City of Biddeford

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*__Editor's note__—Printed herein is the Charter of the City of Biddeford, Maine, as adopted by referendum on October 5, 1987. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines, capitalization and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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ARTICLE I. GRANT OF POWERS TO THE CITY

Sec. 1. Corporate existence of Biddeford retained.

The inhabitants of the City of Biddeford, in the County of York, shall continue to be a body politic and corporate by the name of the City of Biddeford, and shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations provided for herein, or otherwise, pertaining to, or incumbent upon the City of Biddeford as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable bylaws, regulations, and ordinances for municipal purposes, not inconsistent with the Constitution and laws of the State of Maine; and impose penalties for the breach thereof, not exceeding two thousand five hundred dollars ($2,500.00) in any one case, to be recovered for such uses as said bylaws, regulations, or ordinances shall provide.

State law reference—Civil penalties and enforcement of certain provisions, 30-A M.R.S.A. § 4-452.

Sec. 2. Powers and duties.

The administration of all the fiscal, prudential, and municipal affairs of said city, with the government thereof, except the general management, care, conduct, and control of the schools, fire department and of the police department of said city, which shall be vested in a school committee, fire commission and a police commission as hereinafter provided, and also except as otherwise provided by this Charter, shall be and is vested in the mayor and one (1) body of members, which shall constitute and be called the city council, all of whom shall be inhabitants of said city, and shall be elected and sworn in the manner hereinafter prescribed.

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

All other powers now or hereafter vested in the inhabitants of said city, and all powers granted by this Charter, except as herein otherwise provided, shall be vested in said mayor and city council. (Ref. of 11-2-93, § 5; Ref. of 12-3-98)

ARTICLE II. OFFICE OF THE MAYOR

Sec. 1. Powers and duties.

The chief executive magistrate of the City of Biddeford shall be the mayor, who, with the exceptions of the administration of the departments of police, fire and education, shall:

(a) See that the laws and ordinances are enforced;

(b) Exercise oversight over all departments, divisions, agencies, offices, and boards created herein or that may be hereafter created;

(c) Sign all warrants to be paid from the treasury after appropriations by the city council;

(d) Make nominations to all Boards, Committees and Commissions, as provided in this Charter;

(e) Preside at all meetings of the city council and school committee, and shall vote only in case of a tie.

(f) Keep the city council advised as to the business and financial condition and future needs of the city;

(g) Call special meetings of the city council by giving public notice to a newspaper of general circulation and by giving each councilor notice of the time, place and subject(s) to be discussed;

(h) Issue warrants for calling meetings and elections for any purpose in the several wards;

(i) Perform all other duties conferred by state law or city ordinances.

(Ref. of 12-3-98)

Sec. 2. Appointments/nominations.

On the first Tuesday after the first Monday in December, biennially, or as soon thereafter as conveniently possible, the mayor shall nominate:

(1) One (1) member of the city council to the Finance Committee, subject to the confirmation of the remaining council members.

(2) The City Manager, City Solicitor, City Clerk, Fire Chief and Police Chief subject to confirmation of the City Council; as applicable to appropriate articles of this Charter.

(3) Members to serve on the various boards, committees or commissions authorized under city ordinances.

The salaries of subordinate officers and agents shall be fixed by the mayor and city council except for the nonbargaining employees of the fire and police department which shall be determined as set forth in article IV, police commission and article XI, fire commission.

(Ref. of 11-2-93, § 1; Ref. of 12-3-98)

Sec. 3. Veto power.

Every resolve or order appropriating money, having passed the city council, shall forthwith be presented to the mayor for approval and signature. If disapproved, the mayor shall return it unsigned to the city council within seven (7) working days of its enactment with objections in writing, which objections shall be entered into the minutes of the city council. If, upon reconsideration, two-thirds of the whole number of the city council shall vote to pass the resolve or order, it shall have the same effect as if signed by the mayor.

(Ref. of 12-3-98)

Sec. 4. Election; tenure of office; prohibition; compensation.

The mayor shall be a resident of the city for at least one (1) year prior to the date on or before which nomination papers are to be filed. The mayor shall be sworn to the faithful performance of the duties of the office at 7:00 p.m. on the first Tuesday after the first Monday in December, following a biennial election, by the city clerk or any person authorized by law to administer oaths. The mayor shall hold the office for two (2) years and be re-elected without limitations. The mayor shall not directly or indirectly enter into any contract with the city, except as provided by 30-A M.R.S.A. § 2605. The salary and compensation of the mayor shall be ten thousand dollars ($10,000.00) per year.

(Ref. of 11-2-93, § 5; Ref. of 12-3-98)

Sec. 5. Vacancy.

In the event of a vacancy in the office of the mayor due to death, resignation or inability to serve, the president of the city council shall perform all the duties of the office of the mayor. If less than one hundred eighty (180) days remain in the unexpired term, the president of the city council shall serve as mayor pro tempore until the end of the unexpired term. If more than one hundred eighty (180) days remain in the unexpired term, the vacancy shall be filled within sixty (60) days at a special or general election called in accordance with article VI, Elections, of this Charter.

