

PART I

CITY OF LEWISTON

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***Editor's note:** Printed herein is the Charter of the City of Lewiston, Maine, being Ordinance No. C79-1, as adopted at a special municipal election on June 19, 1979, and effective on January 7, 1980. 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 and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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PREAMBLE

By this action, we, the inhabitants of the City of Lewiston, establish this charter to secure the benefits of local self-government and to provide for the general health, safety, and welfare of our community. In so doing, we establish a local government that serves the common good while ensuring that every individual has an equal opportunity to participate fully in the economic, cultural and intellectual life of the city. We affirm the values of representative democracy, professional and accountable management, strong political leadership, citizen participation, and diversity and inclusiveness, all with the goal of committing to and pursuing the common good.

(Amd. effective 12-2-21)

ARTICLE I. GRANT OF POWERS TO THE CITY

Sec. 1.01. Corporate existence retained.

The inhabitants of the City of Lewiston shall continue to be a body politic and corporate by the name of the City of Lewiston, 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 said city as a municipal corporation or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, 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 to be recovered for such uses as said by-laws, regulations or ordinances shall provide.

(Amd. effective 12-6-12)

Sec. 1.02. Powers and duties.

- (a) 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 of said city, which shall be vested in a school committee as hereinafter provided, and also except as otherwise provided by this Charter, shall be and are vested as the mayor and council, all of whom shall be qualified voters of said city, and shall be sworn in the manner hereinafter prescribed.
- (b) The mayor and members of the city council shall be and constitute the municipal officers of the City of Lewiston 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 this state. The mayor, when acting as a municipal officer, shall be entitled to vote to break a tie, when a council vacancy exists, when a councilor is absent from a meeting, when a councilor has been recused due to a conflict of interest.
- (c) 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 the mayor and city council.

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Sec. 1.03. Construction.

The Charter shall be liberally construed to the end that the city may have all the powers necessary or convenient for the conduct of its municipal affairs, including all powers the city may assume pursuant to state laws and to the provisions of the state constitution.

Sec. 1.04. Intergovernmental relations.

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, quasi-municipal bodies, the State of Maine or any agency thereof, or of the United States or any agency thereof, in accordance with the terms of the Interlocal Cooperation Act and other statutory provisions.

ARTICLE II. CITY COUNCIL

Sec. 2.01. Composition, eligibility, wards, elections and terms.

- (a) *Composition.* The city council shall consist of a mayor and seven (7) councilors. The mayor shall be nominated and elected by the qualified voters of the entire city. The qualified voters of each of the seven (7) wards of the city shall nominate and elect a councilor who shall be qualified to vote in the ward from which elected. Nominations and elections shall be conducted as provided in Article VII.
- (b) *Wards.* For the purpose of all elections, the city shall be divided into seven (7) wards which shall contain, as nearly as possible, the same number of inhabitants. The city council may, by ordinance, divide the wards into precincts for voting purposes.
- (c) *Elections and terms.* The mayor and the ward councilors shall be elected to serve two-year staggered terms. At the first regularly scheduled municipal election after the adoption of this provision, which shall take place in November 2023, the mayor shall be elected to fill a three-year term along with the councilors for wards 2, 4 and 6; councilors from wards 1, 3, 5 and 7 shall be elected for an initial two-year term. Thereafter, all terms shall be for two years. The mayor shall not be eligible to serve for more than three (3) full consecutive terms.

(Amd. effective 12-6-12; Amd.12-2-21)

Sec. 2.02. Compensation, expenses.

The mayor and each of the councilors shall receive an annual salary as set by ordinance. The council may also, by ordinance, provide for compensation for elected officials who are appointed by the council, the mayor, or the council president to represent the city on the governing bodies of any joint agency, quasi-governmental organization or non-profit organization. Such compensation shall be on a per diem basis for any day on which the elected official attends a meeting of such governing body. No ordinance increasing such salaries shall take effect during the term for which the mayor or the councilors were elected. The mayor and members of the council shall receive their actual and necessary expenses incurred in the performance of their duties of office. During the term of office for which they have been elected,

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neither the mayor nor any councilor shall hold the office of city administrator, acting city administrator or any other office or employment, compensation for which is payable by the city. No former mayor or councilor shall hold employment in any position created during their term or terms of office until one (1) year after the termination of their last term of office. Nothing herein shall prevent a councilor serving on the finance committee from receiving as additional compensation the salary authorized by section 6.15(b) or a councilor serving on the school committee from receiving as additional compensation the salary authorized by section 5.01(b).

(Ord. No. C86-1, § 1, 1-1-87; Amd. effective 12-6-12)

Sec. 2.03. Mayor.

The mayor shall be the presiding officer of the council and shall be entitled to vote only to break a tie, when a council vacancy exists, in the absence of a councilor, or when a councilor has been recused due to conflict of interest. The mayor shall be recognized as the head of the city government for all ceremonial purposes, shall solely make appointments to committees and boards created under this Charter except as otherwise provided, and to statutory boards and commissions as are required by the Statutes of the State of Maine to be made by the municipal officers. Ad hoc advisory committees may be created by the mayor or the city council. The mayor shall, however, have (a) the sole authority to appoint the members of mayoral committees and, (b) after consulting with and offering the councilors an opportunity to comment on proposed appointments, to appoint the members of ad hoc committees created by the council.

(Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 2.04. President of the council.

The council shall elect for a one-year term, from among its members, a president who shall act as mayor during the temporary absence or temporary disability of the mayor, but the president shall have appointive powers only when the temporary absence or temporary disability of the mayor exceeds 45 consecutive calendar days. When the president of the council acts as presiding officer in the temporary absence of the mayor, the president shall be entitled to vote only as a councilor. In the event of the absence of both the mayor and president of the council at any duly scheduled meeting, the council shall elect from its members a temporary presiding officer. (Amd. effective 12-6-12; Amd. 12-02-21)

Sec. 2.05. Reserved.

Sec. 2.06. Forfeiture of office of councilor.

- (a) A vacancy in the office of councilor shall exist if a councilor:
- (1) Dies;
 - (2) Resigns;
 - (3) Moves from the ward from which elected or appointed to another ward within the city with more than twelve (12) months remaining in the term of office;
 - (4) Is convicted of a crime or offense involving moral turpitude while in office; or
 - (5) Is found in violation of section 8.04 of this Charter.

