for ward meetings.

Qualification and election of aldermen and councilmen.

SECT. 10. The aldermen and councilmen shall be elected by the qualified voters of the respective wards as hereinafter provided, and shall each be, at the time of such election, a resident in the ward for which he is elected, and a qualified voter in said city. No alderman or councilman shall receive any compensation or salary for his services as such.

—shall not receive compensation.

Members of council shall not be elected to any other office.

SECT. 11. No person shall be elected or appointed to any office of emolument who at the time of such election or appointment shall be an alderman or councilman, except that one alderman and one councilman shall, as hereinafter provided, be elected street commissioners. But this section shall not be in force or take effect until it is accepted by the city council.

—exception.

Powers and duties of city council.

SECT. 12. The city council may ordain and publish such acts, ordinances, laws and regulations, not inconsistent with the constitution and laws of this state, as shall be needful or advisable for the good order of said body politic; and may impose fines and penalties for the breach thereof, not exceeding twenty dollars for any one offense, exclusive of costs; and such fines and penalties may be recovered to the use of said city by action of debt or on complaint before the Old Town municipal court or other court having jurisdiction

CHAP. 71

thereof. All the laws, ordinances and regulations now in force in said town shall, except so far as modified by this act, continue in force until they shall expire by their own limitation or be repealed by proper authority. The city council may by ordinance regulate the weight of the loads which the vehicles used on the streets of said city may carry, and the width of the tires or felloes of wheels of any such vehicle, and may also regulate the shape and size and compel the painting of all poles used or maintained upon or along the streets of said city by any corporation or person for sustaining wires for the transmission of heat, light, power or intelligence by electricity, whether such poles are now or shall be hereafter set; and may also, for the better securing of safety to person and property, regulate and control within reasonable limits by ordinances not inconsistent with law the construction, maintenance and operation of all lines of electric wire and of all street railways, water works and gas works within the territorial limits of said city.

—town ordinances, shall continue in force until repealed, etc.

SECT. 13. The city council shall define the duties and fix the compensation of all the subordinate city officers and fix the compensation of wardens and ward clerks; and it may impose upon any such city officer such duties as it deems proper in addition to the duties imposed upon him by this act and by the law of the state and not inconsistent therewith. All elections of city officers by said city council shall be by joint ballot in joint convention of the two boards thereof, and by a majority of the votes cast; and a majority of the united membership of the two boards shall constitute a quorum at any joint convention of said boards. The city council shall have the care and superintendence of all buildings owned by or in the possession of the city, and the custody and management of all city property, with power to let or sell whatever may legally be let or sold; and it may purchase and take, in the name of the city, such real and personal property, not exceeding the value of one hundred thousand dollars in addition to the property now owned by said town, as said council may think useful to the public interest.

Council, shall define duties and fix pay of subordinate officers.

—city elections, how held.

—care of city buildings and property.

SECT. 14. The city council shall have exclusive authority, subject to the veto power of the mayor, to lay out, discontinue, grade, widen or otherwise alter any and all streets or ways in said city, without petition therefor, and to estimate all damage sustained by the owners of land taken for any of said purposes;

Council, vested with authority to lay out streets, etc.

CHAP. 71

—board of
street
commissioners,
how
constituted.

—proceedings.

but the powers of the county commissioners under the general laws of the state shall not be hereby affected. There shall be a board of street commissioners, consisting of the city engineer, ex-officio, and of one alderman and one councilman elected by the city council; and it shall be the duty of said board to lay out, discontinue, grade, widen or otherwise alter any street or way in said city, first giving notice of the time and place of its proceedings to all parties interested as required by law in case of town ways; and such notice shall be valid and sufficient if published once a week for two successive weeks in a newspaper published in said city, the last publication to be at least two days before the day of hearing fixed in said notice, instead of posting the same as required in case of town ways. Said board shall first hear all parties interested, and then determine and adjudge whether the public convenience requires such street or way, if a public way, to be laid out, discontinued, graded, widened or otherwise altered; and the said board shall make a written return of its proceedings, signed by a majority of its members, containing the bounds and description of the street or way as laid out, widened or otherwise altered, or the grade of the street or way as fixed by said board, and the names of the owners of the land taken for any location or alteration, if known, and the damages to each owner therefor; or, in the case of the discontinuance of a way, the damages sustained by the owners of land adjoining that portion thereof which is discontinued. If any way is laid out as a private way, the board shall state that fact in said return, and whether the same shall be subject to gates and bars. Said return shall be filed in the city clerk's office at least seven days before its acceptance by the city council, and shall not be altered or amended after being so filed. The street or way shall not be established, graded, discontinued, widened or otherwise altered until said return is accepted by the city council. In all matters relating to the laying out, discontinuing, widening and altering streets or ways, appeals may be taken as provided by statute for similar cases in relation to town ways. If a street or way is discontinued before the damages for the land taken are paid or recovered, the land owner shall not be entitled to receive or recover such damages, but the board in its report discontinuing the same shall estimate and include all the damages sustained by the land owner, including those caused by the original laying out of the street