(Ref. of 12-3-98)

ARTICLE III. CITY COUNCIL

Sec. 1. City to be divided into wards.

For the purpose of all elections, the city shall be divided into seven (7) wards. The city council shall, once in ten (10) years, by ordinance establish compact and contiguous wards of approximately equal population. The city council, for voting purposes, may by ordinance divide said wards into voting wards.

Sec. 2. Composition; election; tenure of office; compensation.

The city council shall be composed of nine (9) members, who shall hold office for a term of two (2) years and until their successors are elected

and qualified. Councilors shall be elected by the registered voters of the city: two (2) shall be elected at large, and one (1) shall be elected from each of the seven (7) wards in which they reside and which they seek to represent. All candidates must be residents of the city.

The councilors-elect shall be sworn to the faithful performance of their duties at 7:00 p.m. on the first Tuesday after the first Monday in December, following a biennial election, by the city clerk or any person authorized by law to administer oaths. They shall receive compensation at the rate of one hundred dollars ($100.00) per month, not to exceed twelve hundred dollars ($1,200.00) per year. No member shall hold any office or employment, the compensation of which is payable by the city, during the term for which the councilor was elected.
(Ref. of 11-2-93, § 10(1); Ref. of 12-3-98)

Sec. 3. President of the council.

On the first Tuesday after the first Monday in December following the regular municipal election, or as soon thereafter as possible, the city council shall elect one (1) of its members as president of the council for the entire term, and until a successor is elected and qualified. In case of the death, resignation or inability of the mayor to serve, the president of the city council shall perform the duties of the mayor. In the temporary absence or disability of the president, the council may select a president pro tempore from among its number and such person shall exercise all the powers of the president.
(Ref. of 12-3-98)

Sec. 4. Vacancies.

A vacancy in the membership of the city council shall occur in the event of the following:

(1) The death of a member;

(2) The effective date of the resignation of a member;

(3) The removal of a member from the ward from which the councilor was elected except those elected at-large;

(4) The removal of a member from the city;

(5) The conviction of a member of a felony while in office; or

(6) The recall of a member, pursuant to the provisions of article VII.

The council shall declare a vacancy in its membership to exist upon the qualification of any member for any city office, or the acceptance of any employment with the city department, the compensation for which is payable by the city.

A member may submit a resignation, in writing, addressed to the council president, or the council president addressed to the mayor, effective at a future date specified in said written resignation. Once submitted to the council, said resignation may not be withdrawn, and said member's office shall become vacant on said specified future date.

If a vacancy in the membership of the city council occurs, the mayor shall nominate, and the city council shall confirm, a person to fill this vacancy within a period not to exceed thirty (30) days of its occurrence. The person named to fill a vacancy shall serve until the first Tuesday after the first Monday in December following the next biennial election.
(Ref. of 12-3-98)

Sec. 5. Meetings of the council.

The city council shall meet at the usual place for holding meetings at 7:00 p.m. on the first Tuesday in December following the regular municipal election, or as soon thereafter as possible. The city council shall at such meeting establish by resolution a regular place and time for holding its meetings, and shall meet regularly at least twice a month. The city council may, in the absence of the mayor and the president of the council, choose a president pro tempore, who shall preside at meetings of the council.

Sec. 6. Special meetings.

Special meetings may be called by the mayor, and in case of the mayor's absence, disability, or refusal, may be called by a majority of the members of the city council. Notice of such meeting shall be served in person, or left at the residence

of each member of the city council, at least twenty-four (24) hours before the time for holding said special meeting.

Sec. 7. Quorum.

A majority of the members of the city council shall constitute a quorum for the transaction of business.

Sec. 8. Procedure.

The city council shall keep a record of its proceedings and shall determine its own rules of procedure and make lawful regulations for enforcing the same. The meetings of the city council shall be open to the public. The city council shall act only by ordinance, order, or resolve. All ordinances, orders and resolves, except orders or resolves making appropriations of money, shall be confined to one (1) subject which shall be clearly expressed in the title. An appropriation order or resolve shall be confined to the subject of appropriations only. No ordinance and no appropriation order or resolve shall be passed until it has been read on two (2) separate days, except when the requirement of a second reading on a separate day has been dispensed with by the vote of six (6) members of the city council. The yeas and nays shall be taken upon the passage of all ordinances and entered on the record of the proceedings of the city council by the clerk. The yeas and nays shall be taken on the passage of any order or resolve when called for by any member of the city council. Every ordinance, order, and resolve shall require on the final passage the affirmative vote of five (5) members of the city council. No ordinance shall take effect until thirty (30) days after its passage, except as herein otherwise provided for emergency ordinances.

The city council may, by vote of six (6) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders, or resolves shall contain a section in which the emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.
(Ref. of 12-3-98)

ARTICLE III-A. CITY MANAGER

Sec. 1. Appointment, confirmation, compensation, term of office.

