

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

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The Knowlton and McLeary Company
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1963

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the One Hundred and First Legislature

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wise specifically provided therein, be deemed to apply to and to govern said School Administrative District No. 17.

Sec. 4. Saving clause. If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Effective September 21, 1963

Chapter 162

AN ACT to Grant a New Charter to the City of South Portland.

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

Council-Manager Charter of South Portland.

ARTICLE I

1. Grant of powers to the city; corporate existence retained. The inhabitants of the City of South Portland, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a municipal corporation by the name of "City of South Portland".

2. Form of government. The municipal government provided by this charter shall be known as the "Council-Manager Government."

3. Powers of city. The city shall have all the powers granted to municipal corporations and to cities by the Constitution and general laws of this State together with all the implied powers necessary to carry into execution all the powers granted.

The city may acquire property within or without its corporate limits for any city purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its interests may require.

The enumeration of particular powers by this charter shall not be deemed to be exclusive, and in addition to the powers enumerated therein or implied thereby, or appropriate to the exercise of such powers, it is intended that the city shall have and may exercise all powers which, under the Constitution of this State, it would be competent for this charter specifically to enumerate.

ARTICLE II

City Council

201. General powers. The administration of all fiscal, prudential and municipal affairs of said city with the government thereof, except as otherwise

herein provided, shall be and are vested in one body of 5 members which shall constitute and be called the city council, and shall exercise its powers in the manner herein provided.

202. City council constituted municipal officers. The members of the city council shall be and constitute the municipal officers of the City of South Portland for all purposes required by statute and, except as otherwise herein specifically provided, shall have all the powers and authority given to, and perform all duties required of, municipal officers and mayors of cities under the laws of this State.

203. Creation of other departments or offices; change of duties. The council by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments and agencies established by this charter. The council by ordinance may assign additional functions or duties to offices, departments or agencies established by this charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this charter to a particular office, department or agency.

204. City property care and management. The city council shall have legal custody of all the city public buildings and land, but the care, superintendence and management thereof shall be under the administrative direction of the manager, except for school property as provided in section 905.

205. Regulation of persons and businesses. The city council is authorized to enact ordinances regulating persons, businesses and purposes and to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations, not inconsistent with law, upon payment by the licensee of such fees and filing of such bonds as said city council may establish and make provisions for by ordinance, and to pass all such ordinances as are permitted by the Revised Statutes of the State of Maine for such cases made and provided.

206. Residue of powers. All other powers now or hereafter vested in the inhabitants of said city and all powers granted by this act, except as herein otherwise provided, shall be vested in said city council.

207. Number; election term. The city council shall be composed of 5 members elected in a city-wide election, one from each of the 5 voting districts provided for in Article X. The term of office shall be for 3 years, and until their successors are duly elected and qualified.

The present members shall continue in office until their respective terms expire. It is the intent and purpose of this charter that present members of the council shall remain in office, and upon completion of their terms of office, their successors will be elected as provided for in this charter.

208. Qualifications. Councilmen shall be qualified electors of the city, be residents of the districts from which they are elected, and remain inhabitants of the city during their term of office. They shall hold no office of emolument

or profit under the city charter or ordinances. If a councilman shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his office shall immediately become vacant.

209. Compensation. The annual compensation of councilmen shall be \$600. The compensation of councilmen shall be established and fixed by provisions of the charter.

210. Induction of council into office. The city council shall meet at the usual place for holding meetings at 4:00 P. M. on the first Monday in January following the regular city election, and at said meeting the councilmen-elect shall be sworn to the faithful discharge of their duties by a justice of the peace, or by the city clerk.

211. Chairman of the council. Immediately after being sworn into office, at the meeting of the city council, as prescribed in section 210, the council shall elect, by a majority vote of the entire council, one of its members for the ensuing year as a chairman of the council, and the city council may fill, for the unexpired term, any vacancy in the office of chairman that may occur.

He shall preside at the meetings of the council and shall be recognized as the official head of the city for all ceremonial purposes and shall have the power and authority given to and perform the duties required of mayors of cities for all purposes of military law, but shall have no regular administrative duties. He shall be entitled to vote and his vote shall be counted upon all matters and things as a vote of other members of the council. In the temporary absence or disability of the chairman, the city council may elect a chairman pro tempore from among its number and he shall exercise all the powers of chairman during such temporary absence or disability of the chairman.

212. Council to judge of qualifications of its members. The council shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the council in any such case shall be subject to review by the courts.

213. Regular meetings. The city council shall, at its first meeting or as soon thereafter as may be, establish by ordinance or resolution a regular place and time for holding its regular meetings, and shall meet regularly at least twice a month. All meetings of the city council shall be open to the public.

214. Special meetings. Special meetings may be called by the chairman and in case of his absence, disability or refusal may be called by a majority of the city council. Notice of such meeting shall be served in person upon, or left at the residence of, each member of the city council and of the city manager at least 24 hours before the time of holding such special meeting. The city council may meet upon shorter notice by unanimous consent of all of its members, recorded in the record of such meeting.

215. Quorum. Three members of the city council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time

to time or may compel attendance of absent members. At least 24 hours' notice of the time and place of holding such adjourned meeting shall be given to all members who were not present at the meeting from which adjournment was taken.

216. Vote, how taken. In all meetings of the city council, the vote shall be taken by yeas and nays on the passage of all ordinances, and on the passage of any order or resolve when called for by any member of the council, and such yeas and nays shall be entered on the record of the proceedings of the council by the city clerk.

217. Vacancies in council. If a seat in the council becomes vacant more than 6 months prior to the next regular city election, the vacancy may be filled within 60 days from the date that the vacancy occurred, by a special election, the warrant for which, upon vote of the city council, shall be issued by a member of the city council, by vote designated for that duty.

Should such a vacancy or vacancies occur less than 6 months prior to the next regular city election, and should the city council by vote deem it to be in the best interests of the city to fill such vacancy or vacancies, then the vacancy or vacancies shall be filled within 60 days of the date of such vote of the city council by a special election as above prescribed.

218. Rules of procedure; journal. The council shall determine its own rules and order of business and make lawful regulations for enforcing the same. It shall act only by ordinance, order or resolve. All ordinances, orders and resolves, except those pertaining to appropriations shall be confined to one subject which is clearly stated in the title. The appropriation ordinance shall be confined to the subject of appropriations only. The city council shall keep a journal of its proceedings and the journal shall be open to public inspection.

219. Board of registration. The city council shall appoint the 2 associate members of the board of registration of voters, who shall serve for such term and perform such duties as may be provided by law.

220. City clerk. The council shall elect an officer of the city to serve at its pleasure, who shall have the title of city clerk, shall give notice of its meetings, shall attend all meetings of the city council and keep the journal of its proceedings, shall authenticate by his signature and record in full in a book kept for the purpose all ordinances and resolutions duly indexed and open to public inspection and shall perform such other duties as shall be required by this charter or by ordinance. He shall issue to every person appointed to any office by the city council or by the city manager, a certificate of such appointment. He shall perform all duties and exercise all powers incumbent upon or vested in town and city clerks generally which are not inconsistent with this charter, and shall be the custodian of the seal of the city. In case of the temporary absence of the city clerk, the city council may appoint a clerk pro tempore, with all the powers, duties and obligations of the city clerk, who shall be duly qualified.

221. Ordinances. In addition to such acts of the council as are required by statute or by this charter to be by ordinance, every act of the council estab-

lishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, excepting emergency appropriations, shall be by ordinance. The enacting clause of all ordinances shall be, "The Council of the City of South Portland hereby ordains."

222. Procedure for passage of ordinances; first reading. Every ordinance shall be introduced in writing and after a passage on first reading such ordinance or a summary thereof shall be posted in the municipal building at least 7 days prior to the next regular meeting of the council.

