

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 671

H. P. 518

House of Representatives, January 27, 1965

Referred to Committee on Legal Affairs. Sent up for concurrence and ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mr. Nadeau of Biddeford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT to Grant a New Charter to City of Biddeford.

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

ARTICLE I

INCORPORATION

Sec. 101. Incorporation continued. 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.

Sec. 102. General grant of powers. The city shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and be subject to all the duties and obligations appertaining to, or incumbent upon, the city of Biddeford as provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation; and may ordain and publish such acts, laws and regulations not inconsistent with the Constitution and laws of the State, as shall be needful to the good order of said body politic; and impose fines and penalties for the breach thereof, not exceeding \$100 for any one offense, or 30 days in jail, or both, which may be recovered to the use of said city on complaint or by other appropriate legal action.

Sec. 103. Mayor and city council. The administration of all the fiscal, prudential and municipal affairs of the City of Biddeford with the government thereof, subject only to the limitations imposed by the Constitution and laws of the State and by this charter, shall be vested in one principal magistrate, to be styled the mayor, who shall execute the laws and administer the government of the city, and one board of 11 councilmen which shall constitute and be called the city

council and which shall exercise all legislative powers of said city and determine policies.

Sec. 104. Municipal officers. The mayor and city council of the city shall constitute its municipal officers.

Sec. 105. City may acquire property. The city may acquire real or personal property for any city purpose in fee simple or any lesser interest, by purchase, gift, devise, lease or condemnation, and may sell, lease, mortgage, hold, manage and control such property as its public interest may require, not exceeding the fair market value of \$5,000,000 in the aggregate including the property now owned by the city.

Sec. 106. Construction. This charter shall be liberally construed to the end that the city may have all the powers necessary to conduct its municipal affairs, including all powers the city may assume pursuant to the Constitution and laws of the State of Maine.

ARTICLE II THE MAYOR

Sec. 201. Qualifications. The mayor shall be an inhabitant of the city and a registered voter therein.

Sec. 202. Election and term of office. The mayor shall be chosen by the electors of the city voting in their respective wards, and shall hold his office for 2 years from the first day of December following his election or until his successor has been chosen and qualified.

Sec. 203. Salary. The salary and compensation of the mayor shall be \$3,500 per year. He shall not receive from the city any other compensation for any service rendered by him in any other capacity or agency.

Sec. 204. Vacancy. In the event of the death, resignation, or inability of the mayor to serve, the president of the city council shall assume and perform, after being duly sworn, all of the duties and powers of the mayor. If such death, resignation or inability to serve occurs within 6 months prior to the next regular municipal election, it shall not be necessary for the city council to cause such vacancy to be filled at a special election duly called by law therefor; otherwise, such special election shall be so called and conducted within 30 days of the occurrence of such vacancy.

Sec. 205. Powers. The mayor shall be the chief executive magistrate of the City of Biddeford. The mayor shall:

I. Be vigilant and active in causing the laws and regulations of the city to be executed and enforced.

II. Exercise a general supervision over the conduct of all subordinate officers, and cause their violations or neglect of duty to be punished. He may suspend any such subordinate officers for misconduct in office, provided that within 3 days after such suspension, he shall convene the city council and present at such meeting written charges of such misconduct. At such meeting the council shall have

the power to reinstate such subordinate officer by a 2/3 vote of the members present and voting. If the council fails to reinstate such subordinate officer, the mayor shall fill the vacancy thereof as herein otherwise provided.

III. Call special meetings of the city council when, in his opinion, the interest of the city requires it, by a notice printed in a newspaper published in the city, or by causing a summons or notification of such meeting to be given in hand to, or left at the usual dwelling place of, each member of the council.

IV. Preside at all meetings of the city council, but shall have only a casting vote.

V. Communicate to the city council, from time to time, such information, and recommend such measures as the business and interests of the city may, in his opinion, require.

VI. Perform and assume any and all other powers, duties and responsibilities made incumbent upon or granted to him by the Constitution and laws of the State, this charter or any ordinances.

Sec. 206. Veto power. Every law, act, order, bill appropriating money or ordinance, excepting rules or orders of a parliamentary character, having passed the city council, shall forthwith be presented in hand to the mayor by the clerk of the council, and if the mayor approves the same he shall sign it; if not, he shall return it to the city council within 7 days after it was submitted to him, together with his objections thereto in writing, and which objections shall be entered upon the journals of the city council. If, upon reconsideration, 2/3 of the whole number of the city council shall vote to pass the same, notwithstanding the mayor's veto, it shall have the same effect as if signed by the mayor.

ARTICLE III THE CITY COUNCIL

Sec. 301. Composition and qualifications. The city council shall be composed of 11 members, all inhabitants of the city and registered voters therein, 4 of which number shall be chosen at large by the electors of the entire city and 7 of which number shall be chosen by and from the electors of each ward established as herein provided, all of whom shall be sworn to the faithful performance of the duties of their office. Any councilman chosen by the electors of an individual ward shall continue to be a resident of that ward during his term of office, and, upon failure to so reside in any such ward, his office shall be declared vacant.

Sec. 302. Election, term of office. Each member of said council shall be elected at each regular municipal election called and held under this charter and shall serve for a term of 2 years from the first day of December following his election or until his successor has been chosen and qualified.

Sec. 303. Compensation. Each of the councilmen shall receive \$15 for any regular or special meeting of the council actually attended, but in no case greater than \$400 per year, except that the councilmen serving on the finance committee shall receive such additional compensation as the city council may determine.

Sec. 304. Restrictions and disqualifications. No member of the city council

shall, during the period of time for which he was elected, be eligible by election or appointment to any office of profit or emolument in said city nor shall he directly or indirectly enter into any contract with the city.