There shall be a city manager who shall be nominated by the mayor and whose appointment shall be confirmed by the city council. The salary compensation of the city manager shall be established by the city council. The term of employment of the city manager shall be for one (1) year, provided that the mayor and council may enter into a contract of employment with the city manager for a term not to exceed three (3) years. The council shall evaluate the job performance of the city manager yearly with input from the mayor.
(Ref. of 11-2-93, § 1; Ref. of 12-3-98)

Sec. 2. Powers and duties.

The city manager shall be the chief administrative officer of the City of Biddeford, and shall:

a. Be responsible for the day-to-day administration of the affairs of the city in accordance with the provisions of this Charter.

b. Be responsible for implementing policies as set and established by the city council. The mayor and city council shall be responsible for all policy decisions concerning the City of Biddeford.

c. Report to and receive policy guidance from the mayor and the city council.

d. Appoint, or remove, after consultation with the mayor and confirmation by the city council, all departments heads and subordinate officers provided for in this Charter, except as otherwise provided by law or this Charter.

e. Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law, and evaluate the performance of all subordinates yearly.

f. Attend all meetings of the city council, unless excused by the council, and report to the mayor and council upon inquiry.

g. See to the enforcement of all laws and ordinances of the city and of the provi-

sions of this Charter and carry out the lawful directives of the city council personally or through subordinate officers.

h. Prepare the annual municipal budget to be presented to the finance committee.

i. Submit to the mayor and city council annually complete reports of the fiscal and administrative activities of the city as of the end of the fiscal year and make such reports and recommendations as the mayor and council shall require.

j. Perform all other duties as assigned by the mayor and city council.

(Ref. of 11-2-93, § 1; Ref. of 12-3-98)

Sec. 3. Residency.

The city manager shall establish residence within the City of Biddeford within six (6) months from the date of hire.
(Ref. of 11-2-93, § 1; Ref. of 12-3-98)

ARTICLE IV. POLICE COMMISSION*

Sec. 1. Membership; appointments; term; compensation.

A police commission, consisting of five (5) members, shall be nominated by the mayor, confirmed by the city council and shall serve for a five (5) year term. At a regular city council meeting in December, the mayor shall appoint a commissioner to fill an anticipated vacancy effective January 1st. The term of office shall be staggered so that one (1) commissioner's term shall expire every December 31st. The commissioners serve without compensation. No commissioner shall be currently employed by a law enforcement agency.

The commission shall annually elect one (1) of its members as chair. The commission shall meet on the call of the chair at such place and time designated by vote of the commission. The city clerk will be notified of the time and location of meetings and shall be provided with an agenda for posting to the general public.
(Ref. of 12-3-98)

Sec. 2. Powers and duties.

(a) The commission shall supervise the selection for appointment, promotion, layoff and reinstatement of members to the police department.

(b) The hiring of the chief of police shall be made by the commission, following a selection process that has been determined by the commission, nominated by the mayor and confirmed by the city council.

(c) The commission shall set the compensation for the chief of police, and other nonbargaining members of the police department within the guidelines of the city council.

(d) The police commission is responsible for oversight of the management of the police department. All management authority for the administration of the police department shall be centralized in the office of the police chief.

(e) The police commission shall approve and submit the annual budget for the police department to the city manager.
(Ref. of 12-3-98)

Sec. 3. Vacancies.

A vacancy in the membership of the police commission shall be determined upon the occurrence of any of the following:

(a) The death of a member

(b) The effective date of the resignation of a member

(c) The expiration of the term of office

(d) The conviction of a misdemeanor offense

(e) The indictment of a felony charge

(f) Three (3) unexcused absences during a one-year period

(g) The removal of a member from the city

A member may resign his/her office by submitting a written resignation to the chair of the police

*Editor's note—Ref. of 12-3-98 deleted art. IV in its entirety and replaced it with similar provisions as herein set out. The former art. IV derived from Ref. of 11-2-93, § 5.

commission. Once received by the chair of the commission, the mayor's office will be notified. The resignation may not be withdrawn, and the member's office shall become vacant on the date specified in the resignation.

If a vacancy in the membership of the police commission occurs, the mayor shall nominate a person to fill the vacancy within a period not to exceed thirty (30) days of its occurrence. The nomination shall be subject to the confirmation of the city council. The person named to fill a vacancy shall serve until the normal expiration date of the term being filled.
(Ref. of 12-3-98)

ARTICLE V. SCHOOL COMMITTEE*

Sec. 1. Composition; election; tenure of office; compensation.

The school committee shall be composed of the mayor and seven (7) members who shall hold office for a term of two (2) years and until their successors are qualified. Each committee member shall be elected at-large by the registered voters of the City of Biddeford; however, there shall be no more than two (2) members from any one (1) ward. The committee members shall take office on the first Tuesday after the first Monday in December following the regular municipal elections. They shall receive compensation at the rate of ten dollars ($10.00) for every regularly scheduled, full committee meeting attended, not to exceed five hundred dollars ($500.00) per year.
(Ref. of 12-3-98)

Sec. 2. Chair.

The Mayor shall be ex officio chair of the school committee and shall:

(a) Have no veto power;

(b) Not make a motion; and

(c) Only vote to break a tie.
(Ref. of 12-3-98)

*Editor's note—Ref. of 12-3-98 changed the name of the board of education to "school committee."