223. Second reading and public hearing. Every ordinance shall be in order for public hearing and second reading at the next regular meeting of the council, immediately after the first reading of same, but all ordinances may, at the discretion of said council, be tabled from time to time. Said public hearing shall be conducted in such manner and form as may be deemed expedient by the city council, and all persons interested shall be given an opportunity to be heard.

224. Further consideration; final passage. After such public hearing and second reading the council may finally pass such ordinance in the same form as originally presented at the first reading, or by motion amend the same and finally pass it in such amended form without the necessity of further hearings or readings.

225. Ordinances, effective date. Every ordinance, unless it shall specify a later date, shall be effective at the expiration of 20 days after the date of final passage, or if the ordinance be submitted at a referendum election, then upon a favorable vote of a majority of those voting thereon, except as otherwise expressly provided by this charter.

226. Independent annual audit. Prior to the end of each fiscal year the council shall designate the appropriate state auditing agency or private qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the council and a copy thereof to the manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal accounts or records of the city business, but, within specifications approved by the council, shall post-audit the books and documents kept by the department of finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

227. Appointment of city manager. The council shall appoint an officer of the city who shall have the title of city manager and shall have the powers and perform the duties in this charter provided. No councilman shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term, nor shall any member of the city council act in that capacity.

228. Removal of city manager. The council shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. At least 30 days before such removal shall become effective, the council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The manager may reply in writing and may re-

quest a public hearing, which shall be held not earlier than 20 days nor later than 30 days after the filing of such a request. After such public hearing, if one be requested, and after full consideration, the council by majority vote of its members may adopt a final resolution of removal. By the preliminary resolution the council may suspend the manager from duty, but the regular salary of the manager shall continue to be paid to him during such period of suspension. If removal is voted, the city council shall cause to be paid to him forthwith any unpaid balance of his salary and his salary for the next 2 calendar months.

229. Council not to interfere in appointments or removals. Neither the city council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

ARTICLE III

The City Manager

301. Qualifications. The city manager shall be chosen by the council solely on the basis of his character and executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as herein set forth. At the time of his appointment, he need not be a resident of the City of South Portland or the State of Maine.

302. Powers and duties. The city manager shall be the chief executive officer and the head of the administrative branch of the city government. He shall be responsible to the council for the proper administration of all affairs of the city and to that end, subject to the personnel provisions of this charter, he shall have power and shall be required to:

302.1 Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office;

302.2 Prepare the budget annually, submit it to the council, and be responsible for its administration after adoption;

302.3 Prepare and submit to the council at the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year, and cause such annual city report to be published and made available to the public as promptly as possible after the close of the fiscal year;

302.4 Keep the council advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable;

302.5 Perform such other duties as may be prescribed by this charter or required of him by the council, not inconsistent with this charter.

303. Absence of city manager. To perform his duties during his temporary absence or disability, the manager may designate by letter filed with the city clerk a qualified administrative officer of the city. In the event of the failure of the manager to make such designation, or of the council to approve the person designated at its next regular meeting, the council may by resolution appoint an officer of the city to perform the duties of the manager until he shall return or his disability shall cease.

304. Administrative departments. There shall be a department of education, as established in Article IX. There shall be departments of: Finance; fire; health; parks and recreation; police; public works; welfare, and such other departments as may be established by ordinance upon the recommendation of the manager.

305. Department heads. At the head of each department except the department of education, there shall be an officer of the city who shall have supervision and control of the department subject to the city manager. The heads of the police and fire departments shall be designated "chief", other department heads shall be termed "director". Two or more departments may be headed by the same individual, the manager may head one or more departments, and department heads may also serve as chiefs of divisions.

306. Director of public welfare. The manager shall appoint for an indefinite term an officer of the city whose title shall be "director of public welfare," who shall be responsible administratively to the manager, and who shall exercise all the powers and perform all the duties conferred or imposed by law upon overseers of the poor.

307. Health officer. The manager shall appoint for an indefinite term a health officer who shall exercise such powers and perform such duties as may be conferred or imposed by state law or local ordinance.

308. Park and recreation commissioners. The powers and duties of park and recreation commissioners shall be conferred upon a department of parks and recreation as established by section 304 of this charter.

ARTICLE IV

Department of Finance

401. Director of finance; appointment. There shall be a department of finance, the head of which shall be the director of finance, who shall be, or be appointed by, the city manager.

402. Director of finance; powers and duties. The director of finance shall have charge of the administration of the financial affairs of the city and to that end he shall have authority and shall be required to:

402.1 Compile the current income and expense estimates for the budget for the city manager;

402.2 Compile the capital estimates for the budget for the city manager;

402.3 Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded;

402.4 Maintain a general accounting system for the city government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the city government to be made daily or at such intervals as he may deem expedient;

402.5 Submit to the council through the city manager a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;

402.6 Prepare for the city manager, as of the end of each fiscal year, a complete financial statement and report;

402.7 Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the State or Federal Government, or from any court, or from any office, department or agency of the city;

402.8 Have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the council, or, if no such resolution be adopted, by the city manager, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account;

402.9 Have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;

402.10 Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the city government;

402.11 Certify all proposed expenditures. Unless he shall certify that there is an unencumbered balance of appropriation and available funds, no appropriations shall be encumbered and no expenditure shall be made.

403. Work programs; allotments. Before the beginning of the budget year, the head of each office, department or agency shall submit to the city manager, when required by him, a work program for the year, which program shall show the requested allotments of the appropriations for such office, department or agency, by monthly periods, for the entire budget year. The city manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same.

The aggregate of such allotments shall not exceed the total appropriation available to said office, department or agency for the budget year.

404. Allotments constitute basis of expenditures and are subject to revision. The city manager shall file a copy of the allotments with the director of finance, who shall authorize all expenditures for the offices, departments and agencies to be made from the appropriations on the basis of approved allotments and not otherwise. An approved allotment may be revised during the budget year in the same manner as the original allotment was made. If, at any time during the budget year, the city manager shall ascertain that the available income, plus balances, for the year will be less than the total appropriations, he shall reconsider the work programs and allotments of the several offices, departments and agencies and revise the allotments so as to forestall the making of expenditures in excess of the said income.

405. Transfers of appropriations. The city manager may at any time transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department or agency. At the request of the city manager and within the last 3 months of the budget year, the council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department or agency to another. No transfer shall be made from the appropriations required by sections 525.1 to 525.8.

406. Accounting supervision and control. The director of finance shall have power and shall be required to:

406.1 Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government;

406.2 Examine and certify all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that moneys have been appropriated and allotted and will be available when the obligations shall become due and payable;

406.3 Audit and certify before payment all bills, invoices, payrolls and other evidences of claims, demands or charges against the city government and with the advice of the city attorney determine the regularity, legality and correctness of such claims, demands or charges;

406.4 Inspect and audit any accounts or records of financial transactions which may be maintained in any office, department or agency of the city government apart from or subsidiary to the accounts kept in his office.

407. When contracts and expenditures prohibited. No officer, department, or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose in excess of the amounts appropriated for that general classification of expenditure pursuant to this charter. Any contract, verbal or written, made in violation of this charter shall be null and void. Any officer or employee of the city who shall violate this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

408. Appropriations lapse at end of year. All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered, except as otherwise specifically required by general law or agreement concerning moneys granted to the City of South Portland by the State of Maine or other unit of government.

409. Fees shall be paid to city government. All fees received by any officer or employee shall belong to the city government and shall be paid to the department of finance at such intervals as the director of finance may require.

410. Division of purchases. There shall be established in the department of finance, a division of purchases, the head of which shall be the city purchasing agent. The purchasing agent, pursuant to rules and regulations established by ordinance, shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department or agency of the city government. The purchasing agent shall also have power and shall be required to:

410.1 Establish and enforce specifications with respect to supplies, materials and equipment required by the city government;

410.2 Inspect or supervise the inspection of all deliveries of supplies, materials, and equipment, and determine their quality, quantity and conformance with specifications;

410.3 Have charge of such general storerooms and warehouses as the council may provide by ordinance;

410.4 Transfer to or between offices, departments or agencies, or sell surplus obsolete or unused supplies, material and equipment.