Sec. 305. Vacancy. In the event of death, resignation, inability to serve, or failure of qualification of any ward councilman, such vacancy shall be filled by a special election called and held under the authority and limitations of article II, section 204 of this charter, but no such special election shall be held to fill any vacancy caused by any reason in the office of councilman-at-large.

Sec. 306. Powers. All legislative powers of the City of Biddeford shall be vested in the city council and shall be exercised by it in the manner and subject to the limitations set forth in this charter. The council shall have power to:

- I. Make, amend and rescind ordinances.
- II. Adopt the annual budget of the city and appropriate money for all city purposes.
- III. Authorize the issuance of bonds, excepting as otherwise limited by this charter.
- IV. By ordinance create, change and abolish offices, departments or agencies, and designate their powers, duties and responsibilities, 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.
- V. Provide for the care and superintendence of city buildings and the custody and management of all city property, real or personal, and the acquisition and alienation of same.
- VI. Confirm by a majority vote any and all appointments by the mayor provided for by the laws of the State, this charter or ordinances.
- VII. Conduct investigations of the operation of any office or department administering the affairs of the city, or on any subject upon which it may legislate. In conducting such investigations, the council shall have the right to administer oaths, subpoena witnesses and compel the production of books and papers, pertinent thereto, which summons shall be served in accordance with the Maine Rules of Civil Procedure, as amended.

VIII. Elect 2 of their number to be members of the finance committee, which selection shall be made at the first meeting of the city council in each December.

IX. Perform and assume any and all other powers, duties and responsibilities made incumbent upon or granted to it by the Constitution and laws of the State, this charter or any ordinance.

Sec. 307. Proceedings. The council shall keep a journal of its own proceedings, judge the election of its own members and prescribe its rules, subject only to the limitations imposed according to article V of this charter. The city clerk shall cause such rules to be printed in suitable form and shall supply a copy of

same to each member of the council. The council shall annually at its first regular meeting in December elect one of their number president of the council, who in the absence of the mayor shall be the presiding officer and who shall serve until his successor is chosen and qualified. A majority of the duly elected members of the council shall constitute a quorum for the transaction of business thereof; all meetings of the council shall be open and public, and the presiding officer shall have the power of moderator of town meetings. The council may, in the absence of the mayor and president of the council, choose a president pro tempore, who shall preside at meetings of the council. The vote on any pending question shall be taken by yeas and nays upon the order of the presiding officer or upon the request of any 2 members of the council, and the clerk shall record the results of any such vote.

Sec. 308. Report. The city council shall, on the first Tuesday after the first Monday of each December, cause to be published for the information of the citizens a summary account of receipts and expenditures during the immediate preceding financial and fiscal year and a schedule of all real property owned or controlled by the city.

Sec. 309. Restrictions on activities. Neither the city council, nor any of its members, shall direct, request, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city, except as otherwise provided in this charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service of the city solely through the mayor, and neither the council, nor any members thereof, shall give, or attempt to give, orders or directions to any subordinate officer in the exercise of his duties either publicly or privately.

ARTICLE IV

ADMINISTRATIVE ORGANIZATION

Sec. 401. Officers of the city. On the first day of December of each year, or as soon thereafter as may be convenient, the mayor shall appoint all necessary subordinate officers and agents for the city, except those whose terms have not expired, for the ensuing year, including one assessor whose term of office shall be for a term of 3 years, chief assessor, city solicitor, city auditor, city clerk, city treasurer, director of welfare, street commissioner, collector of taxes, health officer and such other necessary appointed officers as are provided for by the laws of the State, this charter and ordinances enacted thereunder. Any and all such appointments shall be subject to the confirmation of the city council. Together with such other elected officials as are provided for by this charter, all such officers so appointed and confirmed, after being duly sworn, shall be the duly qualified officers of the City of Biddeford.

Sec. 402. General term of office. Except as is otherwise provided for by statute, this charter or by ordinance, all duly qualified officers of the city shall hold office for a term of one year commencing on the first day of December, or until others shall be qualified in their stead.

Sec. 403. Reports of officers. All principal and subordinate officers, except members of the city council, warden and ward clerks, whether elected or ap-

pointed, shall, on the last day of November of each year, present to the city council a written report of their activities during the immediate preceding year, including a schedule of their receipts and expenditures, which reports shall be filed by the city clerk and constitute public records.

Sec. 404. Salaries. The salaries of all subordinate officers of the city shall be fixed by the mayor and city council, except as otherwise provided for by law.

Sec. 405. Assessors. The city assessors shall be 3 in number and shall hold their office for a period of 3 years. The mayor shall appoint one of their number chief assessor for a term of one year. They shall execute and be subject to the same powers, duties and liabilities that the assessors in the several towns in the State may exercise and be subject to under existing laws. The mayor may appoint one or more persons in each ward, subject to confirmation by the city council, whose duty it shall be to furnish the assessors with all necessary information relative to persons and property taxable in his ward, and who shall be sworn to the faithful performance of his duty. All taxes shall be assessed, apportioned and collected in the manner prescribed by the laws of the State relative to town taxes; provided, however, that it shall and may be lawful for the city council to establish further and additional provisions for the collection thereof.

Sec. 406. City auditor. The city auditor shall have the powers and perform the duties usually held and performed by such officers. He shall direct and supervise the manner of keeping the books and accounts of the city, and shall make a monthly report to the council. He shall perform such other and further duties as are required by the laws of the State, this charter and ordinances.