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- (6) Fails to attend three consecutive regular meetings of the city council without being excused by the mayor or president of the council, such excuse to be documented with the city clerk.
- (b) In the event that a vacancy in the office occurs as a result of the failure to elect a candidate at the regular city election, the remaining members of the council shall, within thirty (30) calendar days after the vacancy exists, either appoint an eligible person to fill the term or order that a special election be held.
- (c) If a vacancy in the office occurs one (1) year or more prior to the next regular municipal election for reasons other than that set forth in section 2.06(b), the vacancy for the unexpired term shall be filled by a special election. Such election shall be called and held and nominations made as in other elections.
- (d) If a vacancy in the office occurs less than one (1) year prior to the next regular municipal election, the remaining members of the council may appoint an eligible person to fill the unexpired term within thirty (30) calendar days after the vacancy exists. If the Council fails to make such appointment within said thirty (30) calendar days, the mayor shall appoint an eligible person to fill the unexpired term within ten (10) calendar days thereafter.
- (e) If, at any time, more than three (3) vacancies in the office of councilor exist, an election shall be held to fill such vacancies. Such election shall be called and held and nominations made as in other elections, except a majority of the remaining councilors may call such an election.

(Amd. effective 12-2-21)

Sec. 2.07. Forfeiture of office of mayor.

- (a) A vacancy in the office of mayor shall exist if the mayor:
 - (1) Dies;
 - (2) Resigns;
 - (3) Moves from the city;
 - (4) Is convicted of a crime or offense of moral turpitude while in office; or
 - (5) Is found to be in violation of section 8.04 of this Charter.
 - (6) Fails to attend three consecutive regular meetings of the city council without being excused by the council president or city council.
- (b) If a vacancy in the office occurs twelve (12) months or more prior to the next regular municipal election, the vacancy shall be filled by a special election for the unexpired term. Such election shall be called and held and nominations made as in other elections.
- (c) If a vacancy in the office occurs less than twelve (12) months prior to the next regular municipal election, the president of the council shall serve the remainder of the unexpired term as the mayor of the city with all the powers, privileges and authority of the mayor. In such event, the vacancy in the city council caused by the president of the council becoming the mayor shall not be filled.

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Sec. 2.08. Judge of qualifications.

The city council shall be the judge of the qualifications of its members, including the mayor, and of the grounds for forfeiture of their office. In order to exercise these powers, the council shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, whether residing within or without the State, to be taken in the manner prescribed by law for taking depositions in civil actions in the Maine Superior Court. A member charged with lacking the necessary qualifications to hold office or conduct constituting grounds for forfeiture of office shall be entitled to a hearing on demand, at which the individual charged shall have the opportunity to present witnesses and cross examine witnesses. Notice of such hearing shall be provided to the member at least seven (7) days in advance of the hearing via certified mail and, if available, by electronic means. If applicable under 1 MRSA Section 405(6) (A), the hearing shall take place in executive session unless the member charged requests it be done in public session. Removal from office requires the affirmative vote of at least five members of the council, including the mayor if voting under section 2.03, such vote to take place in public. The member charged shall be disqualified from voting on the question of removal.

(Amd. effective 12-2-21)

Sec. 2.09. Secretary to the council.

The city clerk shall be the secretary of the council. The clerk shall keep the journal of proceedings and perform such other duties as are assigned to the clerk by law, by this Charter, and by the city council. The clerk shall also give notice of council meetings to its members and shall post a notice of each meeting on a bulletin board in the city building and through such appropriate electronic means as the council may direct. (Amd. effective 12-6-12)

Sec. 2.10. Investigations.

Upon the affirmative vote of at least six (6) members of the council, the council may make investigations into the affairs of any city department, office or agency, and for this purpose shall enact an ordinance providing for the conduct of such investigations.

Sec. 2.11. Procedure.

- (a) *Meetings.* The council shall meet regularly, at least once in every month at such times and places as the council may prescribe by order. Special meetings may be held on the call of the mayor or of four (4) members by causing a notification to be given in hand or left at the usual dwelling place of each council member or through such other method of notification that the council may establish by order. Such notice shall be given not less than six (6) hours before the special meeting.
- (b) *Rules and journal.* The council shall determine its own rules and order of business and make lawful regulations for enforcing the same. It shall provide for keeping a journal of its proceedings. This journal shall be a public record and shall be kept in the office of the city clerk.
- (c) *Action by council.* The city council shall act only by ordinance, order, resolve or other decision based upon motion.

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- (d) *Voting.* Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four (4) members of the council shall constitute a quorum, but a smaller number may adjourn from time to time. No action of the council, except as provided in the preceding sentence and in section 2.06(d), shall be binding or valid unless adopted by the affirmative vote of four (4) or more members of the council, including the mayor if voting under section 2.03. (Amd. effective 12-6-12)

Sec. 2.12. Ordinances in general.

- (a) *Form.* Every proposed ordinance shall be introduced in writing. No ordinance shall contain more than one (1) subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Lewiston hereby ordains" Any ordinance which repeals or amends an existing ordinance shall set out the ordinance sections or subsections to be repealed or amended.
- (b) *Procedure.* A proposed ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to the mayor, each council member and to the city administrator; shall file a reasonable number of copies in the office of the clerk and such other public places as the council may designate; and shall publish the proposed ordinance, together with a notice, setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least four (4) calendar days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment, or reject it.
- (c) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of thirty (30) calendar days after adoption or at any later date specified therein.
- (d) *"Publish" defined.* As used in this section, the term "publish" means to print in one (1) or more newspapers of general circulation in the city:
- (1) The ordinance or a brief summary thereof prepared by the city clerk,
 - (2) The places where copies of it have been filed and the times when they are available for public inspection, and
 - (3) The date, time and place of the public hearing.

(Amd. effective 12-6-12)

Sec. 2.13. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one (1) or more emergency ordinances. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment at the meeting at which it is

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introduced, but at least five affirmative votes shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall stand repealed as of the sixty-first (61st) calendar day following the date on which it was adopted; but this shall not prevent re-enactment of the ordinance in the manner specified in this section, if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. It shall not be necessary to publish the emergency ordinance prior to its enactment, but public hearing shall be had thereon. (Amd. effective 12-6-12)

Sec. 2.14. Initiative and referendum.

The council shall, in accordance with the provisions of the Constitution of the State of Maine, Article IV, Part 3, section 21, enact an ordinance relating to initiative. Said ordinance may provide for one (1) or more methods of exercising such initiative, one (1) of which methods shall include the public circulation of petitions.

ARTICLE III. CITY ADMINISTRATOR

Sec. 3.01. Appointment, qualifications, compensation.