Sec. 3. Organization.

The school committee shall meet for organization as soon as possible following the regular municipal election. The newly elected members shall be sworn to the faithful discharge of their duties by a person authorized to administer oaths or by the city clerk. The committee shall meet regularly, twice a month.
(Ref. of 11-2-93, § 11; Ref. of 12-3-98)

Sec. 4. Powers and duties.

A. The school committee shall have all the powers and perform all the duties in regard to the care and management of the department of education.

B. The committee shall appoint a superintendent of schools for a term not exceeding three (3) years, and the superintendent shall receive compensation at a rate determined by the committee. The duties of the superintendent shall be those as prescribed by law and regulations. The superintendent of schools may be removed for just cause. The superintendent of schools shall establish residence within the City of Biddeford within six (6) months of being hired. The superintendent shall publish the agenda of all school committees in a local newspaper at least twenty-four (24) hours before any other meetings of multiple bodies are to be held, and shall post said agenda on the city bulletin board.

C. The committee shall have the following powers and duties in regards to the budget:

(1) The school committee shall submit a proposed line item budget for the operation of the department to the City's finance committee by the third Monday in April, which will allow the city council to act on a fiscal budget.

(2) The school committee's proposed budget shall be presented to the council for consideration. The finance committee, if it so desires, shall submit its own proposal(s) for certain function(s) for council consideration. The council's decision of the budget shall be final.

(3) Said proposed budget shall be comprised of expenditures for the functions of instruction, student support, staff support services, administration, operation and maintenance, pupil transportation, adult education, debt service, and any other function(s) the committee wishes to have funded for the fiscal year.

(4) The total approved for each individual function by a majority vote of council shall become the school committee's aggregate fiscal year budget after having received its second reading.

(5) The school committee shall not allow the transfer of funds from one (1) function to another without first receiving a two-thirds vote from both itself and the city council.

(Ref. of 11-2-93, §§ 8, 10; Ref. of 12-3-98)

Sec. 5. Vacancies.

A vacancy in the membership of the school committee shall occur in the event of the following:

(1) The death of a member;

(2) The effective date of the resignation of a member;

(3) The removal of a member from the city;

(4) The conviction of a member of a felony while in office;

(5) The recall of a member, pursuant to the provisions of article VII;

(6) Reserved.

A member may, in writing addressed to the school committee chairperson, resign the office effective at a future date specified in said written resignation. Once submitted to the school committee, said resignation may not be withdrawn and said member's office shall become vacant on said specific date.

If a vacancy in the membership of the school committee occurs, the mayor shall nominate a person to fill the vacancy in a time period not to exceed thirty (30) days of its occurrence. The nomination shall be subject to the confirmation of the school committee. The person named to fill a vacancy shall serve until the first Tuesday after the first Monday in December following the next biennial election.

(Ref. of 12-3-98)

ARTICLE VI. ELECTIONS

Sec. 1. Regular municipal elections.

On the first Tuesday following the first Monday in November, biennially, the regular municipal election shall be held and the registered voters of the city or wards, as the case may be, shall ballot for the mayor, councilors, wardens/ward clerk, and school committee as may be necessary to fill the offices of those whose terms would then normally expire.

(Ref. of 11-2-93, § 5)

Sec. 1A. Reserved.

Editor's note—Ref. of 12-3-98 repealed art. VI, § 1A, which pertained to primary elections and derived from Ref. of 11-2-93.

Sec. 2. Wardens and ward clerks.

The warden and ward clerks shall be and remain residents of the ward for which they qualify and hold their offices for two (2) years and until others have been chosen and qualified in their stead. The warden and the 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.

Sec. 3. Nominations.

The nomination of all candidates for elective offices provided for by the Charter shall be by petition. The petition of a candidate for mayor shall be signed by not less than one hundred twenty-five (125) qualified voters of the city. The petition of a candidate for councilor-at-large shall be signed by not less than fifty (50) qualified voters of the city. The petition of a candidate for a ward council seat or a candidate for a school committee seat shall be signed by not less than

twenty-five (25) qualified voters of the respective wards. The petition of a candidate for warden and ward clerk shall be signed by not less than twenty (20) qualified voters of the respective wards. Employees of the City of Biddeford and employees of the Biddeford School Department, including teachers, shall refrain from seeking or accepting nomination or election to any political office in the City of Biddeford.
(Ref. of 11-2-93, §§ 5, 7; Ref. of 12-3-98)

Sec. 4. Form of nomination petition.

The signatures to nomination petitions need not all be affixed to one (1) 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 their description sufficient to identify the same. The form of the nomination petition shall be determined by the city clerk and shall declare the office in which the candidate is petitioning for prior to receiving signatures.
(Ref. of 12-3-98)

Sec. 5. Filing of nomination petitions and acceptance of nomination.

