

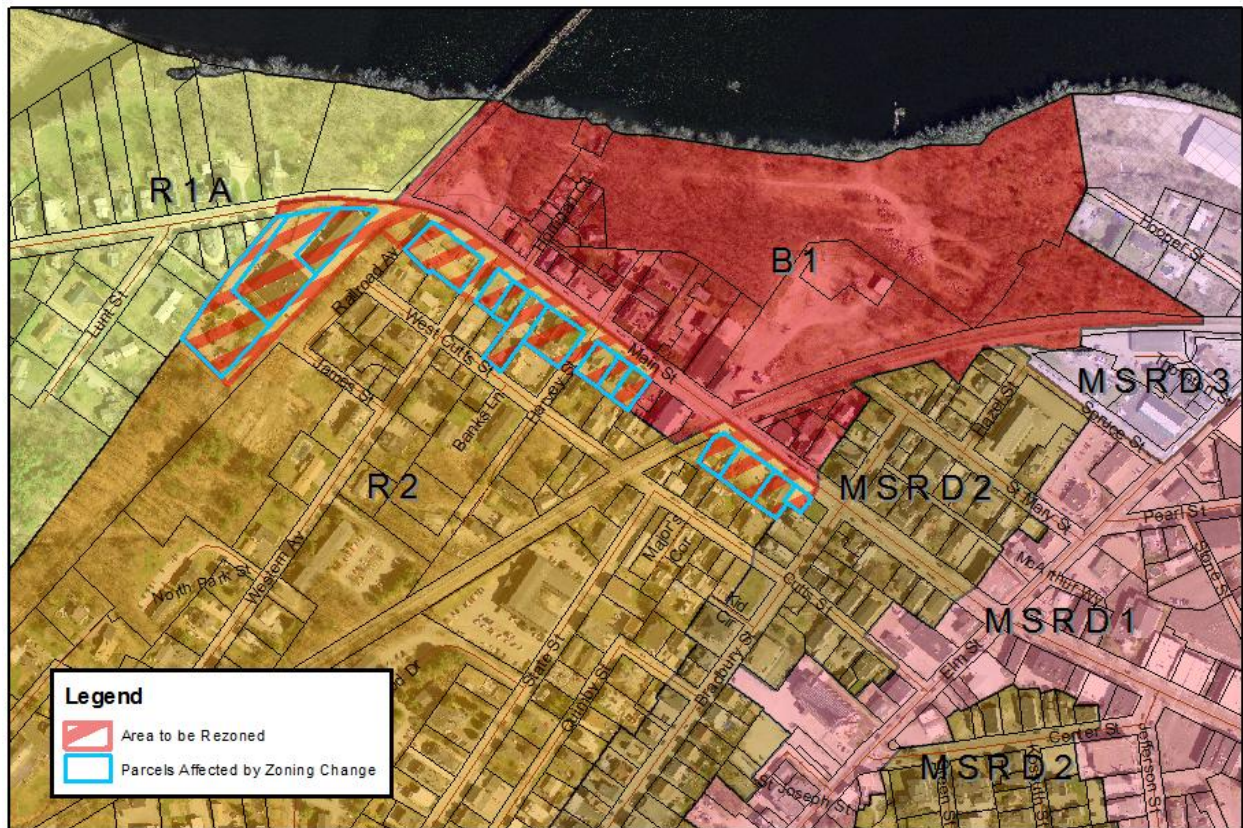
2017.101

IN BOARD OF CITY COUNCIL. SEPTEMBER 19, 2017

BE IT ORDAINED by the City Council of Biddeford, Maine to amend the Code of Ordinances of the City of Biddeford as follows:

Part III (Land Development Regulations), Article III (Official Zoning Map), is amended to rezone 445 Main St., 443 Main St., 441 Main St., 431 Main St., 421 Main St., 415 Main St., 409 Main St., 413 Main St., 401 Main St., 399 Main St., 395 Main St., 375-377 Main St., 373 Main St., 365 Main St., and 361 Main St from R-2 to the B-1 zone (as well as some railroad/road ROW).

Note: Following a duly noticed Public Hearing the Planning Board voted unanimously to recommend the rezoning pass at the City Council.



Motion by Councilor Belanger, seconded by Councilor Seaver to grant the first reading for the ordinance amendment.

Vote: Unanimous.