411. Competitive bidding. Before the city purchasing agent makes any purchase of or contract for supplies, materials or equipment, he shall give ample opportunity for competitive bidding, under such rules and regulations, and with such exceptions, as the council may prescribe by ordinance; provided, however, that the council shall not except individual contracts, purchases or sales from the requirements of competitive bidding. The ordinance may authorize the city purchasing agent to combine with other units of government or with a state association of municipalities for purchasing purposes.

412. Contracts for city improvements. Any city improvement costing more than \$1,000 shall be executed by contract except where such improvement is authorized by the council to be executed directly by a city department in conformity with detailed plans, specifications and estimates. All such contracts for more than \$1,000 shall be awarded to the lowest responsible bidder after such public notice and competition as may be prescribed by ordinance, provided the city manager shall have the power to reject all bids and advertise again. Alterations in any contract may be made when authorized by the council upon the written recommendation of the city manager.

413. Accounting control of purchases. All purchases made and contracts executed by the purchasing agent shall be pursuant to a written requisition from the heads of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the director of finance certifies that there is to the credit of such office, department or agency, a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

414. No contract executed until bond ordinance effective. No contract shall be executed for the acquisition of any property, or the construction of any improvement or betterment to be financed by the issuance of bonds until the ordinance authorizing the issuance of such bonds shall have taken effect and any contract executed before such day shall be unenforceable in any court of law.

415. Appropriation limitation. Other than by the one regular annual budget appropriation ordinance, the city council shall make no appropriations except "emergency appropriations" as defined and provided under section 416.

416. Emergency appropriations. At any time in any budget year, the council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditure to protect the public health, safety, or welfare. Such appropriations shall be by resolution adopted by the favorable vote of at least 3 of the members of the council, and shall be made only upon recommendation of the city manager. The total amount of all emergency appropriations made in any budget year shall not exceed 3% of the total operating appropriations made in the budget for that year, except upon recommendation of the city manager and approval by unanimous vote of all the members of the council.

417. Borrowing to meet emergency appropriations. In the absence of unappropriated available revenues to meet emergency appropriations under section 416, the council may by resolution authorize the issuance of notes, each of which shall be designated "emergency note" and may be renewed from time to time, but all such notes of any fiscal year and any renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the budget year in which the emergency appropriation was made.

418. Borrowing in anticipation of taxes. In any fiscal year, in anticipation of the collections or receipts from taxes for such year, the council may by resolution authorize the borrowing of money by the issuance of negotiable notes of the city, each of which shall be designated "tax anticipation note of the year

19- -" (stating the fiscal year). Such notes may be issued for periods not exceeding one year, and shall be paid within the year out of receipts from taxes for the fiscal year in which said loans are made.

419. Sale of notes. All notes pursuant to this article may be non-interest bearing and be sold on a discount basis, and such sale may be made at private sale without previous advertisement by the director of finance.

420. Payment of notes. The power and obligation of the city to pay any and all notes hereafter issued by it pursuant to this article shall be unlimited and the city shall levy ad valorem taxes on all the taxable property within the city for the payment of such notes and interest thereon without limitation of rate or amount. The faith and credit of the city is hereby pledged for the payment of the principal of and interest on all notes of the city hereafter issued pursuant to this article, whether or not such pledge be stated in the notes.

421. Bureau of personnel. There shall be a bureau of personnel in the department of finance. The head of the bureau of personnel shall be the director of personnel who may be the city manager, the director of finance or his appointee. The civil service commission shall prepare civil service rules and regulations for the administration of this department which shall be enacted by the city council by ordinance.

422. Merit basis of appointment. Appointments and promotions in the administrative service of the city shall be made according to merit and fitness, to be ascertained, so far as practicable, by competitive examination.

423. Prohibitions. No person in the service of the city or seeking appointment thereto or employment therein shall be appointed, promoted, reduced, removed, or in any way favored or discriminated against because of his race or his political or religious affiliations, nor shall he either directly or indirectly give, render, or pay any money, service or other valuable thing to any person for or on account of or in connection with his test, appointment, proposed appointment, promotion, or proposed promotion.

424. Civil service commission. There shall be a civil service commission consisting of 5 members, one from each voting district, who shall be appointed by the city council for overlapping terms of 5 years and shall serve without compensation. They shall control the selection for appointment, promotion, layoff, dismissal or reinstatement as defined by the civil service ordinance. Anyone receiving compensation from the City of South Portland shall not be eligible for membership on this commission.

ARTICLE V

Budget

501. Fiscal year. The fiscal year of the city government shall begin on the first day of January and shall end on the last day of December of each calendar year.

502. Preparation and submission of budget. The city manager, not later than the 3rd Monday in December preceding the beginning of each budget year, shall submit to the council a budget and an explanatory budget message in the form and with contents provided by sections 513 through 516. For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency estimates of revenue and expenditure of that office, department or agency, detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all capital projects pending or which such department head believes should be undertaken (a) within the budget year and (b) within the 6 next succeeding years. In preparing the budget, the city manager shall review the estimates, and may revise them as he may deem advisable.

503. Budget a public record. The budget and budget message and all supporting schedules shall be a public record in the office of the city clerk open to public inspection by anyone. The city manager shall cause sufficient copies of the budget and budget message or summary thereof to be prepared for distribution to interested persons at least 7 days prior to the public hearing provided for by section 505.

504. Publication of notice of public hearing. At the meeting of the council at which the budget and budget message are submitted, the council shall determine the place and time of the public hearing on the budget, and shall cause to be published a notice of the place and time, not less than 7 days after date of publication but during the month of January of the current budget year at which the council will hold a public hearing.

505. Public hearing on budget. At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.

506. Further consideration of budget. After the conclusion of such public hearing, the council may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law or prescribed by sections 525.7 to 525.8. The council may not vary the titles, descriptions or conditions of administration specified in the budget.

507. Increase of budget. If the council inserts additional items, or makes increases, which increase the total proposed expenditures, it shall also increase the total anticipated revenue to at least equal such total proposed expenditures.

508. Adoption of budget; vote required. The budget shall be adopted by the favorable votes of at least a majority of all the members of the council.

509. Date of final adoption; failure to adopt; provision for expenditures until adopted. The budget shall be finally adopted not later than 60 days after the beginning of the fiscal year. Should the council take no final action on or prior to such date, the budget, as submitted, shall be deemed to have been

finally adopted by the council. Before the budget has been adopted, the city council may make appropriation for current departmental expenses, chargeable to the budget for the year, when passed, to an amount sufficient to cover the necessary expenses of the various departments until the annual budget is in force.

510. Effective date of budget; certification; copies made available. Upon final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the city manager and city clerk and filed in the office of the director of finance. The budget so certified shall be printed, mimeographed or otherwise reproduced and sufficient copies thereof shall be made available for the use of all offices, departments and agencies and for the use of interested persons and civic organizations.

511. Budget establishes appropriations. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.

512. Budget establishes amount to be raised by property tax; certification to city assessor. From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the city, in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the city manager and filed by him with the city assessor, whose duty it shall be to levy such taxes for the corresponding tax year.

513. Budget message; current operations. The budget message submitted by the city manager to the council shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the city for the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy.

514. Budget message; capital improvements. As a part of the budget message, with relation to the proposed expenditures for capital projects stated in the budget, the city manager shall include a statement of pending capital projects and proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts, if any, proposed to be raised therefor by the issuance of bonds during the budget year.