—damages, how
estimated.

or way, and in such cases, if an appeal has been regularly taken, the appellant shall recover his costs. The city shall not be compelled to open or construct or grade any street or way thus established or having its proposed grade established, until in the opinion of the city council the public good requires it to be done; nor shall the city interfere with the possession of land taken for a street or way, by removing therefrom materials or otherwise, until it begins the actual opening and construction thereof. The time within which a street or way may not be opened or used after it has been established, and the time when the proceedings establishing the same shall, unless the land taken therefor is entered upon and possession thereof taken for the purpose of opening the same, be void, shall be the same as provided by statute in the case of town ways. When the board unreasonably neglects or refuses to lay out, discontinue, widen or otherwise alter a street or way, or the city council unreasonably refuses to refer a petition therefor to said board, or to accept the return of said board thereon, the same proceedings may be had by parties desiring such action to be taken as are provided by law in like cases in relation to town ways.

SECT. 15. Whenever under the statutes of this state proceedings are had for the purpose of apportioning and assessing, upon lots adjacent to and bounded on any street or way, damages for laying out, discontinuing, widening or otherwise altering such street or way, and for the purpose of enforcing payment of such assessment by a sale of such lots or any part thereof, all notices required by statute to be published in a newspaper published in said city may, if no newspaper is published therein, be published in any newspaper published in the county of Penobscot, and such publication shall be a sufficient compliance with such statute.

Assessment of damages, and enforcement.

SECT. 16. The city council shall have exclusive authority, subject to the veto power of the mayor, to take land for and construct public drains and common sewers through any highway, street, way, or any private lands; and before any private land is so taken, notice shall be given and damages assessed as hereinbefore provided in the case of laying out streets and ways, such notice to be given by the board of street commissioners, and such damages to be assessed by said board after due hearing thereon; and said board shall make return of its

City council, may take land for public purposes.

—damages, how assessed.

CHAP. 71

doings and decision as in the case of laying out streets and ways. The municipal officers shall have the powers conferred on them by statute in relation to the connection of private drains with public drains or sewers.

City council may regulate height, width and material of sidewalks.

SECT. 17. The city council may regulate the height, width and material of any sidewalk in any public square, place, street, walk, lane, court or alley in said city. The city shall not be answerable for any damage to person or property by reason of or resulting from trees planted or growing along its streets or ways, or posts of wood, stone or other material set or maintained by authority of said city or its proper officers along said streets or ways, or any poles or wires erected or strung in or along said streets or ways for the transmission of heat, light, power or intelligence by electricity. Sidewalks may be with or without edgestones; and the expense of edgestones if used, and of the covering material, if of concrete or brick, or such proportion of said expense as the city council may direct may be assessed upon the abutting lands in just proportions, and be collected in the same manner as damages for laying out, widening or otherwise altering, or discontinuing a street or way, are assessed upon abutting lands and collected.

—expense, how assessed.

Mayor, may authorize placing of materials in streets, for repair of same.

SECT. 18. The mayor may, on such terms and conditions as he may think proper, authorize or empower any person to place in any street or way, for such time as may be necessary, any materials for making or repairing any street, sidewalk, cross walk, bridge, culvert, water course, sewer or drain, or for erecting, altering, or repairing any building, cellar or fence, or for laying or repairing any gas pipe, water pipe or railroad, or for erecting, stringing or repairing any poles or wires for electric purposes; provided, that not more than one-third of the width of the street shall be so occupied, and such materials so placed under license granted by the mayor shall not be considered an incumbrance or nuisance in such street, and the city shall not be liable for any damage resulting therefrom.

Council, shall elect all city officers on first Monday of April, annually.