The nomination petitions for any one (1) candidate must be assembled and united into one (1) petition and filed with the city clerk during normal business hours not later than forty-five (45) days before the date of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing at the time of filing of said nomination petitions his or her consent accepting nomination, agreeing not to withdraw, and if elected, to qualify for office. Such nomination petitions and consent, once filed, may not be withdrawn. Any challenge to a nomination petition must be submitted to the city clerk in writing, setting forth the specific reasons for the objection, no later than five (5) days, excluding Saturdays, Sundays, and legal holidays, from its date of filing; or it is barred. No person shall be nominated, nor shall any person consent to being nominated, at the same election for any other elective office provided for by this Charter, and no person shall simultaneously hold more than one (1) elective office provided for by this Charter.
(Ref. of 12-3-98)

Sec. 6. Form of ballot.

All official ballots for use in all municipal elections shall be prepared by the city clerk and furnished by the city. 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 candidates. The candidates for each office shall be grouped under the title of each office, plainly and distinctly marked. There shall be as many blank spaces under the name of each office as there are vacancies to be filled. These spaces may be used by a voter to write or paste in the name of any person for whom the voter desires to vote. No sticker shall be used except in the blank spaces provided. Such ballots shall also contain such measures as may be submitted to the voters of the city by the legislature or by the city council and shall be without party mark or designation.

In preparing all ballots for election under this Charter, the city clerk shall conduct a random drawing (by lottery), in a public forum within fourteen (14) days after closing of nominations. The city clerk shall then arrange the names of all qualified candidates for each office based on the outcome of that drawing.
(Ref. of 12-3-98)

Sec. 7. Sample ballots.

The city clerk shall cause sample ballots to be prepared from the arrangement of the first group of ballots as provided above and to be posted in public places in each ward and voting precinct, and advertised in the newspapers not later than ten (10) days prior to the municipal election, and advertised in the newspapers at least twice more prior to said election. Such sample ballots shall be printed on colored paper and marked "Sample Ballot" 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 sample ballots shall also be without party mark or designation.
(Ref. of 12-3-98)

Sec. 8. Count of ballots.

As soon as the polls are closed, the warden shall run a tape off of the voting machine. This tape is delivered to the city clerk immediately, and is considered the unofficial results of the election. Once this tape has been run, the warden shall open the compartments in the back of the voting machine. The ballots in the left compartment will be emptied into the blue ballot boxes, while the ballots in the right compartment will be checked for write-ins. Once the write-ins are recorded, these ballots will also be placed in the blue ballot boxes. Finally, the third compartment, located on the left side of the voting machine, will contain any ballots that were unread. These ballots will be sorted, counted and declared in open meeting in the presence of the ward clerk; and the ward clerk shall make a list of the persons voted for; with the number of votes for each person against his or her name, and shall make a true and fair record thereof in the presence of the warden and publicly, in the polling place, enter the total number of votes for each candidate on a tally sheet provided by the city clerk, which tally sheet shall be duly attested by the warden and ward clerk and then returned to the city clerk.
(Ref. of 12-3-98)

Sec. 9. Reserved.

Sec. 10. State laws applicable.

The laws of the state relating to the qualifications of electors, registration, the manner of voting, the duties of election officials, and all other particulars in respect to preparation for conducting and managing elections, so far as they may be applicable, shall govern all municipal elections in the City of Biddeford, except as otherwise provided herein.
(Ref. of 12-3-98)

Editor's note—Ref. of 12-3-98 repealed the original art. VI, § 9, which pertained to canvassing of returns and derived from Ref. of 10-5-87.

ARTICLE VII. RECALL

Sec. 1. Applicability.

The mayor, any member of the city council or of the school committee may be recalled and removed from office by the qualified voters of the City of Biddeford as hereinafter provided.
(Ref. of 11-2-93, § 5; Ref. of 12-3-98)

Sec. 2. Petition for recall.

In the case of the mayor or a councilor or school committee, fifteen (15) percent of the qualified voters registered at the time of the previous municipal election may affirm and file with the city clerk an affidavit containing the name or names of the member or members whose removal is sought, together with a statement of the reasons why such removal is desired.
(Ref. of 11-2-93, § 5; Ref. of 12-3-98)

Sec. 3. Verification of recall petition.

Within seven (7) days of the receipt of the petitions, the city clerk shall ascertain whether or not the petitions have been signed by the requisite number of qualified voters. If there are insufficient signatures, the city clerk will notify in writing by certified mail those responsible for the petition who shall have an additional five (5) days from receipt of the notice to obtain a sufficient number of signatures.

Sec. 4. Calling of recall election.

If the city clerk's certification should show that the petitions are sufficient, the petitions and the clerk's certification shall be submitted by the clerk to the city council at its next regular meeting following certification and shall also notify the person or persons whose removal is sought. The city council shall, within ten (10) days of receipt of the clerk's certification, order an election.

Sec. 5. Count of ballot.

For any official to be removed, at least forty (40) percent of the voters registered at the time of the previous municipal election must vote for the results of the recall election to be valid.

Sec. 6. Election to be ordered.

In case of a vote to remove an elected member of the city, the city council shall, within ten (10) days, issue a warrant for a municipal election within sixty (60) days.

ARTICLE VIII. ADMINISTRATIVE OFFICERS

Sec. 1. Appointments.