The city council shall appoint a city administrator and fix the administrator's compensation. The city administrator shall serve at the will of the council. The administrator shall be appointed on the basis of executive and administrative qualifications and his technical knowledge of municipal management. The administrator need not be a resident of the city or state at the time of his appointment, but may reside outside the city while in office only with the approval of the council. The administrator shall give bond to the City of Lewiston for the faithful discharge of the duties of the office of administrator. The bonds premium shall be paid by the city.

Sec. 3.02. Powers and duties of the city administrator.

The city administrator shall be the chief administrative officer of the city and shall be responsible to the council for the administration of all city affairs placed in the administrator's charge by or under this Charter. The administrator shall have the following powers and duties:

- (a) Except as may otherwise be provided by this Charter, appoint, without confirmation by the city council, all department heads, and other officers and employees responsible directly to the city administrator. The chief financial officer of the city shall be appointed by the city administrator and confirmed by the city council.
- (b) When deemed necessary for the good of the city, suspend and remove any city employee or appointive administrative officer provided for, by or under this Charter, except as otherwise provided by law, by this Charter or by personnel rules adopted pursuant to this Charter. Where council confirmation is necessary for appointment, it shall also be required for removal.
- (c) To authorize any administrative officer who is subject to the administrator's direction and supervision to suspend or remove subordinates in that officer's

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department, office or agency.

- (d) To direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by the Charter or by law.
- (e) To attend all council meetings, unless excused by the mayor or council president, and to have the right to take part in discussion but not to vote.
- (f) To see that all laws, provisions of the Charter and acts of the council, subject to enforcement by the administrator or by officers subject to the administrator's direction and supervision, are faithfully executed.
- (g) To prepare and submit the annual budget, the annual capital program and annual financial and administrative reports to the council.
- (h) To prepare and submit to the council such reports and perform such duties as the council may require and make such recommendations to the council concerning the affairs of the city as deemed desirable.

(Amd. effective 12-6-12)

Sec. 3.03. Acting city administrator.

During any vacancy in the office of city administrator and during any temporary absence or disability of the city administrator of more than thirty (30) consecutive calendar days, the council may designate a properly qualified person to perform the duties of city administrator and fix such person's compensation. During a temporary absence of thirty (30) calendar days or less, the city administrator may designate a qualified person to perform the duties of administrator during such absence. While so acting, such person shall have the same powers and duties as those given to and imposed on the city administrator. (Amd. effective 12-6-12)

Sec. 3.04. Removal.

The council may remove the administrator from office in accordance with the following procedures:

- (a) The council shall adopt, by affirmative vote of at least four (4) councilors, a preliminary resolution which must state the reasons for removal and may suspend the administrator from duty for a period not to exceed forty-five (45) calendar days. A copy of the resolution shall be promptly served on the administrator.
- (b) Within ten (10) calendar days after being served a copy of the resolution, the administrator may file with the council a written request for a public hearing. This hearing shall be held at a regular or special council meeting not earlier than fifteen (15) nor later than thirty (30) calendar days after a request is filed. The administrator shall file with the council a written reply to the stated reasons not later than five (5) calendar days before the hearing.
- (c) The council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of at least four (4) councilors at any time after ten (10) calendar days from the date when a copy of the preliminary resolution was served upon the administrator, if the administrator has not

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requested a public hearing, or at any time after the public hearing, if one is requested.

- (d) The administrator shall continue to receive a salary until the effective date of the final council resolution of removal.

Sec. 3.05. Noninterference.

Except for the purpose of investigation as set forth in section 2.09 of this Charter, the mayor and the members of the council shall deal with the administrative service solely through the administrator. Neither the mayor nor members of the council shall give orders to any subordinate of the administrator either publicly or privately.

ARTICLE IV. ADMINISTRATIVE ORGANIZATION

Sec. 4.01. General provisions.

- (a) *Creation of departments.* The council, by ordinance, may create, change and abolish offices, departments and agencies, other than the offices, departments and agencies established by this Charter. The council, by ordinance, may assign additional functions or duties to offices, departments or agencies established by this Charter, but may neither discontinue nor assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.
- (b) *Direction by administrator.* All departments, offices and agencies under the direction and supervision of the administrator shall be administered by an officer appointed by and subject to the direction and supervision of the administrator, except as otherwise provided in this Charter. With the consent of the council, the administrator may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

Sec. 4.02. Reserved.

Sec. 4.03. Reserved.

Editor's note: Charter amendment effective Jan. 1, 2007, repealed § 4.03 in its entirety. Formerly, said section pertained to the Personnel Board.

Sec. 4.04. City attorney.

There shall be a city attorney nominated by the administrator and appointed by the city council who shall serve at the will of the council. The city attorney shall serve as chief legal advisor to the council, the administrator, and all city departments, boards, agencies, committees and commissions. The city attorney shall represent the city in all legal proceedings and shall perform any other duties prescribed by ordinance and law. The city council shall have the right to employ or retain special attorneys, if it deems it to be in the best interest of the city.

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Sec. 4.05. Planning board.

- (a) *Appointment.* There shall be a planning board consisting of seven (7) members, each of whom shall be a qualified voter of the City of Lewiston and who shall be appointed by the mayor and confirmed by the city council. No more than two (2) members may reside in the same ward. All members shall be appointed for three-year terms.

There shall be, in addition to the seven (7) members of the board, two (2) associate members of the board, each of whom shall be a qualified voter of the City of Lewiston, appointed by the mayor. The associate members are subject to the same ward residency requirements as the regular members. They shall serve for three-year staggered terms. An associate member shall serve in the place of a member who is absent, disqualified or otherwise unable to participate when designated by the chair person to do so.

- (b) *Compensation.* Each member shall receive compensation at the rate established by ordinance by the city council.
- (c) *Duties.* The planning board shall carry out those duties assigned to it by general law and by ordinance.
- (d) *Rules of procedure.* The planning board shall adopt appropriate rules of procedure consistent with the provisions of this Charter to enable it to carry out its functions.

(Amd. effective 1-1-03; Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 4.06. Board of appeals.

- (a) *Appointment.* There shall be a board of appeals consisting of seven (7) members, each of whom shall be a qualified voter of the City of Lewiston and who shall be appointed by the mayor. No more than two (2) members may reside in the same ward. All members shall be appointed for three-year terms.

There shall be, in addition to the seven (7) members of the board, two (2) associate members of the board, each of whom shall be a qualified voter of the City of Lewiston, appointed by the mayor. The associate members are subject to the same ward residency requirements as the regular members. They shall serve for three-year staggered terms. An associate member shall serve in the place of a member who is absent, disqualified or otherwise unable to participate when designated by the chair person to do so.

