

PUBLIC HEARING NOTICE - CITY OF LEWISTON - PROPOSED CHARTER AMENDMENTS

In accordance with Maine Revised Statutes Annotated, Title 30-A, section 2104 as amended, notice is hereby given that a Public Hearing on an Order to submit the following proposed charter amendments to the voters at the November 2, 2021 Regular Municipal Election, will be held by the Lewiston City Council in the Council Chambers, Lewiston City Hall, 27 Pine Street, on Tuesday, August 17, 2021 at 7:00pm or as soon thereafter as it may be heard. Any interested citizen may appear and will be given the opportunity to be heard before final action on said order. Note: Deletions of the existing Charter provisions are struck through, additions are underlined.

Proposed Charter Amendment 1:

Adding a Preamble

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.

Proposed Charter Amendment 2:

Staggered Terms for Elected Officials

The charter committee has recommended that the city move to staggered terms for elected officials. The city council is considering two options to achieve this: two-year terms with annual elections or four-year terms with elections every two years. The council is interested in hearing comments from the public prior to determining which of these options, if any, to send to referendum.

Option A: Two-year Staggered Terms

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

(c) *Elections and terms.* The mayor and the ward councilors shall be elected at each regular election to serve two-year staggered terms. The mayor shall not be eligible to serve for more than three (3) full successive 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.

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 odd-numbered year.

Sec. 2.04. President of the council.

The council shall elect for a two 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.

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, all of whom shall serve a one two (2) year terms, 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 biennial 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.

Sec. 5.032. 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.

Option B: Four Year Staggered Terms

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

(c) *Elections and terms.* The mayor and the ward councilors shall be elected at each regular election to serve four two-year staggered terms. The mayor shall not be eligible to serve for more than three (3) full successive terms. At the first regularly scheduled municipal election for members of the city council after the adoption of this provision, which shall take place in November 2023, the mayor shall be elected to fill a four-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 four years. The mayor shall not be eligible to serve for more than two (2) consecutive full terms.

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, and one (1) city council member to be nominated by the mayor and appointed by the city council from any ward, all of whom, with the exception of the city councilor who shall serve a two (2) year term, shall serve four (4) two (2) year staggered terms, 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 biennial 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 for members of the school committee 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 four-year term. Thereafter, all members shall be elected for four-year terms.

Sec. 5.032. Chairperson.

At its first meeting in January following each regular municipal election, 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 two-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.

Proposed Charter Amendment 3:

Ad Hoc Committee Creation and Appointment

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. He 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, and shall solely appoint citizens to ad hoc advisory committees.

Proposed Charter Amendment 4:

Elected and Appointed Official Forfeiture of or Removal from Office

Sec. 2.06. Forfeiture of office of councilor.

(a) A vacancy in the office of councilor shall exist if a councilor:

(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 punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment while in office; or

Sec. 2.07. Forfeiture of office of mayor.

(4) Is convicted of a crime or offense of moral turpitude punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment while in office; or

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.

The addition of a new Section 2.08 requires that the remaining subsections be renumbered.

ARTICLE V. SCHOOL ADMINISTRATION

Sec. 5.01. School committee.

(c) *Forfeiture of office.* A member of the school committee shall forfeit office and a vacancy therein shall exist if the member:

(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;

(5) Is convicted of a crime or offense involving moral turpitude punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment while in office;

Section 5.02. Judge of Qualifications

The school committee shall be the judge of the qualifications of its members, excluding the member appointed by the mayor, 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 at 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.

The addition of a new Section 5.02 requires that the remaining subsections be renumbered.

ARTICLE IV. ADMINISTRATIVE ORGANIZATION

Sec. 4.05. Planning board. And

Sec. 4.06. Board of appeals.

Sec. 4.07. Forfeiture of office.

(5) Is convicted of a crime or offense involving moral turpitude punishable by imprisonment of one year or more or a crime of a sexual nature or of dishonesty or false statement, regardless of the punishment while in office;

Sec. 4.09. Removal from Appointive Office

The city council, upon request from the mayor, 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.