515. Budget message; capital program. The city manager shall also include in the message, or attach thereto, a capital program of proposed capital projects for the 6 fiscal years next succeeding the budget year, together with his comments thereon and any estimates of costs prepared by the department of public works or other office, department or agency.

516. Budget message; supporting schedules. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital improvements, as the city manager shall believe useful to the council.

517. Budget. The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

517.1 A general summary;

517.2. Detailed estimates of all anticipated revenues applicable to proposed expenditures;

517.3 All proposed expenditures.

The total of such anticipated revenues shall equal the total of such proposed expenditures.

518. Anticipated revenues. Anticipated revenues shall be classified as "surplus", "miscellaneous revenues" and "amount to be raised by property tax"; miscellaneous revenues shall be sub-classified by sources and shall be estimated as prescribed in sections 521 to 525.

519. Anticipated revenues compared with other years. In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amounts of such items actually received during the year, the amount of each item in the budget of the current fiscal year and the amount actually received to the time of preparing the budget plus receipts for the remainder of the current fiscal year estimated as accurately as may be.

520. Surplus. Surplus shall include receipts during the previous fiscal year from taxes or liens against which a complete reserve has been established.

521. Miscellaneous revenues. Miscellaneous revenues shall include anticipated revenues from the collection of taxes other than the general property tax; the amount of state aid to be received; the amount by which the city is expected to benefit from taxes collected by the State; the amounts estimated to be received from services and sales, fines and forfeiture, parking meter receipts, special assessments and any other special or non-recurring sources.

522. Miscellaneous revenues; measures of estimates. No miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year, and that actually realized in the first 10 months of the current fiscal year plus that to be received in the remaining 2 months of the year estimated as accurately as may be, unless the city manager shall determine that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the council.

523. Miscellaneous revenues; receipts from special assessments. Revenue from collection of special assessments on property specially benefited shall not be stated in an amount which is in excess of the amount of the receipts so derived which it is estimated will be held in cash on the first day of the budget year.

524. Miscellaneous revenues; from new sources. No revenue from a new source not previously stated in the budget shall be included unless the city manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and shall certify such determination in writing to the council. If the new revenue is to be received from the State, the anticipated amount shall not exceed the amount which the proper officer of the State shall declare in writing to be the amount which may reasonably be anticipated in the budget year.

525. Proposed expenditures. The proposed expenditures shall be itemized in such form and to such extent as shall be provided by ordinance. Separate provision shall be included in the budget for at least:

525.1 Interest, amortization and redemption charges on the public debt;

525.2 Other statutory expenditures;

525.3 The payment of all judgments;

525.4 The amount by which the total receipts of miscellaneous revenues in the last completed fiscal year failed to equal the total of the budget estimates of receipts from miscellaneous revenues in that year;

525.5 An amount equal to the aggregate of all taxes levied for the third fiscal year prior to the budget year which are delinquent and outstanding on the 60th day prior to the beginning of the budget year, except to the extent the city may have made provision therefor by reserving the full amount of said delinquent taxes;

525.6 An amount equal to the aggregate of all cancellations, remissions, abatements and refund of taxes, that have been made during the current fiscal year;

525.7 An amount equal to the aggregate of all tax anticipation notes which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;

525.8 An amount equal to the aggregate of all emergency notes which it is estimated will be outstanding at the end of the current year;

525.9 Administration, operation and maintenance of each office, department or agency of the city itemized by character and object of expenditure;

525.10 Contingent expense in an amount not more than 3% of the total amount stated pursuant to section 525.9.

526. Proposed expenditures; comparison with other years. In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during such year, the amount

of each such item in the budget of the current year and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.

527. Budget summary. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such a manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.

ARTICLE VI

Borrowing For Capital Improvements

601. Definitions. As used in this charter, "Capital project" or "project" mean (a) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (b) the acquisition of property of a permanent nature; (c) the purchase of equipment for any public betterment or improvement when first erected or acquired; (d) the purchase of equipment and vehicles, either the first acquisition or replacement thereof, for use by the various departments of the city.

"Pending", when applied to capital project, means authorized, but not yet completed.

602. Power to incur indebtedness by issuing bonds and notes. The city may incur indebtedness by issuing its negotiable bonds, and notes in anticipation of bonds, pursuant to this charter, to finance any capital project which it may lawfully construct or acquire.

603. Bond ordinance; vote required. The city shall authorize the issuance of bonds by a "bond ordinance" passed by the affirmative vote of at least 4 of the members of its council.

604. Form and content of bond ordinance. A bond ordinance shall contain in substance at least the following provisions:

604.1 An appropriation of a sum of money for a capital project, described in brief and general terms sufficient for reasonable identification;

604.2 To finance the said appropriation, an authorization of the incurring of indebtedness by the issuance of bonds in a stated amount pursuant to this charter;

604.3 A statement of the estimated maximum cost of the capital project, including any sums theretofore or thereby appropriated;

604.5 A determination of the net debt of the city after issuance of the bonds thereby authorized, together with the declaration that the bonds thereby authorized will be within the debt limitation prescribed by the Constitution of the State of Maine. For the purposes of this section, "net debt" is defined as the

total of all outstanding bonds and notes, excepting tax anticipation notes, plus accounts payable overdue more than 60 days and minus any funds in a sinking fund which are available only for debt retirement.

605. Title of bond ordinance; citation. The title of a bond ordinance shall state the amount appropriated for an indicated project and the amount of bonds authorized to finance the appropriation. Bond ordinances shall be cited in bonds and notes by title and date of final passage.

606. Form and content when 2 or more projects are combined. A bond ordinance may combine 2 or more projects, in which event it shall, for each project, establish a separate appropriation and state separately the estimated maximum costs and amounts of down payments, but shall authorize a single issue of bonds to finance the aggregate of the appropriations thereby made. The title of such bond ordinance may state the aggregate of the appropriation, instead of the respective amounts.

607. Form and content; average period of usefulness. If a bond ordinance combines 2 or more projects, it shall, in addition to determining the respective periods of usefulness, determine the average period, taking into consideration the respective amounts of bonds for the several projects.

608. Procedure for passage of bond ordinance; publication after final passage. The procedure for passage of a bond ordinance shall be the same as that prescribed by sections 222, 223, 224, 225 for other ordinances of the city, except that when published after final passage, each bond ordinance shall be accompanied by a notice in substantially the following form:

NOTICE

The bond ordinance published herewith has been finally passed and the 20-day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced as provided in the city charter has begun to run from the date of the first publication of this notice.

City Clerk

609. Referendum on bond ordinances. Each such ordinance shall be subject to permissive referendum on petition pursuant to the provisions of article XI, unless the bonds are authorized solely for a capital purpose made necessary as the result of fire, flood or other disaster.

610. Effective date of bond ordinance. Each bond ordinance shall take effect on the 21st day after its first valid publication after final passage, unless it be submitted to referendum, in which event it shall not take effect unless it be approved by the favorable vote of at least a majority of those voting thereon.

611. Authorization of notes in anticipation of bonds; maturity. In anticipation of the issuance of bonds, the council may by resolution authorize the issuance of negotiable notes, when it shall have theretofore authorized the issu-

ance of bonds. Each such note shall be designated "bond anticipation note" and, including renewals, shall mature and be paid not more than 14 calendar months after the date of issuance of the original note. Unless otherwise provided by ordinance, all bond anticipation notes may be sold by the director of finance at private sale without previous offering.

612. Other proceedings by resolution. All matters in connection with the authorization, sale and issuance of the bonds or notes not specifically required to be provided in the bond ordinance may be determined or provided by subsequent resolutions adopted by the affirmative votes of at least a majority of the members of the council.

613. Special debt statement. In connection with any bond ordinance and prior to the date of introduction thereof, the director of finance may prepare, swear to and file for public inspection in the office of the city clerk, a special debt statement which shall set forth the aggregate principal amount of all outstanding bonds and notes of the city, excepting tax anticipation notes; deductions permitted by the constitution and general laws; the amount of the existing net indebtedness; the amount of the net indebtedness after the issuance of the bonds authorized by such bond ordinance; and the aggregate principal amount of bonds and notes which the city may issue pursuant to law.