Sec. 407. City clerk. The city clerk shall be the clerk of the city council and shall perform such duties as are usually performed by clerks of municipal corporations, and all such as are required by the laws of the State, this charter and ordinances. He shall give notice in a newspaper printed in the city of the time and place of regular and special ward meetings, but the place of such ward meetings, and also the day and hour, when not fixed by law, shall be determined by the mayor and city council. He shall be the custodian of the official seal of the city.

Sec. 408. City solicitor. The city solicitor shall be an attorney admitted to practice in all the courts of the State. He shall be the legal advisor of the mayor and city council and of the officers of the city. He shall, under the direction of the council, prosecute all suits for, and defend all suits against, the city, and shall prosecute all persons accused of any violation of the city ordinances. He shall perform such other and further duties as are required by the laws of the State, this charter, ordinances or by the city council. In special cases, the council may authorize or require him, at the expense of the city, to secure the advice or service of such additional counsel as may be deemed best.

Sec. 409. Director of welfare. The director of welfare, subject to the supervision of the municipal officers when acting as overseers of the poor, shall have all the powers and perform all the duties now prescribed by law for the boards of overseers of the poor in towns, excepting only the purchase of materials and supplies, which shall be purchased as herein provided. Before purchasing any materials or supplies, he shall first make his requisition therefor to the finance committee and obtain its approval therefor. He shall have general charge and

supervision of the city poor and shall devote full time to the duties of his office.

Sec. 410. Salaries of employees. All persons employed by the city, except duly qualified officers, principal and subordinate, those under the supervision of the board of education, and those whose compensation is fixed by statute, shall be compensated only in accordance with a pay plan or plans recommended by the mayor and adopted by ordinance according to the provisions of article VIII of this charter. The compensation of employees under the supervision of the board of education shall be fixed by said board.

Sec. 411. Boards and commissions. The city council may provide, by ordinance, for appropriate boards and commissions, as it shall deem advisable, to serve in an advisory capacity, or to perform quasi-judicial functions, or to act as a board of appeals in the administration of regulatory ordinances. Members of such boards and commissions shall be appointed by the mayor and confirmed by the city council, and may be removed only for cause, and only after a hearing held upon due notice, by a 2/3 vote of the city council. Members of such boards and commissions shall be appointed for definite and overlapping terms and shall not hold any other public office, the salary of which is payable by the city.

ARTICLE V ORDINANCES

Sec. 501. Procedure for enactment. Every act of the city council of a general and permanent nature, establishing a fine or imposing a penalty, or so required by law to be enacted, shall be by ordinance. All acts appropriating money or legislation of a limited or temporary nature shall be by order. No ordinance shall be finally passed, amended or rescinded until the city council conducts a public hearing called for the purpose of considering such act, a notice of which shall be given at least 10 days prior to such public hearing by publication in a newspaper printed in the city and by posting a notice in a public place, and no ordinance shall be finally passed, amended or rescinded until it shall have had 3 readings, not more than 2 of which shall be on the same day. No ordinance, except an emergency ordinance as hereafter defined, shall be effective and operative until 20 days after the date on which such ordinance was finally enacted by the council.

Sec. 502. Council may enact certain ordinances. The city council of the City of Biddeford is hereby authorized to enact ordinances pertaining to the following businesses and purposes, and to authorize the city clerk of said city to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations not inconsistent with law, and upon payment of such fees by the licensee, and filing of such bonds as said council may establish and make provisions for by ordinance, to wit: Auctioneers, the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other volatile inflammable liquid for fuel or power, the manufacture, storage, sale, transportation, disposition and use of explosives and inflammable liquids, billiard tables, pool tables, bowling alleys, roller skating rinks, junk dealers, dealers in old gold, silver and precious metals, hawkers and peddlers, employment agencies, itinerant vendors, public automobiles, taxicabs and motor buses and the drivers and operators thereof, public wagons and trucks

and the drivers and operators thereof, amusements, exhibitions and performances, theatres, moving-picture houses, inn-holders, victualers, pawnbrokers, lodging houses of 10 lodging rooms or more, public shooting galleries, the manufacture, storage, sale, disposition and use of fireworks, dance halls, circuses and the erection and maintenance of signs, flags, banners, awnings, marquees and all other things within the limits of sidewalks, roads, ways and streets of the city, and no such objects placed within said limits in accordance with such ordinances shall be deemed defects in such sidewalks, roads, ways or streets; and prosecution and civil actions may be commenced and proceeded thereon in the name of the city, by officers or others thereby empowered or directed to prosecute and sue; and the fines and penalties shall go to the uses provided in such laws or regulations.

Sec. 503. Referendum on ordinances. The electors of the City of Biddeford shall have power to approve or reject at the polls any ordinance finally enacted by the city council, except an emergency ordinance or an ordinance establishing ward lines or voting places. An emergency ordinance is an ordinance for the immediate preservation of the public peace, health or safety, in which the emergency is defined and declared in a preamble thereto, and receiving the affirmative vote of all members of the council present and voting.

Sec. 504. Petitions for referendum. Within 20 days after the final enactment by the city council of any ordinance which is subject to a referendum, a petition signed by at least 500 of the qualified electors of the City of Biddeford may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors. The city clerk shall cause petition forms to be printed and shall supply sufficient copies of blank forms to any citizens requesting the same, and they shall be substantially in the following form:

PETITION FOR REFERENDUM

To The Mayor and City Council of The City of Biddeford:

We, the undersigned qualified electors of the City of Biddeford, residing respectively at the addresses placed opposite our names, hereby petition the Mayor and City Council of the City of Biddeford for the submission to the qualified electors of said city of the question:

“Shall the proposed ordinance entitled ‘.....’ which was finally enacted by the City Council on (date), be approved?”