Sec. 6.15. Finance committee.

(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:

c. Is convicted of a crime or offense involving moral turpitude punishable by imprisonment of one year or more or a crime of a sexual nature or dishonesty or false statement, regardless of the punishment while in office;

(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) The city council, upon request from the mayor, 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.

Proposed Charter Amendment 5:

Planning Board and Board of Appeals

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 five 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 five three-year staggered terms, with initial terms being one (1) associate member serving for four (4) years and one (1) for five (5) years. 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.

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 five-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 five three-year staggered terms, with initial terms being one (1) associate member serving for four (4) years and one (1) for five (5) years. 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.

(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.

Sec. 4.08. Limitation of terms.

No member of any board established by this article shall serve more than a three full five consecutive terms on the same board within any ten-year period. Said period shall be deemed to commence at the time of first appointment.

Proposed Charter Amendment 6:

School Budget Process

Sec. 5.043. 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, except as otherwise provided by this Charter. 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 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.

Sec. 6.01. Fiscal year.

(a) *School committee subject to Article VI.* The school committee shall comply with and be subject to all the provisions of this article, to the extent that such provisions do not conflict with the in addition to provisions of general law relating to adopting the annual school budget and a uniform school fiscal year.

Sec. 6.07. Council action on budget.

(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.

(gf) *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 and school committee 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 at least twenty (20) calendar days prior to the end of the then current fiscal year, the administrator's and school committee's final budget shall be deemed to be automatically adopted. Adoption of the budget shall constitute appropriations of the 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.

Proposed Budget Amendment 7:

Budget Expenditure Limit

Sec. 6.07. Council action on budget.

(hg) The percent budget increase in the municipal tax levy, beginning in fiscal year 1996, when compared to the preceding fiscal year budget, shall not exceed the percent increase of the Consumer Price Index Urban Northeast (CPI-U Northeast) Gross National Product- Implicit Price Deflator (Source: Survey of Current Business, United States Bureau of Labor Statistics, Department of Labor) as compiled for the 12-month period ending December 31 September 30 of the previous year. Pursuant to this subsection, Section 2-31 of the Code of Ordinances is hereby repealed.

Proposed Budget Amendment 8:

Age Eligibility for Candidates for Elected Office

(f) *Eligibility.* The candidates for election as councilor and school committee members, except for the at-large school committee member, must be at least eighteen (18) 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 eighteen (18) 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 eighteen (18) 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.

Proposed Charter Amendment 9:

Minor Technical Changes

Sec. 2.05 Prohibition: Reserved

Sec. 28.05. Prohibition.

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.

Sec. 7.02. Nomination by petition.

(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 or pencil. 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 twenty thirty-five (13520) 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 twenty (13520) calendar days nor later than the normal close of business of the city clerk's office 4:30 p.m. on the seventy-fifth sixtieth (2560th) calendar day before the election. If the seventy-fifth sixtieth (2560th) 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.

Proposed Charter Amendment 10:

Elimination of Antiquated Provisions

Sec. 4.02. Personnel ordinance Reserved.

The council shall adopt a personnel ordinance to carry out the purposes of this article.

Sec. 6.15. Finance committee.

(c) *Duties.* The finance committee shall:

(3) Serve as the pension board of the city.

Sec. 8.06. Reserved Employee protection.

Wage supplements to which city employees, retirees and beneficiaries may be entitled under the Charter, adopted March 6, 1939, and amendments thereto, as it is in force as of the effective date of this Charter, shall be maintained, all as presently being provided, unless altered by general law enacted by the Maine State Legislature. Nothing contained in this Charter shall be held to deprive any employee, retiree or beneficiary of wage supplements under the 1939 Charter and amendments by private or special laws thereto. The term "wage supplements," as herein set forth, shall mean pensions, retirement, holidays, vacations and sick leave.

The City of Lewiston is an EOE. For more information, please visit our website at www.lewistonmaine.gov and search for the Non-Discrimination Policy.

Kathleen M. Montejo, MMC

City Clerk, Lewiston, ME