- (b) *Compensation.* Each member shall receive compensation at the rate established by ordinance by the city council.
- (c) *Duties.* The board of appeals shall carry out those duties assigned to it by general law and by ordinance.
- (d) *Rules of procedure.* The board of appeals shall adopt appropriate rules of procedure consistent with the provisions of this Charter to enable it to carry out its functions.
- (e) *Limitation.* A member of the Board of Appeals may not serve concurrently on any other board or committee created by this Charter or whose actions may be appealable to the Board of Appeals.

(Ord. No. C95-1, 1-9-96; Amd. effective 12-6-12; Amd. effective 12-2-21)

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Sec. 4.07. Forfeiture of office.

A member of the planning board or board of appeals shall forfeit office and a vacancy therein shall exist, if a member:

- (1) Dies;
- (2) Resigns;
- (3) Moves from the city;
- (4) In the case of the planning board and board of appeals, moves into a ward in which there are currently two (2) members of the same board;
- (5) Is convicted of a crime or offense involving moral turpitude while in office;
- (6) Is found to be in violation of section 8.04 of this Charter; or
- (7) Exceeds the tenure authorized for the office.
- (8) Fails to attend three consecutive regular meetings of the board without being excused by the chair or, in the case of the chair, by the board.

If any vacancy should occur, it shall be filled for the remainder of the unexpired term by appointment of the mayor.

(Amd. eff. 1-1-07; Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 4.08. Limitation of terms.

No member of any board established by this article shall serve more than three full consecutive terms on the same board.

Sec. 4.09. Removal from appointive office.

The city council, upon request from the mayor, or upon the written request or request to the City Clerk from three councilors, shall judge the qualifications of the members of any board established by this article and of the grounds for removal from or forfeiture of their office. In order to exercise these powers, the council shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, whether residing within or without the State, to be taken in the manner prescribed by law for taking depositions in civil actions in the Maine Superior Court. A member charged with conduct constituting grounds for forfeiture of or removal from office shall be entitled to a hearing at which the individual charged shall have the opportunity to present witnesses and cross examine witnesses. Notice of such hearing shall be provided to the member at least seven (7) days in advance of the hearing via certified mail and, if available, by electronic means. If applicable under 1 MRSA Section 405(6) (A), the hearing shall take place in executive session unless the member charged requests it be done in public session. Removal from office requires the affirmative vote of at least five members of the council, including the mayor if voting under section 2.03, such vote to take place in public.

(Amd. effective 12-2-21)

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ARTICLE V. SCHOOL ADMINISTRATION

Sec. 5.01. School committee.

- (a) *Election and appointment.* There shall be a school committee of nine (9) members, composed of one (1) qualified voter to be elected from each ward, one (1) at-large member to be elected from any ward, all of whom shall serve for two (2) year staggered terms, and one (1) city council member to be nominated by the mayor and appointed by the city council from any ward, who shall serve a one (1) year term, as set forth herein, and until their successors are elected and/or appointed and qualified. The qualified voters of each of the seven (7) wards of the city shall nominate and elect a school committee member who shall be qualified to vote in the ward from which elected and the qualified voters of the entire city shall nominate and elect one (1) at-large school committee member who shall be qualified to vote in any ward. Nominations and elections shall be conducted as provided in Article VII. The mayor shall nominate one (1) councilor from any ward, who shall be appointed by the city council, at the first city council meeting in January after each regular municipal election. If an elective position on the school committee is not filled at a regular municipal election, the mayor shall nominate, subject to the consent of the city council, an eligible individual for appointment to assume the vacant position. At the first regularly scheduled municipal election after adoption of this provision, which shall take place in November 2023, the at-large school committee member and school committee members elected from wards 2, 4, and 6 shall serve an initial two-year term; members from wards 1, 3, 5, and 7 shall serve an initial three-year term. Thereafter, all members shall be elected for two-year terms.
- (b) *Compensation.* Each member shall receive compensation at the rate set by ordinance by the city council.
- (c) *Forfeiture of office.* A member of the school committee shall forfeit office and a vacancy therein shall exist if the member:
- (1) Dies;
 - (2) Resigns;
 - (3) For the seven (7) members elected by ward, moves from the ward in which elected or appointed to another ward within the city with more than twelve (12) months remaining in the term of office;
 - (4) For the one (1) at-large member, moves from the city;
 - (5) Is convicted of a crime or offense involving moral turpitude while in office;
 - (6) Is found to be in violation of section 8.04 of this Charter; or
 - (7) For the councilor member, is no longer a member of the city council.
 - (8) Fails to attend three consecutive regular meetings of the school committee without being excused by the chair or, in the case of the chair, by the school committee.

If any vacancy in office of any elected member occurs, the vacancy shall be filled from the same ward for the remainder of the unexpired term by nomination of the mayor, subject to the consent

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of the city council, except that the at-large school committee member may be from any ward. If there is any vacancy in the office of the city council member, it shall be filled by nomination of a councilor by the mayor subject to consent by the city council.

(Ord. No. C86-1, §§ 2--4, 1-1-87; Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 5.02. Judge of qualifications.

The school committee shall be the judge of the qualifications of its members, excluding the member appointed by the city council, and of the grounds for forfeiture of their office. In order to exercise these powers, the committee shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, whether residing within or without the State, to be taken in the manner prescribed by law for taking depositions in civil actions in the Maine Superior Court. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a hearing at which the individual charged shall have the opportunity to present witnesses and cross examine witnesses. Notice of such hearing shall be provided to the member at least seven (7) days in advance of the hearing via certified mail and, if available, by electronic means. If applicable under 1 MRSA Section 405(6) (A), the hearing shall take place in executive session unless the member charged requests it be done in public session. Removal from office requires the affirmative vote of a least six members of the committee, such vote to take place in public. The member charged shall be disqualified from voting on the question of removal.

(Amd. effective 12-2-21)

Sec. 5.03. Chairperson.

At its first meeting in January, or as soon thereafter as possible, the school committee shall elect by majority vote of the entire committee, one (1) of its members as chairperson of the school committee for a one-year term. The said committee may fill for the unexpired term any vacancy in the office of chairperson that may occur. The chairperson shall preside at all meetings of the school committee and shall have a vote as other members of said committee.

(Amd. effective 12-2-21)

Sec. 5.04. Powers and duties.