A. Necessary subordinate officers and agents, including those prescribed by state law or city ordinances shall be appointed by the city manager and confirmed by the city council pursuant to art. VIII, section 13, and/or any other state or federal law.

B. The following shall be officers of the city and shall be nominated by the mayor and confirmed by the city council as applicable to appropriate articles of this Charter:

(1) City Manager

(2) City Clerk

(3) Fire Chief

(4) Police Chief

C. The city solicitor shall be nominated by the mayor and confirmed by the city council for a period of up to two (2) years, within the term of the office of the mayor.
(Ref. of 11-2-93, §§ 1, 4; Ref. of 12-3-98)

Sec. 2. City manager.

There shall be a city manager.
(Ref. of 11-2-93, § 1; Ref. of 12-3-98)

Sec. 3. City clerk.

The city clerk shall be nominated by the mayor and confirmed by the city council. The salary and compensation of the city clerk shall be established by the city council. The term of employment of the city clerk shall be for one (1) year, and the mayor and council may enter into an employment contract for a term not to exceed three (3) years. The city clerk shall be the clerk of the city council and shall:

(a) Give notice in a local newspaper of the time and place of regular and special council meetings. Publish notification of all meetings of municipal boards, commissions, and committees in a local publication on Friday prior to the week of such meetings. The agenda for city council meetings shall appear in a local newspaper, and shall be posted on the city bulletin board, at least twenty-four (24) hours in advance.

(b) Keep a record of the proceedings of the city council.

(c) Record the votes of members by yeas and neas.

(d) Perform the specific election duties enumerated in article VI.

(e) Have the powers and perform all other duties conferred by state law and/or city ordinances.

(f) Hold two voter registration days per year at the local high school, one in May and the other in September. Newly registered eighteen (18) year olds will also be instructed in the proper filling out of a ballot and how to take out nomination papers to run for municipal office.

(g) Review the form of all referendum questions in order to determine compliance with provisions in the Charter.

(h) Provide educational materials to unenrolled voters advising them of their right to run for office, and guidelines for enrolling and voting.

(Ref. of 11-2-93, § 3; Ref. of 12-3-98)

Sec. 4. Auditor.

The auditor shall:

(a) Be a nonvoting member of the finance committee;

(b) Direct and supervise the accounts and bookkeeping of the city;

(c) Designate the appropriation and the department for all bills and claims and certify that they are in proper form and legal for presentation to the finance committee or for a warrant for the mayor's signature;

(d) Present annually to the mayor and the city council a report on the receipts, expenditures, property holdings, debts and liabilities of the city;

(e) Have the powers and perform the duties conferred by state law or city ordinances.

(Ref. of 12-3-98)

Sec. 5. City assessor.

The powers and duties of the assessor are determined by state law.
(Ref. of 12-3-98)

Sec. 6. General assistance administrator.

The General Assistance Administrator is a full-time position subject to the supervision of the municipal officers. The powers and duties of the position are prescribed by state law.
(Ref. of 12-3-98)

State law reference—Overseer of the poor, 22 M.R.S.A. § 4301 et seq.

Sec. 7. Harbor master.

The harbor master shall implement the river and harbor regulations emanating from the city council, and such other duties as the city council may prescribe.

State law reference—Harbor master, 38 M.R.S.A. § 1 et seq.

Sec. 8. Organizational powers.

The mayor and city council shall have the power to provide by ordinance for the organization, conduct, and operation of the departments, agencies, officers, and boards/committees/commissions of the city; for the creation of additional departments, agencies, officers, and boards/committees/commissions; and for the alteration, abolition, assignment, or reassignment of all such departments, divisions, agencies, offices and boards/committees/commissions.
(Ref. of 12-3-98)

Sec. 9. Civil service rule.

The mayor and city council shall provide by ordinance for a system of civil service rules for the appointment, promotion, demotion, lay-off, reinstatement, suspension, and removal of city employees not covered by union contracts.

Sec. 10. Remuneration of appointees.

The mayor and city council shall fix by order the remuneration of the appointees of the mayor and city council.

Sec. 11. Duties.

The duties of the administrative officers shall be prescribed by the appointive power, but such duties shall not be inconsistent with this Charter or any ordinance enacted by the city council as provided herein.

Sec. 12. Continuity in office.

Any and all administrative officers and employees of the City of Biddeford on the effective date of this Charter shall continue in such capacity until a successor is appointed and qualified as provided herein, unless sooner removed by the appointive power as designated herein.

Sec. 13. Appointment of subordinate officers and agents.

The appointment process of subordinate officers and agents of the city shall be vested in a committee comprised of the mayor, president of the city council, and city manager, unless otherwise specified in this Charter.
(Ref. of 11-2-93, § 1; Ref. of 12-3-98)

Sec. 14. Residency requirement.

Any and all members of boards, committees and commissions nominated by the mayor shall be residents of the City of Biddeford.
(Ref. of 11-2-93, § 9; Ref. of 12-3-98)

ARTICLE IX. BUSINESS AND FINANCIAL PROVISIONS

Sec. 1. The city council finance committee.