SECT. 19. The city council shall, on the first Monday in April in each year, or as soon thereafter as practicable, elect or appoint all the city officers and agents whom it is authorized by law to elect or appoint, and the mayor and aldermen shall on said first Monday in April, or as soon thereafter as

practicable, or from time to time as need arises, appoint such city officers as they are by law authorized to appoint. All said officers shall be duly sworn before the city clerk or a justice of the peace before entering upon the duties of their respective offices; and all vacancies in said offices may be filled for the unexpired term by the board having authority to elect or appoint in the first instance. The powers, duties and liabilities of such officers shall be the same as of like officers of towns, except so far as modified or changed by the statutes of the state or by this act.

—shall be sworn.

—vacancies, how filled.

—powers.

SECT. 20. The subordinate officers of said city to be elected by the city council shall be a clerk, three overseers of the poor, three assessors, treasurer, collector of taxes, members of the school board, two street commissioners, city attorney, city engineer, city marshal, chief engineer of the fire department, street superintendent, city physician, constables, truant officers, undertakers, fence viewers, surveyors of lumber, measurers of wood and bark, and such other officers as by law are allowed to be elected by towns except as otherwise hereby provided, and also such as are provided for by the by-laws or ordinances of the city. The city clerk, overseers of the poor, assessors, treasurer, members of the school board, street commissioners, city attorney, city engineer, city marshal, chief engineer of the fire department, street superintendent, and city physician, shall be elected by written ballot; and the other officers elected by the city council may be elected by any method agreed upon by said council.

Officers and election.

SECT. 21. The mayor with the consent of the board of aldermen, shall appoint such number of police officers as shall from time to time be fixed by the city council; and also, except as otherwise hereby provided, all other officers who, by the laws of the state, may be appointed by the mayor and aldermen of cities or by the municipal officers of towns.

Mayor, shall appoint police officers.

SECT. 22. The city council, two-thirds of each board separately concurring therein, may for sufficient cause, remove any officer elected or appointed by it. Any officer appointed by the mayor and aldermen may for sufficient cause be removed by the mayor, who shall at once report such removal to the board of aldermen with the reasons therefor; and such report shall be filed with the clerk of said board, and the fact of the removal shall be entered on the journal of said board for the session at which the said report is sent to it by the mayor.

Council, may remove any officer.

CHAP. 71

Chief engineer of fire department, may appoint assistants.

—powers and duties of engineer and other officers.

SECT. 23. The chief engineer of the fire department may appoint as many assistant engineers as the city council shall direct, who shall hold office during the municipal year for which they are appointed, said appointments to be subject to the approval of the mayor, and any such assistant may be removed for sufficient cause by the mayor. Said chief engineer and assistant engineers shall exercise all the powers and perform all the duties of fire wards under the laws of this state, unless restricted by the ordinances or regulations of said city; and the chief engineer shall have general supervision of the fire department of the city. The city attorney shall be the agent and attorney of the city. The street superintendent shall have all the powers and perform all the duties of surveyors of highways and road commissioners of towns, as modified by the ordinances or regulations of said city or by this act. The city marshal shall have general supervision of the police force of the city, and shall have the powers of a constable in all matters criminal, or relating to the by-laws and ordinances of the city. The overseers of the poor shall be, ex-officio, overseers of the city workhouse, and overseers of the city house of correction.

Duties of city clerk, prescribed.

SECT. 24. The city clerk shall be, ex-officio, the clerk of the board of aldermen. He shall perform such duties as shall be prescribed by the board of aldermen, or by the city council, and shall perform all the duties incumbent on, and exercise all the powers vested in the clerk of the town of Old Town. He shall give notice in one or more of the newspapers published in said city, if any, of the time and place of all ward meetings. He may appoint, subject to the approval of the mayor, a deputy clerk, who may, in the absence of the clerk, perform all the duties of clerk with the same effect as if done by the clerk; such appointment and approval shall be in writing and entered upon the city records. Said deputy clerk shall be sworn to the faithful performance of the duties of his office before entering thereon. His term of office shall expire at the same time with that of the city clerk by whom he was appointed; except that when the office of city clerk becomes vacant from any other cause than expiration of the term of the incumbent, the deputy clerk then in office shall continue to hold such office until a city clerk is duly elected and qualified. If the city clerk is absent temporarily without having appointed a deputy clerk, the mayor and aldermen

may appoint a city clerk, pro tempore, who shall be sworn, and shall perform all the duties of said city clerk during such absence and no longer. The deputy clerk may be removed by the mayor in the same manner as other officers removable by him.