NAMES	RESIDENCE	WARD
.....
.....
..... (NAME), residing at	(ADDRESS)

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

I hereby certify that of the signatures which I have marked (kind of mark) are original and authentic signatures as subscribed to above.

City Clerk

Sec. 505. Filing of petitions. All petition papers comprising a referendum petition shall be assembled and filed with the city clerk as one instrument. The city clerk shall forthwith examine such petition and determine whether each petition paper has a proper statement of the circulator and whether the petition as a whole is signed by a sufficient number of qualified electors. If the city clerk determines upon examination of the referendum petition that it is signed by an insufficient number of qualified electors, he shall forthwith notify the circulator or circulators that the total number of valid signatures is so insufficient, and such insufficient petition may, within the 20-day period as described in section 504 of this article, be amended by the addition of further petition papers and again resubmitted to the city clerk for his examination and determination as provided for in this section.

Sec. 506. Consideration by council and submission to electors. Within 10 days after the city clerk has determined the sufficiency of a referendum petition, he shall submit the same to a meeting of the city council, and it shall be the duty of the council to reconsider final enactment of the ordinance, and, if such ordinance shall receive passage after such reconsideration, the city council shall submit the ordinance to a vote of the electors of the city either at the next regular municipal election or at a special election called for that purpose.

Sec. 507. Effect on ordinance. When a referendum petition has been determined sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, pending action of the city council. If the city council fails to rescind the specified ordinance after reconsideration as hereinbefore provided, the effect of such ordinance shall be in abeyance pending the result of its submission to the electors. If a majority of the votes cast for and against such ordinance, in the referendum election called and held hereunder, is in the affirmative, it shall thereupon be effective and operative and shall be published as in the case of other ordinances. If a majority of the votes cast for and against such ordinance as aforesaid is in the negative, the specified ordinance shall be null and void, the same as if it had never been enacted by the city council.

Sec. 508. Publication of ordinances. Every ordinance shall be published at least once in a newspaper printed in the city within 10 days after the date upon which it becomes effective and operative, except that in the case of a lengthy ordinance, the city council may order a summary of the ordinance to be made by the city solicitor and said summary shall be published instead, provided that any such summary contain notice that copies of the full document are available at the office of the city clerk upon request of any citizen. Every ordinance shall be recorded in a book kept for that purpose, which record shall be preserved in the office of the city clerk and be open to public inspection.

ARTICLE VI

FINANCES

Sec. 601. Fiscal Year. The financial and fiscal year of the City of Biddeford shall commence on the first day of December and terminate on the 30th day of November following:

Sec. 602. Finance committee; budget. There shall be a finance committee of the City of Biddeford consisting of the mayor, city auditor, city treasurer and 2 members of the city council appointed according to the provisions of article III, section 306, of this charter. It shall be the duty of the finance committee, on or before the 3rd Monday of January of each year, to report to the city council a budget of proposed expenditures of all the various offices, departments and agencies of the city government, including the department of education, fire department, police department, street department, welfare department, and all other principal or subordinate offices, departments or agencies of the city, including a contingent fund. Such budget, with such modifications as shall be made by the city council, shall be the basis for the annual appropriations for the current financial and fiscal year.

Sec. 603. Appropriations limit of liability. Neither the city council nor any officer or agent of the city shall have the authority to make any contract or do anything binding the city or imposing upon the city any liability to pay money, until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability under said contract, and the amount of said appropriation shall be the maximum limit of the liability of the city under any such contract; said contract to be, ab initio, null and void as to the city for any other or further liability. No officer, department or agent of the city government shall have authority to contract any debt or liability for the city in excess of the appropriation made by the city council for the department sought to be charged.

Sec. 604. Temporary appropriations. Before the annual appropriations order shall have been passed, the city council may make appropriations for current departmental expenses chargeable to the appropriation, when passed, for the current financial and fiscal year, to an amount sufficient to cover the necessary expenses of the various offices, departments and agencies of the city government until said annual appropriation order is in force.

Sec. 605. City treasurer. The city treasurer shall have custody of all public funds of the city or any of its offices, departments or agencies and shall have custody of all investments and invested funds of the city or in the possession of

the city in a fiduciary capacity. He shall make payments and disbursements from public funds only as provided for by this charter. All moneys received and collected for and on account of the city, by any officer or agent thereof, shall forthwith be paid into the city treasury. The city council shall take care that moneys shall not be paid from the treasury unless granted or appropriated and shall secure a prompt and just accountability.

Sec. 606. Finance committee's warrant. No money shall be paid from the treasury unless the same be appropriated by the city council, and upon a warrant signed by the mayor and 2 other members of the finance committee, and which warrant shall state the appropriation under which the same was drawn.

Sec. 607. Transfer of appropriations. After the annual appropriation order has been passed, no subsequent expenditures shall be authorized for any object unless provision for the same shall be made by the city council by a special transfer from the appropriation of another office, department or agency, contingent fund or other source of income, or by expressly creating therefor a city debt, but no debt shall be created unless the resolution authorizing the same is passed by the affirmative vote of $\frac{2}{3}$ of the entire city council voting by yeas and nays.

Sec. 608. Requisition for supplies and materials. No office, department or agency of the city shall have any authority to contract any indebtedness against the city for supplies and materials, without first making requisition for such necessary supplies and materials to the finance committee of the city and receiving its approval therefor, and any attempted indebtedness or contract incurred in contravention hereof shall be null and void ab initio as to the city.