- (a) *General powers and duties.* The school committee shall have all the powers and shall perform all duties necessary for care and management of the city's public schools pursuant to the general laws of the State of Maine, which grant these powers and responsibilities to the school committee. The school committee shall accomplish its duties within the financial limitations established by the city council in its annual appropriation resolve and such supplemental appropriations voted by the city council, together with such other revenues it may receive from the federal or state governments, as well as gifts, grants, and payments from other sources. The school committee shall submit to the city council at least three (3) months prior to the end of the current fiscal year, for inclusion in the budget submitted to the city council under Article VI, budget estimates for the various sums required for the support of public schools for the ensuing uniform school fiscal year and shall thereafter provide the city council with such

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information relating to such estimates as the city council shall require. The school committee shall comply with all Charter provisions contained under Article VI to the extent that those provisions do not conflict with the general laws of the State of Maine.

- (b) *Employees.* All school department employees, including the superintendent of schools shall be hired by the school committee. The school committee shall choose a superintendent of schools solely on the basis of executive and administrative qualifications. The superintendent of schools need not be a resident of the city at the time of appointment, but shall be a resident of the city during tenure in office unless otherwise approved by the school committee.

(Ord. No. C87-1, 11-3-87; Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 5.05. General supervision over finances.

The city administrator shall establish a system of bookkeeping, auditing, purchasing and records pertaining to all financial transactions of the school committee, and may establish rules governing such procedure not inconsistent with the provisions of law, of this Charter or the Ordinances of the city. (Amd. effective 12-6-12)

Sec. 5.06. Meetings

The school committee shall meet at such time and place as it determines by rule. Meetings of the school committee other than executive session shall be open to the public as required by state statute, and the school committee shall promote public participation in and public notice of its meetings in the contemporary means of information sharing. Agendas and supporting information for meetings shall be available to the public at the superintendent of schools' office at least two business days prior to the meeting as well as electronically through the city's or school's website, if available. (Amd. effective 12-6-12)

Section 5.07. Quorum

A majority of the voting members of the school committee shall constitute a quorum for the transaction of business, but a smaller number may adjourn or compel attendance of absent members. (Amd. effective 12-6-12)

Section 5.08. Record

The school committee shall keep a record of its own proceedings which, except for executive sessions, shall be available to the public. . (Amd. effective 12-6-12)

Section 5.09. Voting.

A roll call vote shall be taken on the passage of any order or resolve when requested by any member. Any action by the school committee shall require at least five affirmative votes. (Amd. effective 12-6-12)

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ARTICLE VI. FINANCIAL PROCEDURES

Sec. 6.01. Fiscal year.

- (a) *Fiscal year.* The fiscal year of the city shall be established by the council by resolution.
- (b) *School committee subject to Article VI.* The school committee shall comply with and be subject to the provisions of this article, to the extent that such provisions do not conflict with the provisions of general law relating to adopting the annual school budget and a uniform school fiscal year.

(Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 6.02. Submission of budget and budget message.

At least three (3) months prior to the end of the current fiscal year, the administrator shall submit to the council a budget for the ensuing fiscal year and an accompanying message. The council may establish regulations and procedures to carry out the purpose of this article, including the referral of the budget to the finance committee for its review.

(Ord. No. C87-1, 11-3-87)

Sec. 6.03. Budget message.

The administrator's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the city's debt position and include such other material as the administrator deems desirable. It shall also describe the tax impact of the proposed budget.

Sec. 6.04. Budget.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, and except as required by this charter, shall be in such form as the administrator deems desirable or the council may require. In organizing the budget, the administrator shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents, shall show in detail all estimated income, indicating the proposed property tax levy and all proposed expenditures including debt service for the ensuing fiscal year, and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable and the proposed method of financing each such capital expenditure;

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- (c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the city and the proposed method of its disposition (subsidiary budgets for each such utility giving detailed income and expenditures information shall be attached as appendices to the budget); and
- (d) Comparative statements reflecting actual expenditures for the current year and estimated expenditures for the next succeeding fiscal year shall be set forth in parallel columns. An increase or decrease in any item shall be indicated.

The total of proposed expenditures shall not exceed the total of estimated income.

Sec. 6.05. Capital program.

- (a) *Submission to council.* The administrator shall each year prepare and submit to the council a five-year capital program, including the capital program proposed for the school department, at least five and one-half (5 1/2) months prior to the end of the current fiscal year. The administrator shall concurrently refer the capital program to the planning board for its review.
- (b) *Contents.* The capital program shall include:
 - (1) A clear general summary of its contents;
 - (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 - (3) Cost estimates, method of financing and recommended time schedules for each improvement; and
 - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

- (c) *Planning board review.* The planning board shall review the proposed capital program each year, and following public hearing thereon, shall forward its recommendations to the city council at least four and one-half (4 1/2) months prior to the end of the current fiscal year.

(Ord. No. C87-1, 11-3-87)

Sec. 6.06. Council action on capital program.

- (a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city the general summary of the capital program and a notice stating:
 - (1) The times and places where copies of the capital program are available for inspection by the public;
 - (2) The time and place, no less than seven (7) nor more than fifteen (15) calendar days after such publication, for a public hearing on the capital program.

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- (b) *Copy at public library.* A copy of the capital program shall be filed in the Lewiston Public Library.
- (c) *Notice in city building.* Notice shall also be posted in the city building.
- (d) *Electronic Availability.* Notice of the budget or the budget itself shall be made available through the city web site or other current technologies as the city council deems appropriate.
- (e) *Adoption.* The council by resolution shall adopt the capital program with or without amendment after the public hearing and at least four (4) months prior to the end of the current fiscal year. Adoption as provided herein shall not constitute the appropriation of funds.

(Ord. No. C87-1, 11-3-87; Amd. effective 12-6-12)

Sec. 6.07. Council action on budget.

- (a) *Notice and hearing.* The city council shall publish in one (1) or more newspapers of general circulation in the city the general summary of the budget and a notice stating:
 - (1) The times and places where copies of the message and budget are available for inspection by the public, and
 - (2) The time and place, no less than seven (7) nor more than fifteen (15) calendar days after such publication, for public hearing on the budget.
- (b) *Copy at public library.* A copy of the budget message and the budget shall be filed in the Lewiston Public Library.
- (c) *Notice in city building.* Notice shall also be posted in the city building.
- (d) *Electronic Availability.* Notice of the budget or the budget itself shall be made available through the city web site or other current technologies as the city council deems appropriate.
- (e) *Action on school budget.* The school budget shall be adopted in conformity with the requirements of state law. The provisions of this section VI shall apply to the school budget only to the extent that such requirements do not conflict with state law.
- (f) *Amendment before adoption.* After the public hearing the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendments to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.
- (g) *Adoption.* The council shall by resolution adopt the budget not later than one (1) month prior to the end of the then current fiscal year. In the event the council fails to adopt the budget at least one (1) month prior to the end of the then current fiscal year, the administrator shall, within seventy-two (72) hours thereafter, present a final budget to the council covering all non-school budgets. If the council shall fail to adopt a budget prior to the end of the then current fiscal year, the administrator's final budget shall be deemed to be automatically adopted. Adoption of the budget shall constitute appropriations of the

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amounts specified therein as expenditures from the funds indicated. The city council may adopt the school budget at a separate time from the remainder of the budget.