SECT. 25. The assessors shall exercise the same powers and be subject to the same duties and liabilities as are possessed by and imposed on the assessors of towns under the laws of this state; and they may as a board by a majority vote appoint one person in each ward as assistant assessor, who shall be duly sworn, and whose duty shall be to furnish the assessors with all necessary information relative to persons and property taxable in his ward. Said assistant assessors may be removed by the assessors by majority vote; and their appointment, oath, and removal shall be recorded upon the city records. Their term of office shall expire on the first day of March next following their appointment; and their successors shall not be appointed until after the election and qualification of assessors for the ensuing municipal year. No appointment of assistant assessors made after the first day of May, except to fill a vacancy, shall be valid unless approved by the mayor.

Assessors, their powers and duties.

SECT. 26. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of the state relating to town taxes, except as herein modified; but it shall be lawful for the city council to establish additional provisions for the collection thereof not inconsistent with said laws.

Assessment and collection of taxes.

SECT. 27. The superintending school committee of said city shall perform all the duties and be invested with all the powers of the superintending school committee of a town under the laws of this state. It shall be officially designated and known as the school board of said city; but this change of designation shall not be construed as affecting its power and obligation to perform any duty imposed by statute upon the superintending school committee of the town of Old Town, nor as affecting in any way the right of the members of the superintending school committee of said town who shall, at the time when this act takes effect, be holding such office, to continue to hold the same until the expiration of the original term of office for which they were respectively elected by said town. The said

School board, powers and duties of.

CHAP. 71

school board shall elect a chairman annually, and may appoint some suitable person, not a member of said board, to be superintendent of schools, and may adopt such rules and regulations for the management of schools and the transaction of its business as are not inconsistent with the laws of the state. It shall have the supervision and care of all school property subject to the general supervision and control of the city council. If a superintendent is appointed, he shall be the secretary and executive agent of the board, which shall fix his salary, and may remove him at pleasure; and his salary shall be paid from the city treasury as salaries of teachers are paid; and in such case the members of said board as such shall receive no salary or compensation for their services. If no superintendent is appointed as aforesaid, the board shall elect one of its members to be its secretary. If a school agent is not elected by the city council at the annual election of the subordinate city officers, the school board shall have the powers and perform the duties of such agent for the ensuing municipal year, and may appoint some suitable person, not a member of said board, as its agent to perform such duties, and prescribe his duties and fix his compensation, unless such duties and compensation are defined and fixed by the city council.

Expenditures, shall not exceed appropriation.

--no officer shall be interested in any contract made by city.

SECT. 28. No officer or agent of said city shall have power, by any contract, agreement, obligation, promise or instrument, to make the city liable for any purpose to an amount exceeding the appropriation for such purpose. No officer or agent of said city, and no member of the city government or of any board or committee thereof, shall be pecuniarily interested, directly or indirectly, in any contract entered into by said city for the construction, alteration or repair of any street, or of any public works, buildings or other property, or for the purchase of supplies or material for any purpose; and any contract made in violation hereof is void.

Collection and payment of money, how made.

SECT. 29. All moneys received or collected for or on account of said city by any officer or agent thereof shall forthwith be paid into the city treasury. No money shall be paid from the treasury unless properly granted or appropriated, nor in excess of any grant or appropriation; and no money shall be paid out of said treasury except on an order signed by the mayor, designating the fund or appropriation from which such order is to be paid. The city council shall

CHAP. 71

require bonds with sufficient penalty and surety or sureties from all persons intrusted with the receipt, custody, or disbursement of money or funds of the city; and it shall, in such manner as it may see fit, secure a just and proper and regular accounting from all boards and officers thus intrusted. It shall, as often as once in each year, cause to be published for the information of the citizens a particular account of receipts and expenditures, and a schedule of the debts and the property of the city.

—bonds required of all persons intrusted with funds of city.

SECT. 30. All officers and boards having authority to expend money shall annually, before the twentieth day of April, furnish to the mayor an estimate of the money required for their respective departments and offices for one year beginning with the last Monday in March preceding, and the mayor shall submit the same with his recommendations thereon to the city council as soon as practicable after receiving the same. The city council shall as soon as practicable thereafter make the appropriations for the current municipal year.

Appropriations of money, how made.