The finance committee shall be comprised of the mayor, council president and two (2) other members of the city council; one (1) council member being nominated by the council president and confirmed by the city council, the other being nominated by the mayor and confirmed by the city council. The auditor and the treasurer shall be nonvoting members.
(Ref. of 12-3-98)

Sec. 2. Budget.

The finance committee shall, at the latest, by the first Monday in May each year, submit to the city council a budget showing the proposed expenditures for the various departments, including the school department, fire department, police department, street department, welfare department, other principal or subordinate departments and a contingent fund. The city council may modify the budget submittal.

The city council may, before adopting the annual appropriation resolve, make appropriations for current department expenses; however, these appropriations will be included in the annual appropriation resolve.

The city budget shall be adopted by the city council prior to the beginning of the next fiscal year.
(Ref. of 12-3-98)

Editor's note—The fiscal year begins on July 1, pursuant to section 5 of this article.

Sec. 3. Appropriation resolve.

The city council shall adopt the annual appropriation resolve for the current fiscal year. Such resolve shall appropriate those amounts deemed necessary for general city purposes and for a contingent fund.

There shall be no subsequent expenditures authorized for any purpose; however, funds may be transferred from one (1) department to another, the contingent fund, or other source of income, provided the resolution authorizing the transfer is adopted by a two-thirds majority of the entire city council and the vote of councilors is recorded.

Sec. 4. Accounts and records.

Accounts and records shall be supervised by the auditor, showing transactions of all departments of the city, the fire department, the police department, and the school department. A general accounting system for same shall be recommended by the auditor and approved by the municipal officers. Accounts shall be kept in such a manner as to show fully at all times the financial condition of the city.
(Ref. of 12-3-98)

Sec. 5. Fiscal year.

The fiscal year of the city shall be July first through June thirtieth.

Sec. 6. Borrowing.

Money may be borrowed, within the limits fixed by the Constitution and statutes of the state, now or hereafter applying to said Biddeford, by the issue and sale of bonds or notes pledged on the credit of the city, the proceeds to be used for the acquisition of land, the construction, reconstruction, major alterations, extraordinary repairs, the equipment of buildings and other permanent public improvements, the purchase of department equipment, and the payment or refunding of bonds, notes, and certificates of indebtedness previously issued.

Sec. 7. Payments.

Money shall be paid out only in warrants on the city treasury examined by the city auditor and signed by the mayor.

The auditor shall examine all payrolls, bills, and other claims and demands against the city and shall issue no warrant for payment until satisfied that the claim is in proper form, correctly computed, duly certified, and legally due and payable.

Sec. 8. Collection and custody of city monies.

All monies received by any officer, employee, or agent of the city belonging to the city, or for or in connection with the business of the city, shall forthwith be paid by the officer, employee, or agent receiving the same into the city treasury, and shall then be deposited by the city treasurer with some responsible banking institution or institutions to be chosen by the city council. All interest from all deposits of money belonging to the city shall accrue to the benefit of the city.

ARTICLE X. MISCELLANEOUS PROVISIONS

Sec. 1. No personal interest.

Neither the mayor, nor any member of the city council, fire commission, police commission, school committee or board, committee or commission thereof and no officer, agent or employee of the city or fire commission, police commission or school committee shall:

(a) Have a substantial financial interest, direct or indirect, in any contract entered into by or on behalf of the City of Biddeford, the fire commission, the police commission, or the school committee, except a personal employment contract, or in the sale to or by the city, fire commission, police commission or school committee of any land, materials, supplies or services, when such officer, agent, employee or member exercises on behalf of the city, fire commission, police commission or school committee any function or responsibility with respect to such contract or sale. All contracts or sales made in violation hereof are void, and the city auditor is expressly forbidden to pay any money out of the city treasury on account of any such transaction.

(b) Purchase or accept anything from the city, fire commission, police commission or school committee, other than those items or services which are offered to the public generally, and then only upon the same terms and under the same procedures offered to and used for the general public. This shall not include those items or services which are received as compensation, or as a part of such person's employment contract, or which are necessary for the performance of such person's duties.

(c) Accept or receive from any person, firm, or corporation acting under a franchise, contract, or license from the city, fire commission, police commission or school committee, any frank, free pass, free ticket, or free service, or accept, directly or indirectly, from any such person, firm, or corporation any service upon terms more favorable than those granted to the public generally.

(Ref. of 11-2-93, § 5; Ref. of 12-3-98)

Sec. 2. Ordinances, orders, resolves.

All ordinances, orders, or resolves in force at the time that this Charter takes effect, not inconsistent with this Charter, shall continue in force until amended or repealed. All rules and regulations of the municipal officers, or of any office of the City of Biddeford in force at the time that this Charter takes effect, not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

Sec. 3. Continuity of actions.

All rights, actions, proceedings, prosecutions and contracts of the city, or any of its boards, committees, commissions or departments, pending or unexecuted when this Charter goes into effect, and not inconsistent therewith, shall be enforced, continued, or completed in all respects as though begun or executed hereunder.
(Ref. of 12-3-98)

Sec. 4. General meetings of citizens.