- (h) *Budget expenditure limit.* The percent increase in the municipal tax levy, when compared to the preceding fiscal year budget, shall not exceed the percent increase of the Consumer Price Index Urban Northeast (CPI-U Northeast) (Source: United States Bureau of Labor Statistics, Department of Labor) as compiled for the 12-month period ending December 31 of the previous year. Pursuant to this subsection, Section 2-31 of the Code of Ordinances is hereby repealed.
- (i) *Exception:* When deemed necessary by the city council, the provisions of subsection (g) of this section may be waived by five affirmative votes of the municipal officers.

(Ord. No. C87-1, 11-3-87; Ord. No. C95-2, 1-9-96; Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 6.08. Public records.

Copies of the budget and the capital program as adopted shall be public records and shall be made available for inspection by the public at the Lewiston Public Library at such other places as may be designated by the council, and through appropriate electronic methods.

(Amd. effective 12-6-12)

Sec. 6.09. Amendments after adoption.

- (a) *Supplemental appropriations.* If during the fiscal year the administrator certifies that there are available for appropriation, revenues in excess of the total estimated in the budget, the council by resolution after public hearing, may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by resolution. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by resolution authorize the issuance of temporary notes, which may be renewed from time to time, but the temporary notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the administrator that the revenues available will be insufficient to meet the amount appropriated, the administrator shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce one or more appropriations.
- (d) *Transfer of appropriations.* At any time during the fiscal year the administrator may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the administrator, the council may by resolution transfer part or all of any unencumbered balance thereof to another department, office or agency.

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- (e) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 6.10. Lapse of appropriations.

Every budgetary account shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered.

Sec. 6.11. Administration of the budget.

The administrator or designee may make allotments to departments, offices and agencies in accordance with estimated seasonal or periodic needs and may revise such allotments. No expenditure may be made or obligation incurred unless the administrator or designee first certifies that there is a sufficient unencumbered balance in the appropriate allotment or appropriation. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter may be cause for removal of the person who knowingly authorized or made such payment or incurred such obligations. Notwithstanding the preceding provisions of this section, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by council resolution.

Sec. 6.12. Annual postaudit.

Council shall appoint an accounting firm, whose minimum qualification shall include certified public accountants on staff, for the purpose of conducting the annual postaudit of the current fiscal year's municipal finances, as required by law. The council may enter into multi-year contracts pursuant to the competitive bid process for terms not to exceed five (5) consecutive fiscal years. (Amd. effective 12-6-12)

Sec. 6.13. Temporary borrowing.

Money may be borrowed temporarily in anticipation of taxes or of the issuance of bonds, in accordance with the provisions of 30-A M.R.S.A. § 5771, as amended.

(Amd. effective 12-6-12)

Sec. 6.14. Bond issues.

The city may issue general obligation and revenue obligation securities for funding or refunding all or any part of its debt or for any purpose for which it may raise money in accordance with Maine Statutes. Before passage of an order or orders providing for the issuance of bonds, the city council shall hold a public hearing, notice of which shall be advertised at least once in one (1) or more newspapers of general circulation in Lewiston, such publication to be made not less than seven (7) calendar days and no more than fifteen (15) calendar days before

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the public hearing. Final action on the order or orders must take place no later than sixty (60) calendar days following the public hearing. In addition to the public hearing required herein, where the amount of any single purpose bonds authorized for an individual project exceeds fifteen (15) percent of the property tax levy of the preceding fiscal year, such authorization must be approved by the voters at a regular or special election prior to issuance.

(Amd. effective 12-6-12)

Sec. 6.15. Finance committee.

- (a) *Appointment.* There shall be a finance committee composed of five (5) members, who shall be appointed as follows: The president of the city council shall appoint two (2) members of the city council to serve two-year terms; the mayor shall appoint three (3) qualified voters of Lewiston to serve staggered three-year terms. All terms shall be for three (3) years. No non-city-council member shall serve on the finance committee for more than six (6) consecutive years.
- (b) *Compensation.* The members of the finance committee shall receive compensation at the rate established by ordinance by the city council. Compensation paid to members of the finance committee may be changed by ordinance, but no such ordinance increasing compensation for a member of the finance committee who is a member of the city council shall take effect during the term for which the councilor was elected.
- (c) *Duties.* The finance committee shall:
 - (1) Approve contracts for the purchase of materials and services procured through the competitive bid process;
 - (2) Determine the amount of bonds required of officers and agents of the city; and
- (d) *Appeal.* Any party, including employees of the city, aggrieved by action of the finance committee taken under section 6.15(c), may appeal such action to the council within seven (7) calendar days from the date of the action which is the subject of the appeal.
- (e) *Advisory functions.* The finance committee shall also advise the council on such financial matters as the council may refer to it.
- (f) *Rules of procedure.* The finance committee shall adopt appropriate rules of procedure consistent with the provisions of this Charter and policies adopted by the city council, to enable it to carry out its functions.
- (g) *Forfeiture.*
 - (1) A member of the finance committee appointed by the mayor shall forfeit office and a vacancy therein shall exist if the member:
 - a. Dies;
 - b. Resigns;
 - c. Is convicted of a crime or offense involving moral turpitude while in office;
 - d. Is found to be in violation of section 8.04 of this Charter; or

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e. Exceeds the tenure authorized for the office.

If any vacancy shall occur, the vacancy shall be filled for the remainder of the unexpired term by appointment of the mayor.

(2) A member of the finance committee who is a member of the city council shall forfeit office and a vacancy therein shall exist if that member is no longer a member of the city council.

If any vacancy shall occur, the vacancy shall be filled by a member of the city council appointed by the president of the council for the remainder of the unexpired term.

(h) *Judge of qualifications.* The city council, upon request from the mayor, or upon the written request or request to the City Clerk from three councilors, shall be the judge of the qualifications of the members of the finance committee appointed by the mayor and of the grounds for removal from or forfeiture of their office. In order to exercise these powers, the council shall have the power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, whether residing within or without the State, to be taken in the manner prescribed by law for taking depositions in civil actions in the Maine Superior Court. A member charged with conduct constituting grounds for forfeiture of or removal from office shall be entitled to a hearing at which the individual charged shall have the opportunity to present witnesses and cross examine witnesses. Notice of such hearing shall be provided to the member at least seven (7) days in advance of the hearing via certified mail and, if available, by electronic means. If applicable under 1 MRSA Section 405(6) (A), the hearing shall take place in executive session unless the member charged requests it be done in public session. Removal from office requires the affirmative vote of at least five members of the council, including the mayor if voting under section 2.03, such vote to take place in public.