SECT. 31. All meetings of the qualified voters for the purpose of voting at elections or for the transaction of municipal affairs, whether in city or ward meetings, shall be holden in pursuance of warrants for that purpose, which shall be issued by the board of aldermen, specifying the time and place at which the meeting shall be held, and stating in distinct articles the business to be acted upon at such meeting. Said warrants shall be directed, and return of notice made thereon, in the same manner as provided in the case of warrants for town meetings; and such meeting shall be notified by the person to whom the warrant is directed, by posting an attested copy thereof in some public and conspicuous place in the ward wherein the meeting convened under such warrant is to be held, or, in the case of a city meeting, in each ward of the city, at least seven days before the meeting, unless the city council has appointed by vote at a regular session thereof a different mode, which said city council is hereby authorized to do. No meeting of the voters of any ward shall be notified to be held without the limits of said ward. The time and place of all meetings of the qualified voters as aforesaid, when not fixed by law, shall be determined by the board of aldermen.

Meetings, for election and municipal purposes, how called and held.

SECT. 32. For election purposes, said city shall be divided into five wards, each to contain as nearly as may be convenient,

Wards.

CHAP. 71

consistently with well-defined boundaries, an equal number of the inhabitants of said city; and it shall be the duty of the city council, once in ten years and not oftener than once in five years, to revise, and, if alteration is deemed necessary, to alter the boundaries of said wards in such manner as to preserve as nearly as convenient an equal number of inhabitants in each ward. A warden and a clerk shall be elected for each ward by the qualified voters thereof, as hereinafter provided, and shall each be, at the time of such election, a resident in the ward for which he is chosen, and a qualified voter of said city; and a vacancy in either office may be filled for the unexpired term thereof by a new election called for that purpose. The oath required of them may be administered to them by any justice of the peace in said city, and a certificate of the administration of such oath shall be entered by the clerk of said ward on the records of the ward; and any ward clerk may record the fact that he was sworn, and when and by whom, and such record shall be sufficient evidence of the administration of the oath as therein recorded. The warden shall preside at each meeting of his ward, and shall have the powers of a moderator of a town meeting. If any meeting the warden shall not be present, or shall refuse or neglect to preside, a warden, pro tempore, shall be chosen, and during such choice the ward clerk shall preside. If in such case the clerk be not be present, any legal voter in the ward may preside until a clerk, pro tempore, shall be chosen and qualified. The ward clerk shall record all the proceedings and certify the votes given, and shall deliver to his successor all records, journals, and other documents, papers, and property held by him in such capacity. The voters at any ward meeting may choose two persons to assist the warden in receiving, sorting and counting the votes. When a clerk, pro tempore, is chosen for a ward meeting, he may perform all the duties of the ward clerk for that meeting, and record and certify the votes and doings thereof as in the case of a ward clerk.

—wardens and
clerks, powers
and duties.

Annual
meetings, and
proceedings.

SECT. 33. On the Monday next preceding the last Monday in March of each year, the qualified voters of each ward, at ward meetings duly called for that purpose, shall ballot for a mayor, one alderman, three councilmen, a warden, and a clerk. All said officers shall be elected by written ballot, by a plurality of votes cast for candidates for the particular office, except as

herein otherwise provided; and the voters at such meetings shall give in their votes for the officers named in this section, or so many thereof as the voter determines to vote for, on one list or ballot, designating the intended office of each person thus voted for. All the votes given for said 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 in the ward records in words at length. The ward clerk, within twenty-four hours after such election, shall deliver to the ward officers elected, including aldermen and councilmen, certificates of their election, and shall forthwith deliver to the city clerk a certified copy of the record of the election held in the ward, which shall be transcribed upon the records of the city. If the choice of any ward officer, including alderman and councilmen, is not effected on the day appointed for such meeting, the meeting shall be adjourned from day to day until such choice is effected.

—ward clerk, shall deliver to persons elected, certificates of election.

SECT. 34. 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 at once cause the person whom it determines therefrom to have been elected mayor to be notified in writing of his election. If it shall appear that no person has been so elected by a plurality of votes cast in all the wards, the board of aldermen shall issue its warrants for ward meetings for a second balloting for mayor; and all proceedings in relation to such second meetings and to the determination of the result of such second balloting shall be the same as hereinbefore provided in the case of the first meetings. If at such second balloting no one person shall have a plurality of the votes cast, then the city council elect shall, after its members have taken the oath of office, and after the two boards composing said council shall have been organized, forthwith hold a joint convention, to be presided over by the president of the board of aldermen, or in his absence by the city clerk, or in his absence by any member chosen for that purpose by a majority of the members qualified to sit in such convention, and shall elect from the persons receiving the four highest numbers of votes, at said second balloting, if so many there be, a mayor for the ensuing municipal year. If before being sworn as mayor the

Aldermen shall cause mayor to be notified of election.