General meetings of the citizens qualified to vote in the city affairs may from time to time be held to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances according to the right secured to the people by the Constitution of this state; and such meetings may

and shall be duly warned by the city council, upon the requisition of one hundred (100) qualified voters of said city.
(Ref. of 12-3-98)

Editor's note—Ref. of 12-3-98 repealed the former art. X, § 4, which pertained to the effect of private and special laws and derived from Ref. of 10-5-87, and renumbered art. X, §§ 5—8 as art. X, §§ 4—7.

Sec. 5. Tidal right-of-way.

Any highway, town way, or bridge which has been, or may hereafter be, located within said town or city between high and low mark shall nevertheless be deemed to be legally located and established.
(Ref. of 12-3-98)

Sec. 6. Revision of Charter.

The Charter may be changed in matters of form and substance only by a duly elected charter commission consisting of nine (9) members selected as follows: Seven (7) members, one (1) elected from each ward and two (2) appointed by the mayor and confirmed by the city council, who shall serve in accordance with 30-A M.R.S.A. §§ 2101—2106, as amended.
(Ref. of 12-3-98)

Sec. 7. Referendum guidelines.

All issues decided by referendum shall be binding on the city council and not merely advisory.

All referendum questions are to be decided at a general election or special election called for the purpose of voting on the referendum.

All referendum questions shall be limited to one part questions and be stated in the affirmative.

(a) *Bond issues.* All bond issues, regardless of amount, shall go to referendum and shall include the total cost, total interest, total length of term and projected effect on the mil rate. Tax anticipation notes are exempted from this provision.

(b) *Citizen initiated referendum.*

1. Groups, organizations or individuals circulating petitions must clearly indicate at the top of each and every petition sheet who the group, etc. is and the purpose of the petition.
2. Ten (10) percent of registered voters in the City of Biddeford at the time of filing of the petition must sign a petition to bring matters to a referendum vote.
3. Thirty (30) percent of registered voters must vote on a referendum issue in order for such referendum to pass and become binding.
4. A copy of the petition must be registered with the city clerk at the commencement of the petition drive. The petitioners will have thirty (30) calendar days from this date of filing to gather signatures. The petitions must be submitted to the city clerk by the thirtieth day.

(Ref. of 11-2-93, § 2; Ref. of 12-3-98)

Sec. 8. City boards/commissions/committee meetings.

All meetings of the City of Biddeford shall be duly posted on the central bulletin board of city hall, within twenty-four (24) hours of the meeting.
(Ref. of 12-3-98)

ARTICLE XI. FIRE COMMISSION*

Sec. 1. Membership; appointments; term; compensation.

A fire commission, consisting of five (5) members, shall be nominated by the mayor, confirmed by the city council and shall serve for a five (5) year term. At a regular city council meeting in December, the mayor shall appoint a commissioner to fill an anticipated vacancy effective January 1st. The term of office shall be staggered

*Editor's note—Ref. of 12-3-98 repealed art. XI, §§ 1—4, which pertained to the fire commission and derived from Ref. of 11-2-93, § 6, and replaced said repealed sections with a new art. XI, §§ 1—3, to read as herein set out, and which pertains to similar subject matter.

so that one (1) commissioner's term shall expire every December 31st. The commissioners serve without compensation.

The commission shall annually elect one of its members as chair. The commission shall meet on the call of the chair at such place and time designated by vote of the commission. The city clerk will be notified of the time and location of the meetings and shall be provided with an agenda for posting to the general public.
(Ref. of 12-3-98)

Sec. 2. Powers and duties.

(a) The commission shall supervise the selection for appointment, promotion, layoff and reinstatement of members to the fire department.

(b) The appointments of firefighters and the call firefighters shall be made by the commission from a list of candidates submitted by the chief.

(c) The hiring of the fire chief shall be made by the commission, following a selection process that has been determined by the commission, nominated by the mayor and confirmed by the city council.

(d) The commission shall set the compensation for the fire chief, and other nonbargaining members of the fire department, within the guidelines set by the city council.

(e) The fire commission is responsible for oversight of the management of the fire department. All management authority for the administration of the fire department shall be centralized in the office of the fire chief.

(f) The fire commission shall approve and submit the annual budget for the fire department to the city manager.
(Ref. of 12-3-98)

Sec. 3. Vacancies.

A vacancy in the membership of the fire commission shall be determined upon the occurrence of any of the following:

(a) The death of a member

(b) The effective date of the resignation of a member

(c) The expiration of the term of office

(d) The conviction of a misdemeanor offense

(e) The indictment of a felony charge

(f) Three (3) unexcused absences during a one-year period

(g) The removal of a member from the city

A member may resign his/her office by submitting a written resignation to the chair of the fire commission. Once received by the chair of the commission, the mayor's office will be notified. The resignation may not be withdrawn, and the member's office shall become vacant on the date specified in the resignation.

If a vacancy in the membership of the fire commission occurs, the mayor shall nominate a person to fill the vacancy within a period not to exceed thirty (30) days of its occurrence. The nomination shall be subject to the confirmation of the city council. The person named to fill a vacancy shall serve until the normal expiration date of the term being filled.
(Ref. of 12-3-98)