614. Special debt statement presumed to be accurate. If the special debt statement provided for by section 613 be filed pursuant to the said section and be approved by resolution of the council adopted prior to the final passage of the bond ordinance by the affirmative vote of at least a majority of all the members of the council, and be published with the bond ordinance after final passage thereof, such special debt statement shall be presumed to be accurate.

615. Legal effect of special debt statement. After the issuance of any bonds or notes in reliance on a special debt statement made, filed, approved and published in accordance with the provisions of section 613 and 614, the accuracy and sufficiency of such special debt statement shall not be contested in any suit, action or proceeding relating to the validity of such bonds or notes and such bonds or notes shall be conclusively presumed to be within all debt or other limitations prescribed by this charter or the Constitution or any law of this State.

616. All bonds paid in annual installments. Bonds issued after the adoption of this charter shall be made payable in annual, serial and approximately equal installments as pertains to principal, and interest shall be made payable semiannually.

617. First annual installment. The first annual installment shall be paid not more than one year, or if the bonds are issued to fund notes, not more than 2 years after the date of final passage of the bond ordinance by virtue of which they are issued.

618. Last annual installment. The last annual installment of each authorized issue of bonds shall be paid not later than the date of expiration of the period of

usefulness of the project for the financing of which such bonds are issued, or of the average period of 2 or more combined projects, as determined in the bond ordinance authorizing the issuance of the bonds.

619. Period of usefulness computed from date of passage. The period of usefulness of each project and the average period in the case of 2 or more projects combined in one authorized issue, shall be computed from the date of final passage of the bond ordinance by virtue of which the bonds are issued.

620. Period of usefulness. Every issue of bonds shall be payable within a fixed term of years which shall in no case exceed 30 years.

621. Determination of period of usefulness. Within the foregoing maximum periods, bonds shall mature not later than the expiration of the period of probable usefulness of the capital project for which they are issued, as determined by the council, and stated in the bond ordinance.

622. Determination of council conclusive. The determination of the council in the bond ordinance, as to the classification of the project for which bonds are authorized and as to the period of usefulness or average period, shall be conclusive in any action or proceeding involving the validity of the bonds.

623. Public sale. All bonds issued under this charter shall be sold at public sale upon sealed proposals after at least 10 days' notice published at least once in a publication carrying municipal bond notices and devoted primarily to financial news or to the subject of state and municipal bonds and at least 10 days' notice published at least once in a qualified newspaper published in or having a general circulation in the City of South Portland.

624. Short period of limitations. When 20 days shall have elapsed after the publication and after final passage of a bond ordinance as provided by this charter, (a) any recitals or statements of fact contained in such bond ordinance, or in the preambles or recitals thereof, shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized and the city and all others interested shall forever thereafter be estopped from denying the same, (b) such bond ordinance shall be conclusively presumed to have been duly and regularly passed by the city and to comply with the provisions of this charter and of all laws, and (c) the validity of such bond ordinance shall not thereafter be questioned by either a party plaintiff or a party defendant, except in a suit, action or proceeding commenced prior to the expiration of such 20 days.

625. Payment of bonds and notes. The power and obligations of the city to pay any and all bonds and notes hereafter issued by it pursuant to this charter shall be unlimited and the city shall levy ad valorem taxes upon all the taxable property within the city for the payment of such bonds or notes and interest thereon, without limitation of rate or amount. The faith and credit of the city is hereby pledged for the payment of the principal of and the interest on all bonds and notes of the city hereafter issued pursuant to this charter, whether or not such pledge be stated in the bonds or notes, or in the bond ordinance authorizing their issuance.

ARTICLE VII

Tax Administration

701. Division of assessment. There shall be established in the department of finance a division of assessment, the head of which shall be the city assessor. The powers, duties and responsibilities conferred or imposed by law upon a board of assessors are hereby granted to the city assessor and he may appoint such number of assistant assessors as public exigency requires. The employment of such assistant assessors shall not extend beyond the period of the municipal year during which they are appointed.

702. Method of assessment. All assessments and taxation, their methods, definitions, exceptions and exemptions, for the city shall be as prescribed by the statutes of the State of Maine.

703. Board of assessment review; appointment; vacancies. There shall be a board of assessment review to consist of 3 members not otherwise connected with the city government who shall be appointed by the city council for a term of 3 years, except that of those first appointed, one shall be for a term of 2 years and one for a term of one year. Compensation, if any, to such members shall be determined by the city council. Vacancies in the membership of such board shall be filled by appointment by the city council for the unexpired term.

704. Board of assessment review, qualifications. All members of such board shall be selected upon the basis of their knowledge of the subject of taxation and property values and shall at the time of their appointment have been residents of the city for at least 3 years immediately preceding and shall continue as residents during their terms of office. If a member of such board shall cease to be a resident his office shall thereby become vacant.

705. Board of assessment review; powers and duties. The board of assessment review shall have conferred upon it such powers of review and abatement as are conferred upon boards of assessors by statute.

Such board shall annually choose from its membership a chairman and secretary, except that in lieu of one of the members of such board serving as secretary, the council may authorize such board to appoint either a full-time or part-time nonmember secretary and to fix his compensation. Such board shall have power within the limits of its budget appropriation to employ such other necessary clerical assistance and to employ or contract for such technical assistance as may be necessary from time to time in the performance of its duties. The board shall be required to keep an accurate record of all its proceedings, which shall be available for public inspection.

706. Hearings and appeals. All hearings and appeals therefrom shall be in such manner as prescribed by statute. In addition to the certification of abatement to the director of finance, the board, through its secretary, shall notify the city assessor of such determination, who shall make such correction upon the assessment roll and duplicate. The board shall establish such rules and procedures for the conducting of such hearings as are not inconsistent with the laws governing this section.

707. Tax abatements. Tax abatements made by the city assessor, other than those certified by the board of assessment review, shall be (1) approved by the director of finance and (2) reported in writing to the city council at its regular monthly meeting, prior to becoming effective. Such report to the city council shall state in the case of each abatement, the name of the taxpayer, the type and location of the property involved, the amount of the original assessment, the amount of abatement, and reason therefor.

708. Service of tax papers. Police officers of the City of South Portland are hereby authorized to exercise, within the limits of said city, all of the common law and statutory powers of constables, including the power to serve such papers in connection with delinquent or unpaid taxes as the director of finance may request, and such police officers shall collect in behalf of the city the same fees which are now or may hereafter be authorized by law to be paid to county sheriffs for similar duties, such fees to be added to the tax as a cost in each case.

ARTICLE VIII

Planning and Zoning

801. Planning board. There shall be a planning board organized and empowered as by state law.

802. Zoning ordinance. There shall be a zoning ordinance as provided by state law.

803. Board of appeals. There shall be a zoning board of appeals organized and empowered as by state law.

804. Director of planning. There may be a planning director appointed by the city manager. He shall be the regular technical advisor of the planning board, may also be designated its executive secretary, and shall have such other authority, duties and responsibilities under the direction and control of the city manager as the city manager may require and establish.

ARTICLE IX

Department of Education

901. Board of education. The department of education shall be administered by a board of education called the school board which shall consist of 5 members, one from each voting district, elected in the same manner as the members of the city council. The term of office shall be for 3 years and until their successors are duly elected and qualified.

The present members shall continue in office until their respective terms expire. It is the intent and purpose of this charter that present members of the school board shall remain in office and upon completion of their terms of office, their successors will be elected as provided for in this charter.

902. Organization; qualification; quorum. The school board shall meet for organization at 7:30 P. M. on the first Wednesday in January in each year, and

after being duly sworn to the faithful discharge of duties by a justice of the peace or by the city clerk, shall elect a chairman from its membership for the ensuing year. Three members shall constitute a quorum for the transaction of business.