—proceedings, in case no person is elected on second balloting.

CHAP. 71

person elected shall die or refuse to accept the office or become by reason of unsoundness of mind incapable of performing the duties of mayor, the board of aldermen shall make a record of the fact upon its journal, and forthwith issue its warrants for a new election, and the same proceedings shall be had as are herein provided for the original election.

Oaths of office,
by whom
and when
administered.

SECT. 35. The mayor, the aldermen, and the councilmen shall, before entering upon their offices, be duly sworn to the faithful performance of their respective duties; and for that purpose they shall meet in convention on the last Monday in March in each year, at ten o'clock in the forenoon, at the building now known as the town hall in said town of Old Town, or in such other suitable place as may be fixed by a city ordinance; when such oath may be administered to the mayor elect by a judge of any court of record in said state, or by any justice of the peace; and to the aldermen elect and the councilmen elect by the mayor, he being first sworn as aforesaid, or by the clerk of said city, or by any justice of the peace or judge of a court of record as aforesaid. The city clerk shall preside at such convention until the mayor elect is sworn, when said mayor shall preside. After the administration of the oaths as aforesaid, the two boards shall separate, and the common council shall at once be organized by the election of a president and a clerk, the city clerk or his deputy or in their absence any member of said common council presiding during said election; and the clerk thus elected shall be sworn, and may record the proceedings of the meeting, including the administration of the oath to himself; but if said clerk elect is not present, a clerk, pro tempore, shall be chosen and sworn, who shall record the proceedings of such meeting. The clerk of the common council shall keep the journal of its acts, votes and proceedings, and perform such other duties in said office as the common council requires; and he may be removed by the common council by a majority vote. The board of aldermen shall also at once, the mayor or in his absence the city clerk or his deputy or in their absence any member of said board presiding, choose a president, who in the absence of the mayor shall preside at all meetings of said board and all joint conventions of the two boards. Said president of the board of aldermen shall not

—election of
president and
clerk of common
council.

—election of
president and
board of
aldermen.

lose his right to vote in said board by reason of exercising the duties of said office or of the office of acting mayor; nor shall the president of the common council lose his right to vote by reason of his said office. If the mayor or any alderman or councilman elect shall not be present on the last Monday in March to take the oath required, such oath may be administered to the mayor or aldermen at any meeting of the board of aldermen, and to the councilmen at any meeting of the common council, thereafter. A certificate that any oath mentioned in this section has been taken shall be entered in the journals of the board of aldermen and common council respectively; but such certificate as to any oath taken after said last Monday in March need be entered only on the journal of the board before which it was taken. Such certificate thus entered shall be sufficient evidence that such oath was administered.

—oaths of mayor and councilmen.

SECT. 36. No removal of any person holding any city or ward office from one ward to another, and no change of ward boundaries, shall create a vacancy in any such office. If any such officer shall take up his permanent residence without the limits of said city, the office held by him shall thereby become vacant.

Removal of any officer from one ward to another shall not create a vacancy.

SECT. 37. Said city shall have a seal, which shall be in the custody of the clerk, and said seal shall bear as its principal device the head of an Indian chief, and for its inscription the name of said city and the date on which said city's existence shall begin under this act.

Seal.

SECT. 38. General meetings of the inhabitants qualified to vote in city affairs may from time to time be held for any constitutional or legal purpose. Such meetings may, and upon written request of fifty qualified voters of said city shall, be duly convened by the board of aldermen. The city clerk shall act as clerk of such meetings, and record the votes and doings of the citizens thereat upon the city records.

General meetings, may be held.

SECT. 39. The selectmen of the town of Old Town, as soon as may be after this act shall have been accepted by the voters of said town, shall divide said town into five wards in such manner as to include, as nearly as conveniently may be, consistently with well defined boundaries to each ward, an equal number of the inhabitants of said town in each ward. The division thus made shall be entered by the clerk of said town upon the town records, and shall also be entered as a

Selectmen of Old Town shall divide town into wards and define boundaries.

—division shall be recorded and published in

CHAP. 71

newspapers
before first
election.