(Amd. effective 12-6-12; Amd. effective 12-2-21)

ARTICLE VII. NOMINATIONS AND ELECTIONS

Sec. 7.01. Conduct of elections.

The regular municipal election shall be held on the first Tuesday after the first Monday in November of each year. Except as otherwise provided by this Charter, the provisions of Title 21[-A] and Title 30[-A] of the Revised Statutes, as amended, shall apply to elections held under this Charter. All elections called for under this Charter shall be conducted by the election officials established under Title 21[-A]. For the conduct of elections, for the prevention of fraud in such elections and for the recount of ballots in cases of fraud or doubt, the council shall adopt, by ordinance, all regulations which it considers desirable, consistent with law and this Charter. "Qualified voter" shall mean any person qualified and registered to vote under law.

(Amd. effective 12-2-21)

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Sec. 7.02. Nomination by petition.

- (a) *Petitions.* Candidates for elective office in the City of Lewiston shall be nominated by petition. Any eligible and qualified voter of the city may be nominated for election to the office of mayor by a petition signed by not less than one hundred (100) nor more than two hundred (200) qualified voters of the city. Any eligible and qualified voter of a ward may be nominated for election to the office of city councilor by a petition signed by not less than fifty (50) nor more than one hundred (100) qualified voters of the ward. Except for the office of at-large school committee, any eligible and qualified voter of a ward may be nominated for election to the office of school committee by a petition signed by not less than fifty (50) nor more than one hundred (100) qualified voters of the ward. Any eligible and qualified voter of the city may be nominated for election to the office of at-large school committee by a petition signed by not less than fifty (50) nor more than one hundred (100) qualified voters of the city.
- (b) *Nomination petitions.* The signatures to a nomination petition need not all be affixed to one paper, but each separate paper of a petition shall contain an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in the circulator's presence, and that the circulator believes each signature to be the genuine signature of the person whose name it purports to be. Such signatures shall be executed in ink. Each signer shall indicate next to the signer's signature the street address where the signer resides. The nomination petitions shall be on forms prepared by the city clerk. No nomination petitions shall be issued by the city clerk or circulated for signatures more than one hundred thirty-five (135) calendar days prior to election day.
- (c) *Filing and acceptance of nomination petitions.* All separate papers comprising a nomination petition shall be assembled and filed with the city clerk as one (1) instrument not earlier than one hundred thirty-five (135) calendar days nor later than the normal close of business of the city clerk's office on the seventy-fifth (75th) calendar day before the election. If the seventy-fifth (75th) calendar day falls on a Saturday, Sunday or legal holiday, the final filing date shall be the next regular business day. The council may, upon recommendation of the city clerk, set a shorter time period for the filing of nomination petitions for special elections. Under no conditions shall the time period for circulating petitions be less than ten (10) calendar days, nor the last filing date closer than two (2) weeks prior to the date of the election. The clerk shall make a record of the exact time when each petition is filed. No nomination petition shall be accepted unless accompanied by a signed acceptance of the nomination.
- (d) *Objections to candidate.* All objections to the regularity or validity of the petition of any person shall be made within five (5) calendar days after the final filing date by written notice filed with the city clerk setting forth the grounds of objections. In case no such objection is filed within the five-day period herein prescribed, the regularity or validity of the nomination petition shall not be contested thereafter.
- (e) *Certification of petition validity.* Upon receiving a nomination petition and statement of acceptance of any candidate, the city clerk shall then have the board of registration certify the validity of any petition having a sufficient number of proper signatures. If a petition is found insufficient, the clerk shall return it immediately to the person who filed it with a statement setting forth wherein it is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition or a different

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petition may be filed for the same candidate. The clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

- (f) *Eligibility.* The candidates for election as councilor and school committee members, except for the at-large school committee member, must be at least twenty (20) years of age and have been registered voters and qualified to vote in their respective wards for a period of at least three (3) months next prior to the last date on which the nomination papers are to be filed. The candidates for election as at-large school committee member must be at least twenty (20) years of age and have been registered voters and qualified to vote in the City of Lewiston at least three (3) months next prior to the last date on which the nomination papers are to be filed. The candidates for election as mayor must be at least twenty (20) years of age and have been registered voters and qualified to vote in the City of Lewiston at least six (6) months next prior to the last date on which the nomination papers are to be filed.

(Ord. No. C86-1, §§ 5, 6, 1-1-87; Ord. No. C87-2, 11-3-87)

Sec. 7.03. Names on ballots.

- (a) *Candidates for mayor.* The full names and street addresses of all candidates nominated for the office of mayor, except those who have died or become ineligible, shall be printed on the official and specimen ballots without party designation under a heading which reads "For Mayor."
- (b) *Candidates for city council.* The full names and addresses of all candidates nominated for the office of councilor, except those who have died or become ineligible, shall be printed only on the official and specimen ballots for their respective wards, without party designation, under a heading which reads "For Councilor."
- (c) *Candidates for school committee.* The full names and addresses of all at-large candidates nominated for the office of school committee, except those who have died or become ineligible, shall be printed only on the official and specimen ballots, without party designation, under a heading which reads "For School Committee At-Large," except that the full names and addresses of all candidates nominated for the office of school committee by wards, except those who have died or become ineligible, shall be printed only on the official and specimen ballots for their respective wards, without party designation, under a heading which reads "For School Committee."

(Ord. No. C86-1, § 7, 1-1-87)

Sec. 7.04. Order of candidate surnames.

Where two (2) or more candidates have been nominated for the same office, the names of said candidates shall appear on the ballot in alphabetical order.

Sec. 7.05. Write-In Candidates.

In order for ballots cast for a write-in candidate to be counted, such candidate must (a) register as a candidate with the City Clerk at least 30 calendar days prior to the date of the election and (b) be eligible for the office sought.

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(Amd. effective 12-6-12)

Sec. 7.06. Election posting.

The city clerk or designee shall post a properly executed copy of the election warrant and specimen ballot at the places where the election is to be held. Said notice shall be posted at least seven (7) calendar days before the date of said election.

Sec. 7.07. Determination of election results.