903. Meetings. The school board shall hold regular monthly meetings, and such special meetings after reasonable notice to all members as may be called by the chairman. All such meetings of said board shall be open to the public.

904. Vacancy. Whenever a vacancy in the school board occurs more than 6 months prior to the next regular city election, the vacancy may be filled by a majority vote of all the members of the city council and the member so elected shall serve until the next regular municipal election when a new member shall be elected to fill the vacancy for the unexpired term, if any.

905. Powers and duties. The school board shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the city, except as otherwise provided in this charter. The school board shall, when requested by the city manager, furnish budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and shall make such financial and activity reports in writing whenever and in such form to the city manager as he may require.

ARTICLE X

Nominations and Elections

1001. Establishment of 5 voting districts. Within 30 days after the voters of the city have adopted this charter, as provided in section 1301, the city council shall by ordinance divide the city in 5 voting districts. Districts shall be as equal in population as may be and shall be compact and contiguous. There shall be one, at least, voting place established in each of the 5 districts. Once established, district boundaries may not be revised until after the next decennial Federal Census of population. In the year following each Federal Census of population the council shall review the district boundaries, and by ordinance revise said boundaries to accord with population changes, so that each district as revised will accord with the above stipulations as to equality of population, contiguity and compactness.

Nothing hereinabove contained shall be in any way construed so as to affect the qualifications, tenure or terms of office of the present members of the city council or school board.

1002. Date of elections and procedure to determine results. The regular municipal elections under this charter shall be held annually on the first Monday of December. At these annual elections the qualified voters of the city shall ballot within their regular districts and at their respective voting places for members of the city council and members of the board of education and the candidates for these offices shall be duly qualified under the nomination regulations contained herein: The said annual municipal election being held for the purpose of replacing by a city-wide vote the members of the city council and the members of the board of education whose terms automatically expire for

the current municipal year within which that election is held, and to fill the unexpired term of any councilman or member of the board of education whose office is then vacant but whose term of office would not then have normally expired. In addition, the qualified voters of the several voting places of the 5 districts shall ballot for the following offices for each district: One warden, one ward clerk, one constable.

All votes cast for the several offices shall be counted, sorted, declared and registered in open meeting as required by law. The ward clerk shall forthwith deliver to each person elected warden or ward clerk a certificate of his election and shall forthwith deliver to the city clerk a certified copy of the record of such elections.

After such elections, the then municipal officers shall examine not longer than 24 hours after such elections, the records of the several voting places, certified as aforesaid and shall determine the successful candidates according to the laws of the State of Maine and shall cause the persons who shall have been elected councilmen, members of the board of education, wardens, ward clerks and constables to be notified in writing of their election. If it appears that no person has been elected in any district to the office of councilman or to the office of a member of the board of education or if any person refuse to accept any of the above offices to which he has been elected, then warrants shall be issued forthwith for another election to fill the vacancy.

1003. Warden and ward clerk; eligibility, tenure, qualifications, powers and duties; vacancies. The warden and ward clerk chosen as provided in the foregoing section shall be residents of the district for which they are elected and they shall enter upon their duties on the first Monday following their election and hold their offices one year therefrom and until others are chosen and qualified in their places. The warden and ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the State to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of said ward. The warden shall preside at all meetings of his voting district with the powers of moderators of town meetings and if at any meeting the warden shall not be present, the clerk of the voting district shall call the meeting to order and preside until a warden pro tempore shall be chosen. The warden shall have all the rights and powers now held by the wardens of existing districts. If neither the warden nor ward clerk is present, any legal voter of the district may preside until a clerk pro tempore shall be chosen and qualified.

Immediately following the election of a clerk pro tempore, a warden pro tempore shall be chosen. The clerk shall record all the proceedings and certify the votes given and deliver to his successor in office all such records and journals in his possession or under his control, together with all documents and papers held by him in his capacity as clerk.

The ward clerk shall have and perform all rights and duties now held and performed by the ward clerks of existing districts so far as consistent with this charter. All voting district meetings shall be notified and called by the city council in the manner provided by the laws of this State for notifying and calling town meetings by the selectmen of the several towns.

1004. Nominations. The nominations of all candidates for elective offices provided for in this charter shall be by petition. The petition for a candidate for the city council or board of education shall be signed by not less than 100 nor more than 300 of the qualified voters of the city. The petition of candidates for wardens, ward clerks, and constables shall be signed by not more than 100 nor less than 30 qualified voters of that district within which they are registered as voters. No voter shall sign petitions for more than one candidate for each office to be filled at the election and should any voter sign more than one such petition his signature shall be counted only upon the petition first filed and shall be held to be void upon all other petitions.

1005. Form of nomination paper. The signatures to nomination papers need not all be affixed to one nomination petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating the number of signers of each petition, and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street, or other description sufficient to identify the same. The form of the nomination petition shall be substantially as follows:

The city clerk of the City of South Portland:

We, the undersigned voters of the City of South Portland, hereby nominate _____ whose residence is _____ for the office _____ to be voted for at the election to be held in the City of South Portland on the _____ day of _____ 19____ : and we individually certify that we are qualified to vote for a candidate for the above office and that we have not signed more nomination petitions of candidates for this office than there are vacancies to be filled.

Name _____ Street and number _____
being duly sworn, deposes and says that he is the circulator of the foregoing nomination petition containing _____ signatures, and that the signatures appended thereto were made in his presence and are the signatures of the persons whose name they purport to be.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____
19_____

Justice of the Peace
(or Notary Public)

If this petition is deemed insufficient by the city clerk he shall forthwith notify by mail _____ No. _____
Street.

1006. Filing nomination papers; acceptances of nominations must be filed. The nomination petitions for any one candidate shall be assembled and united into one petition and filed with the city clerk not earlier than 30 nor later than 16 calendar days before the day of election. No nomination shall be valid unless

the candidate shall file with the city clerk in writing not later than 16 calendar days before the day of election, his consent, accepting the nomination, agreeing not to withdraw, and, if elected, to qualify.

1007. List of candidates to be published. The city clerk shall certify the list of candidates and shall cause to be published in one or more of the daily newspapers published in South Portland or Portland the names, the residences and office to which nominated, of the candidates who have duly filed the above described petitions and acceptances.

1008. Ballots, etc., to be prepared by the city clerk. Specimen ballots and official ballots for use in all city elections shall be prepared by the city clerk and furnished by the city.

1009. Form of ballot. Ballots for use in elections under this charter shall contain the names of the various candidates, with their residence and the office for which they are a candidate, and shall be furnished with one column for crosses at the right of the candidate's name and residence. Such ballots shall be without party mark or designation and shall be in form as prescribed by the city clerk.

1010. Arrangement of names of candidates. The city clerk in preparing all ballots for election under this charter shall arrange the names of all qualified candidates for each office in alphabetical order according to surnames, as to districts.

1011. Count of ballots. As soon as the polls are closed, the warden shall immediately open the ballot boxes, take therefrom the ballots and with the assistance of the ward clerk and the ballot clerks sort and count them and the warden shall declare them in open meeting in the presence of the ward clerk; and the ward clerk shall form a list of the person voted for with the number of votes for each person against his name, shall make a fair record thereof in the presence of the warden, and in open ward meeting enter the total number thereof on a tally sheet provided by the city clerk. The ward clerk shall enter the number of votes for each candidate on said tally sheet, and make return thereof to the city clerk on a blank by said city clerk provided. Only one vote shall be counted for any candidate on any one ballot.

1012. Specimen ballots to be published and posted. The city clerk shall cause specimen ballots to be posted in public places in each district and at city hall. Such specimen ballots shall be printed on colored paper and marked specimen ballots, and shall contain the names of the certified candidates with the residence of each, instructions to voters, and such measures as may be submitted to the voters by the Legislature or by the city council. Such ballots shall be without party mark or designation.