—revision of
ward
boundaries.

transcript from the town records upon the city records by the city clerk when qualified; and such division shall fix the boundaries of said wards until the same shall be duly changed as provided in this act. Such division shall be published once in some newspaper published in said town, if any, such publication to be at least one week before the first ward meetings held under this act. At any revision of the ward boundaries made as provided in this act, it shall be lawful for the city council to divide said city into not less than five nor more than seven wards; but such division shall not become effectual unless approved by a majority of the legal voters casting votes for mayor at the annual election held next after such division is made by the city council. If such change in the number of wards is thus approved at said annual election, the action of the city council in making such change and fixing the boundaries of the wards shall take effect twelve days before the annual election of mayor in the following year; and at the same time the terms of office of the several wardens and ward clerks shall expire, anything in this act to the contrary notwithstanding; and in the warrants for notifying the ward meetings called for the first annual election of mayor and other officers under such altered number of wards, the board of aldermen shall designate the person to preside at said respective ward meetings, such designation to include so far as practicable the persons whose terms of office as wardens expired as aforesaid, and the persons so designated shall, after being duly sworn, preside as wardens at said meetings, and shall have all the powers of wardens so far as relates to said meetings; each of such persons to be a qualified voter of the city and a resident in the ward in which he is to preside; and in case such person is absent from such ward meeting, the voters may elect a warden, pro tempore. At such meetings a clerk, pro tempore, shall be chosen by said voters and sworn, who shall perform all the duties of ward clerk of his ward relating to such election, including his own election and the administration of the oath of office to him, and including also the making and delivering of the certificates of election of officers. No change in the number of wards in said city shall be valid, unless the vote of the city council whereby such change is decreed shall also contain a definite description of the boundaries of the proposed new wards, nor unless such vote is passed at least thirty days before the day of the annual

election at which said change is to be voted upon by the voters of said city. CHAP. 71

SECT. 40. For the purpose of organizing the system of government hereby established, and of putting the same in operation, the selectmen of said town for the time being shall, after this act takes effect and at least seven days before the Monday next preceding the last Monday in March, issue their warrant for calling and notifying meetings of the legal voters of the several wards, to be held at ten o'clock in the forenoon on the Monday next preceding the last Monday in March, at such place in each ward as the said selectmen may determine, for the purpose of giving in their votes for a mayor, and of choosing for each ward a warden, a clerk, one alderman, and three councilmen. Said ward meetings shall be notified by posting an attested copy of said warrant in a public and conspicuous place in the respective wards. At any such meeting, any member of said board of selectmen may preside; and if no member of said board is present, or if such member being present declines or fails to preside, any legal voter of such ward designated for that purpose by said board of selectmen in the warrant for such meeting, or appointed in writing by said board, shall preside; and a clerk, pro tempore, shall first be chosen for such meeting and be sworn by a justice of the peace or by the person presiding at such meeting, who is hereby authorized to administer the requisite oath, and said clerk shall record the warrant under which such meeting has been convened, the aforesaid written appointment of presiding officer if any, and the votes and doings of such meeting, including his own election and qualification, and shall perform the duties of ward clerk so far as relates to said meeting or any adjourned session thereof. At said first meeting of each ward, a list of the qualified voters thereof, prepared and corrected by the selectmen of the town for the time being, shall be delivered to the presiding officer and by him delivered to the ward clerk when qualified; and such list shall be used at said meeting in the manner provided by law in the case of town meetings, and no name shall be added thereto on the day of election. The polls at such election shall be open until four o'clock in the afternoon and then closed. A transcript of the records of each ward, specifying the votes given for

Proceedings, for
organization of
city
government.

CHAP. 71

mayor, alderman, councilmen, warden and clerk, certified by the clerk, pro tempore, of such ward, shall on the Tuesday next following the Monday appointed for such meetings be returned to the selectmen of said town, who shall compare the same, and cause the person whom they shall determine therefrom to have been elected mayor by a plurality of votes at such election to be notified in writing of his election, and cause all other persons by them determined to have been elected to be in like manner notified. In case of a failure to elect a mayor at said first meetings, said selectmen shall at once issue their warrant for ward meetings for a new balloting for mayor, giving seven days' notice thereof, at which meetings the wardens of the respective wards shall preside; and all proceedings in relation to such second meetings and to the determination of the result of said second balloting shall be the same as above provided in the case of the first meetings; and if there is a failure to elect at such second balloting for mayor, the aldermen elect and councilmen elect shall, after having taken the oath of office and duly organized their respective boards, elect a mayor in the manner provided in section thirty-four of this act. If at said first ward meetings there shall be a failure to elect any alderman, councilman, warden or clerk, the meeting shall be adjourned from day to day until such election is effected, the clerk, pro tempore, delivering the certified copy of the records of each adjourned meeting at which a choice of any officer is effected to the selectmen as herein provided. If any such first meeting adjourns without day before effecting such choice, the said selectmen, or the board of aldermen if duly organized, may issue a warrant for a new meeting, giving not less than two nor more than four days' notice therefor. The city council whose members are chosen at first ward meetings shall be organized as provided in section thirty-five of this act on the last Monday in March, and all the officers of said town of Old Town for the time being whose terms of office would expire with the municipal year then ending shall continue in office until such organization and no longer, except as hereinafter provided; and the existence of said town as a city shall not begin until the day of the first organization of the city council. The clerk, treasurer, collector of taxes, overseers of the poor, and constables of said town in office at the time of the acceptance of this act shall continue to be officers of said city in their said