Sec. 609. Auditor's certification. No bill or claim against the city shall be approved and allowed by the finance committee or warrant drawn therefor by the finance committee until such bill or claim has been presented to the city auditor and he shall have certified thereon that it is proper in form and is a legal and valid claim, and shall designate under what department and appropriation the same may be due and payable.

Sec. 610. Bond issues. The City of Biddeford is authorized to borrow money, within the limits fixed by the Constitution and laws of the State now or hereafter applying to said city, 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 and equipment of public buildings and other permanent public improvements, the acquisition of departmental equipment of a permanent nature, the extraordinary repair, remodelling or reconstruction of public buildings, the payment or refunding of bonds, notes or certificates of indebtedness previously issued, the consolidation of designated debts or liabilities of the city not payable out of money raised or to be raised in the current financial and fiscal year, or for any other purpose for which said city is authorized to borrow by general or special law. No order providing for the issue of bonds shall be passed without a $\frac{2}{3}$ vote of the city council and without public notice given by posting notice of the same in 2 public places in the City of Biddeford and publishing said notice in a newspaper printed in the city at least 10 days before final action by the city council. Every issue of bonds shall be payable within a fixed term of years; if said bonds are issued in payment of indebtedness incurred for a permanent pub-

lic improvement the term of such bonds shall not exceed the estimated period of utility of said improvement but the declaration of the city council embodied in the order authorizing the issue shall be a conclusive determination of the estimated period of utility thereof; and the term within which all bonds shall be made payable shall in no case exceed 20 years, except that the term within which bonds issued to consolidate designated debts or liabilities of the city as hereinbefore provided shall be made payable shall in no case exceed 10 years. Bonds shall be made payable as pertains to interest semiannually and as pertains to principal in equal or diminishing annual serial installments, provided that the first such installment shall be not later than 2 years after the date of said bonds. Bonds issued hereunder, unless the order authorizing the issue shall otherwise specify, shall be signed by the mayor and the city treasurer, either of whom may be authorized to sign by facsimile signature, and may be in coupon form, registrable as to principal or full registered and, if in coupon form, the coupons shall be signed with the facsimile signature of the city treasurer. Every order for the issue of bonds shall provide for a tax levy for each year of an amount necessary to meet the payment of the annual, serial installment of principal and interest; and such amounts shall be included in the tax levy for each year until the debt is extinguished.

Sec. 611. Referendum on bond issues. Each such order authorizing the issue of bonds pledging the credit of the City of Biddeford shall be subject to referendum approval or rejection upon petition signed by at least 500 qualified electors pursuant to the provisions of article V, unless the bonds are authorized solely for a capital purpose made necessary as the result of fire, flood or other disaster.

Sec. 612. Temporary loans. Money may be borrowed in anticipation of receipts from taxes during any financial and fiscal year but the aggregate amount of such loans shall not exceed 80% of the revenue received for real, personal, excise and poll taxes during the preceding financial and fiscal year. All such loans shall be paid within the year out of receipts from taxes for the financial year in which said loans are made. Money may be borrowed in anticipation of money to be received from the sale of bonds to be issued, in case such bond issue has been authorized; all such loans shall be paid within one year and are subject to the provisions of the laws of the State in relation thereto.

Sec. 613. Making of bids and letting of contracts. The city council shall regulate, by ordinance, the making of bids and the letting of contracts, subject to the following conditions:

I. In all cases of work to be done by contract or the purchase of property of any kind at a consideration amounting to more than \$1,000, or the rendering of any service to any office, department or agency of the city government, other than professional services, at a consideration amounting to more than \$1,000, competitive bids shall be secured before any purchase is made or any contract awarded. When the amount of consideration is more than \$1,000, bids shall be solicited by a notice published in at least 2 issues of a newspaper printed in the city. All such bids shall be sealed when received and shall be opened in public at the hour and place stated in the notice; and all original

bids, together with all documents pertaining to the purchase or contract, shall be retained and filed and shall constitute public record.

II. When the amount of consideration involved is \$1,000 or less, bids may be solicited by notice posted in a public place for at least 3 days and by mail to known prospective bidders.

III. The purchase of property and the awarding of contracts involving a consideration of \$2,000 or less, may, by ordinance, be delegated to the finance committee. Any such purchases or contracts involving a consideration of more than \$2,000 shall be awarded only after authorization by the city council.

IV. The city council may reject, or by ordinance, regardless of the amount of consideration involved, authorize the finance committee to reject, any and all bids.

V. Contracts shall be let to the lowest bidder and purchases shall be made from the responsible bidder who offers to furnish the article solicited for the lowest sum. In determining the lowest bidder, in addition to price, the following may be considered: The ability, capacity and skill of the bidder to perform the contract or provide the service required; whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the bidder; the quality of performance of previous contracts or services; the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service; the quality, availability and adaptability of the supplies or contractual services to the particular use required; the ability of the bidder to provide future maintenance and service; the number and scope of conditions attached to the bid.

Sec. 614. Bonding of certain officials. The city council shall require bonds with sufficient penalty and sureties from all persons trusted with the receipts, custody or disbursement of public money. The city solicitor shall approve every bond as to form and sufficiency of surety prior to its acceptance by the city council. The premiums on such bonds shall be paid by the city.

ARTICLE VII

DEPARTMENT OF EDUCATION

Sec. 701. Board of education. The education department of the City of Biddeford shall be administered by a board of education consisting of 5 citizens chosen at large by the electors of the city, and who shall be sworn before entering upon the duties of their office. At the first regular municipal election held after the passage and acceptance of this Act, 2 members of said board shall each be elected for a 2-year term and 3 members of said board shall each be elected for a 4-year term. At every regular municipal election held thereafter, such members of said board shall each be elected for a 4-year term as may be necessary to fill the office of those whose terms would then expire. All terms of office of members of the board of education shall commence on the first day of December following their election and they shall serve until their successors are chosen and qualified. They shall be nominated and elected in the manner provided by law for the nomination and election of the mayor of the

city. Not more than one resident in any ward shall be elected a member of the said board by the same political party.