1013. Recall provisions. Any member of the city council or board of education may be recalled and removed therefrom by the electors of the city as herein provided.

Procedure for filing recall petition. Any voter of the city may make and file with the city clerk an affidavit containing the name or names of the member or

members whose removal is sought and a general statement of the reasons why his removal is desired. The clerk shall thereupon deliver to the voter making such affidavit copies of petition blanks for such removal, printed forms of which he shall keep on hand. Such blanks shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the persons to whom issued, the number of blanks so issued; copy of the petition shall be entered in a record book to be kept in the office of the city clerk. The recall petition, to be effective, must be returned and filed with the city clerk within 45 days after the filing of the affidavit. The petition before being returned and filed shall be signed by voters of the city to the number of at least 10% of the number of registered voters as determined at the time of the last preceding regular municipal election and to every such signature shall be added the place of residence of the signer, giving the street and number or other description sufficient to identify the place. Such signatures need not all be on one paper but the circulator of every such paper shall make an affidavit that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such recall papers shall be filed as one instrument, with the endorsements thereon of the names and addresses of 3 persons designated as filing the same.

Examination and amendment of recall petitions. Within 10 days after the filing of the petition the clerk shall ascertain whether or not the petition is signed by the requisite number of voters and shall attach thereto his certificate showing the result of such examination. If his certificate shows the petition to be insufficient, he shall forthwith so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within the 10 days after the giving of the notice, by filing of a supplementary petition upon additional papers, issued, signed and filed as provided herein for the original petition. The clerk shall, within 10 days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If then found to be insufficient, or if no amendment was made, he shall file the petition in his office and shall notify each of the persons designated thereon as filing it of that fact. The final ending of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Calling of recall election. If the petition or amended petition shall be certified by the city clerk to be sufficient, he shall submit the same with his certificate to the city council at its next meeting and shall notify the member or members whose removal is sought of such action. The city council shall thereupon, within 10 days of the receipt of the city clerk's certificate, order an election to be held not less than 40 nor more than 60 days thereafter; provided, that if a regular municipal election is to occur within 90 days after the receipt of said certificate, the city council may in its discretion provide for the holding of the removal election on the date of such other municipal election. The removal election shall be called and held and nominations made as in other elections under this charter, except for the specific limitations of this section.

Form of ballot in recall election. Unless the member or members whose removal is sought shall have resigned within 10 days after the receipt by the city council of the city clerk's certificate, the form of the ballot at such election shall be as nearly as may be: "Shall A be recalled? Shall B be recalled?" etc., the

name of the member or members whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates nominated in place of the men recalled, as follows: "Candidates for the place of A, if recalled; Candidates for the place of B, if recalled," etc., but the men whose recall is sought shall not themselves be candidates upon such a ballot. The names shall be arranged as provided in section 1010.

In case a majority of those voting for and against the recall of any official shall vote in favor of recalling such official he shall be thereby removed, and in that event the candidate to succeed him for the balance of the unexpired term shall be determined as provided in section 1011.

If the person or persons sought to be removed shall have resigned within 10 days after the receipt by the city council of the city clerk's certificate referred to in this section, the form of ballot at the election shall be the same, as nearly as may be, as the form in use at a regular municipal election and all other procedure shall be the same.

Procedure on refusal of city council. Should the city council fail or refuse to order an election as herein provided, such election may be ordered by any Justice of the Supreme Judicial Court.

1014. State laws not inconsistent applicable. The provisions of the laws of the State of Maine relating to the qualifications of electors, registration, the manner of voting, the duties of election officers and all other particulars in respect to preparation for, conducting and management of elections, so far as they may be applicable, shall govern all municipal elections of South Portland, except as otherwise provided in this charter.

ARTICLE XI

Initiative and Referendum

1101. Power of initiative. The electors of the City of South Portland shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Such initiated ordinance may be submitted to the city council by a petition signed by at least 5% of the qualified electors of the City of South Portland.

1102. Power of referendum. The electors of the City of South Portland shall have power to approve or reject at the polls an ordinance passed by the city council or submitted by the council to a vote of the electors, except any bond ordinance authorized solely for a capital purpose made necessary as result of fire, flood, hurricane or other disaster or any ordinance establishing voting districts and voting places as provided in section 1001, such power being known as the referendum. Ordinances submitted to the council by initiative petition and passed by the council shall be subject to the referendum in the same manner as other ordinances. Within 20 days after the enactment by the city council of any ordinance which is subject to a referendum, a petition signed by at least 5% of the qualified electors of the City of South Portland at the last regular municipal election may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

1103. Form of petitions. The petitions used to invoke the initiative or the referendum shall be substantially in the following form:

PETITION TO THE SOUTH PORTLAND CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy of which is hereto attached, be adopted?

We, the undersigned voters of the City of South Portland, residing respectively at the addresses placed opposite our names, hereby petition the city council to submit the foregoing question to the voters of the City of South Portland.

NAMES	RESIDENCES	DATE
-----	-----	-----
-----	-----	-----
-----	-----	-----

NAME _____ STREET AND NUMBER _____
being duly sworn deposes and says that he is the circulator of the foregoing petition containing _____ signatures and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names they purport to be.

Signed: _____

Subscribed and sworn to before me, this _____ day of _____ 19 ____

Justice of the Peace
Notary Public

1104. Signatures to petitions. The signatures to petitions need not all be affixed to one petition, but to each separate petition there shall be attached an affidavit of the circulator thereof stating that he and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer, giving the street and number of the street or other description sufficient to identify the same.

1105. Filing, examination and certification of petitions. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the city clerk as one instrument. Within 20 days after a petition is filed, the city clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The city clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the num-

ber of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition, the city clerk shall certify the result thereof to the council at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective.

1106. Effect of referendum petition. Whenever there has been originated as aforesaid a petition for the reference to the people of any such ordinance passed by the city council, and the required number of valid signatures has been obtained thereon for its presentation to the city council, the same shall be suspended from going into operation.

1107. Consideration by council. Whenever the city council receives a certified initiative or referendum petition from the city clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The city council shall take final action on the initiative ordinance not later than 60 days after the date on which such ordinance was submitted to the council by the city clerk. A referred ordinance, shall be reconsidered by the council and its final vote upon such reconsideration which shall not be later than 60 days after the date on which such certified referendum petition was submitted to the city council by the city clerk, shall be upon the question, "Shall the ordinance specified in the referendum petition be repealed?" In the case of the referendum the entire repeal of the ordinance sought to be referred, and in the case of the initiative, the passage by the city council of the desired ordinance shall put an end to all proceedings under said petition.

1108. Submission to electors. If the city council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the city council fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than 30 days nor more than one year from the date the council takes its final vote thereon. The city council may, in its discretion, and if no regular election is to be held within such period shall, provide for a special election.

1109. Publication. Whenever any ordinance is required by the provisions of this article to be submitted to the voters of the city at any election, the city clerk shall cause a summary thereof to be published in a newspaper published or having a general circulation in the City of South Portland, such publication to be made not less than 10 days nor more than 15 days prior to the election, and shall have available for distribution to every voter who may so request a copy of the full text of such ordinance.

1110. Form of ballot. The ballots used when voting on such proposed ordinance, shall set forth the title thereof in full and state its general nature, and shall contain the words: "For the ordinance" and "Against the ordinance".

1111. Result of election. If a majority of the qualified voters voting on said proposed initiative ordinance or said referred ordinance shall vote in favor

thereof, such ordinance shall take effect 5 days after the declaration of the official canvass of the return of said election. A referred ordinance which is not approved by a majority of the electors shall thereupon be deemed repealed.