- (a) *Number of votes.* Each voter shall be entitled to vote for as many candidates as there are vacancies to be filled.
- (b) *Absentee voting.* Each qualified voter who desires to cast an absentee vote at a regular city election or special election shall be entitled to an official ballot and the right to cast such ballot in accordance with the provisions of 21-A M.R.S.A. subchapter IV, as amended.
- (c) *Plurality.* Except where otherwise provided, elections shall be determined by plurality vote. In case of a tie vote for any elective office, a new election shall be held on a date to be determined by the city council, said date to be no more than forty-five (45) calendar days from the date of the regular municipal election, but the only names appearing on the ballot shall be those candidates who receive the tie vote.
- (d) *Mayoral runoff election.* If it should appear that no person has received a majority of all votes cast for mayor, a special election to be known as a runoff election shall be held on a date to be determined by the city council, said date to be no more than forty-five (45) calendar days from the date of the regular municipal election. The candidate receiving the highest number of votes at such election shall be declared to be elected. The names to be placed upon the ballot at said election shall be determined as follows:
 - (1) If but one (1) candidate has received the highest number of votes and but one (1) candidate has received the next highest number of votes, their names only shall be placed upon the ballot.
 - (2) If two (2) or more candidates have received the same number of votes and a number higher than those received by any other candidates, only the names of such candidates, whether they be two (2) or more, shall be placed upon the ballot.
 - (3) If one (1) candidate has received the highest number of votes and two (2) or more candidates have received the same number of votes, which number shall have been next lower than that received by the candidate receiving the highest number, only the name of the candidate who has received the highest number and the candidates, whether two (2) or more, who have received the next highest number of votes shall be placed upon the ballot.
- (e) *Write-In Candidates.* In order to be eligible to be elected, a write-in candidate must receive at least the same number of votes as are required for nomination for the position for which the write-in candidate is competing.

(Amd. effective 12-6-12)

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Sec. 7.08. Wardens and ward clerks.

- (a) *Appointment by city clerk.* The city clerk shall, with the approval of the city councilors, appoint a warden and ward clerk for each of the voting precincts. The wardens and ward clerks shall serve for two-year terms concurrent with the terms of the members of the city council.
- (b) *Vacancy.* In the case of a vacancy in the office of warden or ward clerk, the city clerk shall appoint a person for the remainder of the term.

ARTICLE VIII. GENERAL PROVISIONS

Sec. 8.01. Terms of officers and employees.

- (a) *Elected officers.* The term of any elected officer shall date from the first Monday in January next following election, except that in the event the first Monday shall fall on a holiday or the day following a holiday, then on the following Tuesday. If a person is elected to fill a vacancy in office, that person's term shall begin immediately upon taking the oath of office.
- (b) *Appointive officers and employees.* Except as may otherwise be provided in this Charter, all city officers, employees and appointees shall serve at the pleasure of the appointing power.

(Amd. effective 12-6-12)

Sec. 8.02. First council meeting.

The city council shall convene on the first Monday in January next following its election; except that in the event the first Monday shall fall on a holiday or the day following a holiday, then on the following Tuesday.

(Amd. effective 12-6-12)

Sec. 8.03. Swearing in officers.

All officers provided for in this Charter, whether elective or appointive, shall, before assuming their respective duties, qualify by being sworn to the faithful performance thereof before the city clerk or some magistrate thereto qualified.

Sec. 8.04. Personal financial interest.

If any elected or appointed official, officer or employee or the spouse of any such person has a financial interest, direct or indirect, in any contract with the city or in the purchase or sale of any land, material, supplies or services to the city or to a contractor supplying the city, that official shall make known that interest and shall refrain from voting upon or otherwise participating in the capacity of an elected or appointed official, officer or employee, in the making of such purchase or sale or in the making or performance of such contract. Any such person who willfully conceals a personal financial interest or that of a spouse, or willfully violates the requirements of this section, shall be guilty of malfeasance in office or position and shall forfeit the office or position. Violation of this section with the knowledge, express or

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implied, of the person or corporation contracting with or making a purchase from or a sale to the city, shall render the contract, purchase or sale voidable by the city.

Sec. 8.05. Prohibitions.

- (a) *Activities prohibited.* No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any city position or appointive city administrative office because of race, sex, political or religious opinions or affiliations or on any other basis prohibited by statute of general application.
- (b) *Penalties.* Any person convicted of any crimes involving falsification in official matters, bribery, corrupt practices or obstructing governmental administration, as these crimes are defined in the Revised Statutes of Maine, as amended, shall be ineligible for a period of two (2) years following said conviction to hold any city office or employment, except as otherwise provided by law.
- (c) *Elective office.* Except as otherwise provided by law, no person who holds an appointive office in the city government or is an employee of the city, including the school department, shall hold an elective office in the city government. However, a person holding an elective office shall be eligible, during a term in office, to become a candidate for the same or another elective office. In the event such person is elected to the second office, a vacancy shall exist in the first office when such person qualifies for the second office. No person shall be a candidate for more than one (1) city elective office in the same city election.

(Amd. effective 12-6-12; Amd. effective 12-2-21)

Sec. 8.06. Reserved.

Sec. 8.07. Failure of appointment by mayor.

Whenever there is a vacancy for sixty (60) calendar days or more in any office created under this Charter requiring appointment by the mayor, then such appointment shall be made by order of the city council, and not the mayor.

Sec. 8.08. Reference to statute.

Whenever reference is made to a statute, it shall include the statute as amended, and as hereafter amended, revised or replaced.

Sec. 8.09. Periodic Charter Review.

In calendar years ending in 1, the Mayor shall appoint a charter review committee composed of seven members who shall be residents of the city and who the Mayor determines to have a background in or understanding of city government and its operations. The committee shall undertake a comprehensive review of this charter and shall recommend to the city council amendments to the charter designed to improve the operations of city government, such recommendations to be made no later than the date established by the Mayor at the time the committee is established. (Amd. effective 12-6-12)

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Sec. 8.10. Separability.

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby. If any provision of this Charter is held invalid by reason of any conflict with state or federal law, the provisions of the applicable state or federal law shall automatically become incorporated in this Charter in place of the invalid Charter provisions.

ARTICLE IX. TRANSITIONAL PROVISIONS

Sec. 9.01. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on, or dealt with by the city department, office or agency appropriate under this Charter.

Sec. 9.02. Municipal laws.

All ordinances, resolutions, orders and regulations 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 Lewiston 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. 9.03. State laws.

Upon the effective date of this Charter, all private and special state laws relating to the City of Lewiston which are inconsistent, in whole or in part, with the provisions of this Charter are hereby repealed.

(Amd. effective 12-6-12)