Sec. 702. Vacancy. In the event of a vacancy in said board of education for any cause, such vacancy shall be temporarily filled by the city council, and such temporary member shall serve until the next regular municipal election, when an election shall be held for the remainder of the term in which the vacancy occurred.

Sec. 703. Duties. The board of education shall have and exercise the powers conferred and discharge all the duties imposed by the Constitution and laws of the State upon superintending school committees, except the purchase of supplies and materials as provided by article VI, section 608. The said board shall choose one of its members chairman and one of its members clerk, who shall be sworn, and who shall keep a record of the said board's proceedings, except that the said board may elect the superintendent of schools to serve as such clerk. The 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.

Sec. 704. Compensation. Each member of the board of education shall receive a salary of \$500 per year as full consideration and compensation for his services as such.

Sec. 705. Superintendent of schools. The superintendent of schools shall be appointed, hold office and may be removed in accordance with the provisions of the general law for the superintendent of schools through the union of towns.

ARTICLE VIII

CIVIL SERVICE

Sec. 801. Civil service commission. A civil service commission consisting of 5 citizens of the City of Biddeford shall be appointed by the mayor, subject to confirmation as hereinbefore provided, the members of which shall serve without compensation. Members of the said commission shall serve for a term of 5 years or until their successors are chosen and qualified; except that of the members first appointed after the passage and acceptance of this Act, one shall serve for a term of one year, one shall serve for a term of 2 years, one shall serve for a term of 3 years, one shall serve for a term of 4 years and one shall serve for a term of 5 years. Thereafter, appointments shall be made for a term of 5 years as previously appointed terms expire. All said terms shall commence on the first day of December of the year in which the appointment is made, except that of the members first appointed as provided for above, their duties and powers as prescribed by this article shall immediately vest in them upon confirmation by the city council, the same as if their terms had officially begun, but the formal terms of office of such initial appointments shall not begin until the first day of December following. Vacancies in said commission shall be filled by the mayor and confirmed by the city council for the balance of the unexpired term. A member of the said commission may be removed only for cause by a vote of 2/3 of the city council, after a public

hearing held upon due notice. The commission shall annually elect one of their number chairman and one of their number clerk, who shall be sworn, and who shall keep a record of all proceedings, issue all notices and attest all such papers and orders as the commission directs.

Sec. 802. Qualifications. Each member of the civil service commission shall be a qualified elector of the city, shall be known to be in sympathy with the merit principle as applied to the civil service, shall during his term of office neither hold nor be a candidate for any other public office or position and shall not be a member of any committee of a political party or an officer in any partisan political club or organization.

Sec. 803. 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, as far as practicable, by competitive examination. To assist the civil service commission in carrying out this purpose, there shall be a director of personnel, who shall be appointed by the mayor and confirmed by the city council.

Sec. 804. Employees covered. All employees of the City of Biddeford shall be subject to the provisions of this article and ordinances enacted thereunder, except duly qualified officers as defined by section 401 of Article IV, of this charter, those employees under the supervision of the board of education and those employed on a part-time or temporary basis.

Sec. 805. Rules and regulations. The civil service commission, as soon as is possible after the effective date of this Act, and with the assistance of the director of personnel, shall prepare and recommend to the council such rules and regulations as it may consider necessary, appropriate or desirable to carry out the provisions of this article, including a pay plan or plans and a pension and retirement plan or plans, and shall provide for the classification of all employees not exempt. Such rules and regulations shall provide for open competitive and free examination as to fitness, for an eligibility list from which vacancies shall be filled, for a period of probation before employment is made permanent, and for promotion on the basis of merit, experience and record, and such rules and regulations shall become effective when approved by the city council by ordinance and shall be applied by the said commission with the assistance of the director of personnel.

Sec. 806. Powers and duties of commission. The civil service commission shall supervise and control the selection for appointment, promotion, layoff, reinstatement, suspension and removal of all employees subject to the provisions of this article. The commission is empowered to subpoena witnesses and administer oaths, and adopt and promulgate reasonable standards and make such rules and regulations for the implementation of this article, not otherwise inconsistent with law. The said commission shall advise the city council on matters pertaining to personnel administration within the scope of this article; make any investigation which it may consider desirable concerning the administration of personnel in the municipal service; recommend to the city council any amendments to the rules and regulations provided for by this article; report to the council at least once each year its findings, conclusions

and recommendations; hear appeals in case any employee in the classified service is suspended, reduced or removed, and perform such other duties with reference to the provisions of this article as the city council may require by ordinance.

ARTICLE IX

ELECTIONS

Sec. 901. Wards; ward lines. For the purpose of holding elections in the City of Biddeford, said city shall be divided into 7 wards, to contain as nearly as conveniently may be, an equal number of qualified electors; and it shall be the duty of the city council, at least once in 10 years and not oftener than once in 5 years, to review, and if it be needful, to alter the boundaries of said wards in such a manner as to preserve, as nearly as may be, an equal number of qualified electors in each. The ward lines and boundaries in existence in the city at the time of adoption of this Act shall continue in existence until they are altered as herein provided.