—first city council, how organized.

—town officers, shall continue in office until such organization.

capacities respectively, from the time said council is organized until it elects their respective successors, which it shall do one week after its organization aforesaid, and until said successors are duly qualified. If this act shall not be accepted at such date as will enable the first ward meetings to be held as provided in this section on the Monday next preceding the last Monday in March of the year in which such acceptance is had, said meetings shall be held within a reasonable time after such acceptance, in which case the city council shall be organized and the mayor be sworn on the tenth day after the day of said ward meetings, and the date of all other proceedings mentioned in this section and depending on the date of such meetings or of said organization of the city council shall be correspondingly changed.

SECT. 41. At the first election of subordinate city officers by the city council, three persons shall be elected assessors, one of whom shall be elected for one year, one for two years, and one for three years; and in like manner three persons shall be elected overseers of the poor, for one, two, and three years respectively; and all subsequent elections of an assessor or overseer of the poor shall be for three years, unless such election is for the purpose of filling a vacancy for the unexpired portion of a term.

Assessors,
election and
tenure of.

SECT. 42. The city council may at any time by ordinance change the number of members of the school board in its discretion to a number not less than three nor more than nine, and provide for the election of as many of such members each year as it may deem expedient, and fix the term of office thereof; but no such change shall be made in such manner as to shorten the term of office of any member of said board in office for the time being. The ordinance establishing such change shall be submitted to the legal voters of said city assembled in ward meetings on the day of annual city election, and shall not be valid unless approved by a majority of said voters voting thereon. Nothing herein contained, however, shall prevent the city council from electing at any annual election of subordinate city officers but at no other time, a supervisor of schools in the place of said school board; in which case the term of office of all members of said school board and of any officer appointed or elected by said board shall end, and such supervisor shall perform the

Members of
school board,
number of, may
be changed by
city council.

—election of
supervisor.

CHAP. 71

duties required of said school board and of the superintending school committee of towns under the general laws of this state.

Act shall be in force, when accepted by inhabitants.

—proceedings, upon question of acceptance.

SECT. 43. This act shall take effect and be in force when the inhabitants of said town of Old Town qualified to vote in town affairs shall, at a legal meeting and under a proper article in the warrant calling such meeting, accept said act by a majority of all the votes given on the question of such acceptance; provided, it shall be so accepted before the thirty-first day of March in the year of our Lord eighteen hundred and ninety-three; but the question of its acceptance shall not be voted upon more than once within any one period of six months. The vote upon such acceptance shall be by written ballot; the voters in favor of acceptance shall cast a ballot having on it the word "yes," and the voters opposed to acceptance shall cast a ballot having on it the word "no." If said act shall be thus accepted, the clerk of said city when elected and qualified shall, from the records which said body corporate has caused to be kept as a town, transcribe and attest upon the records which said body corporate shall cause to be kept as a city, so much of the record of the warrant calling such meeting, of the return of service thereon, and of the action taken at said meeting upon said question of acceptance, as shall be sufficient for a full understanding of the action taken thereon as aforesaid; and said city record shall be conclusive evidence of the matters and facts thus transcribed to the same extent as the original record thereof would be. For the purpose of calling and conducting a meeting of the inhabitants of said town to vote upon the question of the acceptance of this act, this act shall take effect when approved.

Inconsistent acts, repealed.

SECT. 44. All acts and parts of acts inconsistent with the provisions of this act or with amendments hereof, shall be considered as repealed so far as this act or amendments thereof are concerned and so far as relates to said city, and they shall not prevent the provisions of this act and its amendments from having full force and effect according to its terms and intentions.

Approved February 17, 1891.