1112. Conflicting ordinances. Any number of proposed or referred ordinances may be voted upon at the same election. In the event that 2 or more ordinances adopted at the same election shall contain conflicting provisions, the ordinance receiving the highest number of votes at such election shall prevail to the extent of such conflict.

1113. Repeal of popular ordinances enacted by the people. No ordinance proposed by petition and adopted by vote of the people shall be repealed or amended except by a vote of the people unless such ordinance shall otherwise expressly provide.

1114. Ordinances submitted to popular vote. The city council may submit, on its on initiative, a proposition for the enactment, repeal or amendment of any ordinance except as herein otherwise provided, to be voted upon at any municipal election, and should such proposition receive a majority of the votes cast thereon at such election, such ordinance shall be enacted, repealed or amended accordingly.

1115. Further regulations. The city council shall, by ordinance, make such further regulations as shall be necessary to carry out the provisions of this article.

ARTICLE XII

General Provisions

1201. Bonds. The city council shall require a corporate surety bond in such amount as it may specify, from all persons trusted with the collection, custody or disbursement of any of the public moneys, and may require such bond from such other officials as it may deem advisable. The city attorney shall approve every bond as to form and sufficiency of surety prior to its acceptance by the city. The premiums on such bonds shall be paid by the city.

1202. Contracts extending beyond one year. No contract involving the payment of money out of the appropriations of more than one year, other than contracts in which rates are subject to approval of the Public Utilities Commission, shall be made for a period of more than 5 years; nor shall any such contract be valid unless made or approved by ordinance.

1203. Existing contracts not invalidated, unless inconsistent. All rights, actions, proceedings, prosecutions and contracts of the city or any of its departments, pending or unexecuted when this charter goes into effect and not inconsistent herewith shall be enforced, continued or completed in all respects as though begun or executed hereunder.

1204. Summons before city council and civil service commission; failure to obey summons. The clerks of the Supreme Judicial and Superior Courts may

issue summons for witnesses to attend and to produce books, documents and papers at any meeting of the city council of the City of South Portland at which a hearing is had in any matter regarding any alleged dereliction, which summons shall be served as summons are required to be served in matters before the Supreme Judicial or Superior Courts.

On complaint of failure to obey summons to the municipal court of the City of South Portland, which court is expressly given jurisdiction to hear such complaints, said municipal court, if it finds failure to obey said summons to be without reasonable excuse, shall impose a fine of not less than \$10 nor more than \$100, or imprisonment for not more than 30 days, or both.

All rights of appeal are to be available as exist in the general laws of the State of Maine.

1205. Oath of office. Every officer of the city shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the State of Maine; that I will, in all respects, observe the provisions of the charter and ordinances of the City of South Portland, and will faithfully discharge the duties of the office of
-----".

1206. Ordinances not inconsistent continue in force. All ordinances of the City of South Portland in force at the time when this charter takes effect, not inconsistent with the provisions of this charter, shall continue in force until amended or repealed.

1207. Removal of officers and employees. Any officer or employee to whom the city manager, or a head of any office, department or agency, may appoint a successor, may be removed by the manager or other appointing officer at any time. The decision of the manager, or other appointing officer, may be appealed from for hearing before the civil service commission.

1208. Repealing clause. Chapter 55 of the private and special laws of the State of Maine for the year 1933, all acts amendatory thereto, and all acts and parts of acts relating to the City of South Portland inconsistent with the provisions of this charter are repealed.

1209. Separability clause. If any portion of this act shall be held invalid, such decision shall not affect the validity of the remaining portions thereof.

1210. Short title. This charter shall be known and may be cited as the "Council-Manager Charter of South Portland"; the city clerk shall cause it to be printed and made available to the public promptly.

ARTICLE XIII

Referendum

Succession in Government

1301. Referendum. This act shall be submitted for approval or rejection to the qualified voters of the City of South Portland, and may be submitted at any election, general, special or municipal, after this act becomes effective, and warrants shall be issued for such elections in the manner now provided by law for the holding of municipal elections, notifying and warning the qualified voters of said city to meet in the several ward meetings of said city, there to cast their ballots concerning a new charter for the City of South Portland. The vote shall be taken by ballot at said election in answer to the question: "Shall 'An Act to Grant a New Charter to the City of South Portland', passed by the 101st Legislature, be accepted?" which shall be printed on the official ballots, and at said election the voters of said city in favor of accepting this act shall vote "Yes" and those opposed shall vote "No".

Otherwise said ballot shall be in the form provided by law when a constitutional amendment is submitted to the vote of the people. The provisions of law relating to the preparation of voting lists for municipal elections shall apply to such election and such election shall in all other respects be conducted by law, and the results thereof shall be determined in the manner now provided by law for the election of a mayor. If a majority of the valid ballots deposited as aforesaid shall favor accepting the same, then this act shall forthwith take effect as herein provided; but only if the total number of votes cast for and against the acceptance of this act at such election equalled or exceeded 20% of the total vote for all candidates for Governor cast in said city at the next previous gubernatorial election; provided, however, that if the votes cast do not equal or exceed 20% of the total votes for Governor cast in said city at the next previous gubernatorial election, then this act may be resubmitted for approval or rejection to the qualified voters of the City of South Portland in the same manner and form as hereinbefore stated, but not later than December 7, 1964. The results of said votes shall be determined as above provided and due certificates thereof shall be filed by the city clerk with the Secretary of State.

1302. Date when effective. So much of this act as authorizes the submission of the acceptance of this charter to the voters of the City of South Portland shall take effect 90 days after the adjournment of this Legislature as provided in the Constitution of the State, but it shall not take further effect unless adopted by the voters of the City of South Portland as hereinbefore provided. If adopted by the voters of the city, then this act for the purpose of nominating and electing officers hereunder shall take effect on the date of its adoption by the voters, and for all other purposes this act shall take effect immediately following the first election held under provisions of the charter on the first Monday of December, 1963.

1303. Continuance of present administrative officers. All persons holding administrative office at the time this charter takes effect shall continue in office

and in the performance of their duties until provision shall have been made in accordance therewith for the performance of such duties or the discontinuation or such office.

Effective September 21, 1963

Chapter 163

AN ACT Relating to Adoption of Ordinances by Penobscot Tribe of Indians.

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

Adoption of ordinances by Penobscot Tribe of Indians. The governor and council of the Penobscot Tribe of Indians shall prepare the ordinances, rules and regulations for the tribe after a hearing held at a special meeting of the tribe called for the purpose. Said ordinances, rules and regulations shall be submitted for approval by the tribe at a general meeting called by the governor. Such ordinances, rules and regulations shall be enforced by the constables of the tribe under the supervision and direction of said governor and council.

Effective September 21, 1963

Chapter 164

AN ACT Transferring South Portland Sewerage District to City of South Portland.

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

Sec. 1. Transfer of rights, etc. The rights, powers, duties and functions of the South Portland Sewerage District, as created by the private and special laws of 1925, chapter 81, and amendments thereto, are hereby conferred upon the City of South Portland, a municipal corporation organized and existing under the laws of the State of Maine, who, through their duly elected municipal officers, shall administer, carry on and perform the rights, duties and obligations heretofore exercised and performed by the aforesaid South Portland Sewerage District; and all the property, real or personal, of said South Portland Sewerage District shall be transferred by the trustees thereof to the City of South Portland upon the acceptance by them of the benefits of this act and said City of South Portland shall be charged with, and shall be liable for, the performance of all the contracts, duties and existing obligations of said sewerage district.

Sec. 2. P. & S. L., 1925, c. 81, repealed. Chapter 81 of the private and special laws of 1925, as amended, relating to the South Portland Sewerage District, is repealed.

Referendum; effective date; certificate to Secretary of State. This act shall take effect 90 days after adjournment of the Legislature, only for the purpose of permitting its submission to the legal voters of the City of South Portland at a regular, special or municipal election after this act becomes effective.