Sec. 902. General elections. On the 2 Monday in November following the passage and acceptance of this Act, the qualified electors of each ward shall ballot for a warden and ward clerk and one councilman, all residents of the said ward, a mayor, 4 councilmen-at-large, 5 members of the board of education and any vacancies in any unexpired terms of office. On the 2nd Monday in November of every 2nd year following the first election held under this charter, the qualified electors of each ward shall ballot for a warden and ward clerk and one councilman, all residents of the said ward, a mayor, 4 councilmen-at-large, such members of the board of education as may be necessary to fill the office of those whose terms would then expire and any vacancies in any unexpired terms of office.

Sec. 903. Wardens and ward clerks. Each warden and ward clerk chosen as provided in the preceding section shall serve for a term of 2 years from the first day of December following their election or until his successor shall have been chosen and qualified. The warden and ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the laws 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 duly called meetings of his ward, and shall have the powers of moderators of town meetings and if at any such meeting the warden shall not be present, the ward clerk of said ward shall call the meeting to order and preside until a warden pro tempore shall have been chosen. The warden shall have all the rights and powers now held by the wardens of existing wards. If neither the warden nor ward clerk is present at any such meeting, any legal elector of the ward 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 likewise chosen. The clerk shall record all the proceedings, and certify the votes given, and forthwith deliver to the city clerk all such records and journals together with all other documents and papers held by him in his said capacity. The inhabitants in each ward may choose 2 persons to assist the warden in receiving, sorting and counting the votes.

Sec. 904. Calling of elections. All elections and ward meetings held under this charter shall be notified and called by the mayor and city council in the manner prescribed by the laws of the State for notifying and calling town meetings by the selectmen of the several towns.

Sec. 905. Notice of election. Following any election notified and called hereunder, the city council shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the persons who shall have been elected by a plurality of the votes to be notified, in writing, of their election; but if it shall appear that no person shall have been so elected or if the person so elected shall refuse to accept the office, further elections shall in the same manner be ordered until a choice be made.

Sec. 906. Procedures. The qualification of voters and all procedures, rights, duties and powers relative to the proper conduct, before, during and after, of any election or ward meeting notified and called under the authority of this charter shall be governed, when applicable and if not inconsistent, by the laws of the State relating to general elections, Maine Revised Statutes of 1964, Title 21, and other pertinent general legislation.

ARTICLE X

RECALL

Sec. 1001. Applicability. Any elected officer of the City of Biddeford may be recalled and removed therefrom by the qualified electors of the City of Biddeford as herein provided.

Sec. 1002. Petitions for recall. Any qualified elector of the city may make and file with the city clerk an affidavit containing the name or names of the elected official or officials whose removal is sought and a general statement of the reasons why such removal is desired. The city clerk shall thereupon deliver to the said elector 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, and the name of the person or persons whose removal is sought. A 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 registered voters as determined at the time of the last preceding municipal election, or, if the person sought to be removed was not elected at large, by 10% of the registered voters in the electoral district which elected him, as so determined, 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.

Sec. 1003. Examination and amendment of petition. Within 10 days after the filing of the petition, the city 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 10 days after the giving of said notice by the filing of a supplementary petition upon additional papers issued, signed and filed as provided herein for the original petition. The city 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 is 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 the petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 1004. 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 within 5 days after such certification to the city council at a regular meeting or at a special meeting called for that purpose, and shall notify the officer or officers whose removal is sought of such action. The city council shall thereupon, within 5 days of the receipt of the city clerk's certificate, order a recall election to be held not less than 30 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 recall election on the date of such other municipal election. The recall election shall be called and held and nominations made as in other elections under this charter except for the specific limitations of this article and other special legislation affecting the City of Biddeford.

Sec. 1005. Form of ballot. Unless the officer or officers 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 officer or officers 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 officer or officers whose removal is sought, as follows: "Candidates for the place of A, if recalled; Candidates for the place of B, if recalled," etc., but the officer or officers whose recall is sought shall not themselves be candidates upon such a ballot. If the officer or officers sought to be removed shall have resigned within 10 days after the receipt by the city council of said certificate, the form of the ballot at said recall election shall be the same, as nearly as may be, in the form and arrangement in use at a regular municipal election.

Sec. 1006. Count of ballots. 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 for regular municipal elections.

Sec. 1008. Election may be ordered. Should the city clerk fail or refuse to

issue his said certificate if otherwise he should by law be bound to do so, or if the city council should fail or refuse to order a recall election as herein provided, such recall election may be ordered by any Justice of the Supreme Judicial Court.

ARTICLE XI GENERAL PROVISIONS

Sec. 1101. Laying out of streets; damages; proceedings. The city council, by itself or by a committee of said council, shall have exclusive power to lay out any new street or public way in the city, and fix the time when the same shall be opened, or widened or otherwise altered, or discontinue any existing street or public way in said city, and to estimate the damages any person may sustain thereby, and shall be governed by the same rules and regulations as are by law provided in case of the location, alteration and discontinuance of town ways by the selectmen of towns, and any person aggrieved by the decision or judgment of the city council or its committee in its award of damages, shall have the same remedies, and be entitled to the same proceedings in order to have them assessed by a committee or jury as are provided by law in the case of town ways. The county commissioners of York County shall have power to lay out within said city any part of any new county road that shall by them be laid out, in any adjoining town or towns, and shall pass thence into or through said city according to the provisions of law.

Sec. 1102. Sidewalks regulated. It shall be lawful for the city council, by itself or by a committee of said council, to appropriate, set off and reserve as sidewalks, such part or portions of the several streets in the city, now or hereafter to be established, as to said council may appear necessary for the safety, convenience and accommodation of foot passengers. So much of the several streets in said city as shall be appropriated and reserved as sidewalks, agreeable to the provisions of this act, shall be taken and deemed to be reserved exclusively for the accommodation, convenience and use of persons traveling on foot; and said city shall not be liable for damages for any injury done or occasioned in consequence of any person or vehicle striking against any of said sidewalks. The several sidewalks on the streets in said city, as at present established and used, shall be taken and deemed to be the proper and lawful reservation for that purpose until altered or otherwise established by the proper authority.

Sec. 1103. Assessment of sidewalk repair cost. The city council may assess upon the owner of any lot of ground fronting on any street or way in said city an amount equal to not more than $\frac{1}{2}$ of the cost incurred by the city for the paving, repair or maintenance of that part or portion of sidewalk in front of any said lot, and shall give notice thereof to said owner, if an inhabitant of said city, by giving him in hand or leaving at his last and usual place of abode a copy of said assessment; or if not an inhabitant of said city, by publishing the same 3 weeks successively in a newspaper printed in the city. All assessments made under the provisions of this section shall constitute a lien upon said lot for 2 years after they are laid. They shall be certified by the mayor and city council under their hands to the city treasurer and collector of taxes of said city and their successors, with directions to collect the same according to law, and may, with all costs and expenses, be levied by sale of said lot by him or them, if the assess-

ment is not paid within 3 months after a written demand of payment made by him or them either upon the person assessed, his agent or tenant, or in case neither can be found in said city in 3 months after notice of said assessment published in a newspaper printed in the city. Such sale to be conducted in the same manner as sales for the nonpayment of taxes on land of resident owners and with similar right of redemption.

Sec. 1104. Street obstruction regulated. The city council shall have power, on such terms and conditions as they may think proper, to authorize and empower any person or corporation to place in any street, for such time as may be necessary, any materials for making or repairing any street, sidewalk, crosswalk, bridge, watercourse or drain, or for erecting, repairing or finishing any building or other structure, provided that not more than 1/3 of the width of the street shall be so occupied; and such material so placed by virtue of any license obtained as aforesaid, shall not be considered an incumbrance or nuisance in such street; and the city, or person, or corporation so placing the same, shall not be liable for any damages occasioned by such materials.

Sec. 1105. Charter printed. As soon as may be possible after the effective date of this Act, the city council shall cause this charter to be printed in suitable form and such copies shall be deposited in the office of the city clerk for distribution to the citizens.

Sec. 1106. 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, unless otherwise provided: "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 Biddeford, and will faithfully discharge the duties of the office of"

Sec. 1107. Induction of mayor and city council into office. The mayor and city council shall meet on the first day of each December following any regular election at 8 hours of the clock in the evening, the day of the week notwithstanding, and at said meeting the mayor and councilmen shall be sworn to the faithful discharge of their duties by a justice of the peace or other person authorized by law to administer oaths.

Sec. 1108. Existing contracts not invalidated, unless inconsistent. All rights, actions, proceedings, prosecutions and contracts of the city or any of its officers, departments or agencies, 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.

Sec. 1109. Ordinances not inconsistent continue in force. All the laws, ordinances, rules and regulations now in force in the City of Biddeford at the time when this charter takes effect, and not inconsistent herewith, shall, notwithstanding this Act, be and remain in full force until they are amended or repealed by the city council.

Sec. 1110. Continuance of present officers. All persons holding office, principal or subordinate, at the time this charter takes effect shall continue in office

until other provision is made in accordance therewith for the performance of such duties. The members of the civil service commission established under authority of the Private and Special Laws of 1961, chapter 171 and the board of police shall continue in office only until the members of the civil service commission as established by this Act have been appointed and confirmed.

Sec. 1111. Inconsistent law repealed. The private and special laws of 1933, chapter 66, as amended, and the private and special laws of 1961, chapter 171, and all acts and parts of acts inconsistent herewith are hereby 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 Biddeford at a special election to be called and held for that purpose not later than October 1, 1965. Without fail, such special election shall be called, advertised and conducted according to the law relating to municipal elections; provided that the board of registration in said City of Biddeford shall not be required to prepare for posting, nor the city clerk to post, a new list of voters, and for the purpose of registration of voters, said board shall be in session the 3 secular days next prior to such special election, the first and 2nd days thereof to be devoted to the registration of voters and the 3rd day to enable the board to verify the corrections of said lists and to complete and close up their records of said sessions.

The city clerk shall prepare the required ballots, upon which no other question shall be printed, and on which he shall reduce the subject matter of this Act to the following question:

“Shall the provisions of an act entitled ‘An Act to Grant a New Charter to the City of Biddeford’, as passed by the 102nd Legislature, be ratified?”

The voters shall indicate by a cross or check mark placed against the words “Yes” or “No” their opinion on such question.

This Act shall become effective upon the declaration of the municipal officers of the City of Biddeford, only if the majority of the votes cast by the legal voters of said city is in favor of the acceptance of such question and provided further that the total number of votes cast for and against the acceptance of such question equals or exceeds 20% of the total vote for all candidates for Governor in said city at the next preceding gubernatorial election.

The results of such election shall be declared by the municipal officers of the City of Biddeford and due certificate filed by the city clerk with the Secretary of State.

Upon the ratification of the provisions of this Act as herein provided, the regular caucus elections held for the purpose of nominating candidates by any and all major political parties for elective office required to be filled by this Act shall be duly called and conducted according to the provisions of this Act for the notification and proper conduct of municipal elections and such caucus elections shall be held on the last day of October of each year in which the provisions of this Act call for the regular election of municipal officials, on which day the

polls shall be open at 9 o'clock in the forenoon and continue open until 7 o'clock in the evening, when they shall close, any other provisions of the private and special laws of 1933, chapter 71, as amended, to the contrary notwithstanding.