2017.102

IN BOARD OF CITY COUNCIL...SEPTEMBER 19, 2017

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to sign an agreement with Ransom Consulting, Inc for services required to initiate an appeal to the 2017 Preliminary Flood Insurance Rate Maps issued by FEMA for the Biddeford coastline. Phase I services shall not exceed \$52,500. Phase II services shall be separated into two tasks. Phase II(a) shall not exceed \$20,000. Phase II(b) shall require an additional authorization, under separate Order, to prepare FEMA transects and submit follow-up responses. The funding source for this authorization shall be 21111-60798 *Contingency*. {Note that expenditures from the Contingency account require a 2/3 council authorization.}

Motion by Councilor Ready, seconded by Councilor McCurry to grant the order.

Motion by Councilor McCurry, seconded by Councilor Ready to amend the order to specify that the funds not be taken out of Contingency, but instead be taken out of an already budgeted fund, even if it means that fund will end up over budget by the end of the fiscal year.

Vote: Unanimous.

Vote on order, as amended: 8/1; Councilor Belanger opposed.

Councilors Swanton, McCurry, St. Cyr, Quattrone, Foley, Ready, Seaver and Lessard in favor. Motion carries.

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, CHAPTER 34, ENVIRONMENT, by adding new **Article II-A - DELIVERY OF UNSOLICITED PRINTED OR WRITTEN MATERIALS:**

Article II-A. Delivery of Unsolicited Printed or Written Materials

Sec. 34-32. Purpose and Intent: The purpose of this Article is to protect the rights of Biddeford residents and property owners who desire not to receive unwanted printed or written materials, whether commercial or noncommercial in nature, including unsolicited newspapers. The right of privacy affords citizens the right to determine and limit the materials they will allow to be delivered on their private property. When a resident or property owner affirmatively provides notice that they do not want to receive delivery of unsolicited print or other written materials on their property, to deliver such materials in contravention of such expressed desire is, in effect, a trespass against the resident or property owner.

This Article is intended to ensure and protect the privacy rights of Biddeford residents and property owners on their private property and to deter the accumulation of unsolicited printed or written materials that might signal that a house is unoccupied. It is further intended to prevent littering and protect the aesthetic appearance of the City by reasonable regulation as to the time, place, and manner of the distribution and delivery of unsolicited print or written materials within the community.

Sec. 34-33. Opt-Out List: The City Clerk shall maintain a list of all residents and property owners, by address, that have filed written notice with the City Clerk requesting that unsolicited print and other written materials not be delivered to their property.

Written notice shall be effective indefinitely until and unless written notice is received from the resident or property owner that they now desire to receive unsolicited print or other written materials. The list shall be revised from time to time as the City Clerk is notified by a resident or property owner that they desire to have their property either removed from or placed on the list. Nothing in this Article shall require the City Clerk to verify the identity of any resident or property owner or to verify any change of ownership, occupancy or control. The City shall not be liable for any errors or omissions on the list. The list shall be maintained by the City Clerk and provided electronically to license holders.

Sec. 34-34. Annual License and Record-Keeping Requirements: No person, organization, business, or other entity, or their agents or representatives, may distribute or deliver any unsolicited print or other written materials upon the property of any City resident or property owner on more than two occasions in any calendar year without first having obtained an annual license from the City Clerk prior to such distribution or delivery. The license application shall identify the name of the print or other written material to be distributed and shall be signed and duly acknowledged by an individual, or in the case of an organization, business, or other entity, by the authorized agent or representative who shall agree to accept responsibility for (i) the receipt of the opt-out list of residents and property owners described in section 34-33 above, and (ii) any notice of violations by delivery persons and carriers with the provisions of this Article.

Upon receipt of a completed application and a \$100.00 application fee, the City Clerk shall administratively issue the license unless the City Council previously has revoked or declined to renew a license previously held by Applicant. If the City Council previously has revoked or declined to renew a license application by the same Applicant, then the City Clerk shall forward the Application to the City Council who shall decide whether to issue the license.

Sec. 34.35. License Renewal: The City Clerk shall administratively renew the license annually upon payment of the annual \$100.00 license fee unless the Applicant has violated this Article on five (5) or more separate days during the prior calendar year.

If the Applicant has violated this Article on five (5) or more separate days during the prior calendar year, a hearing before the City Council shall be held to determine if the license shall be renewed. A license holder may continue to distribute print or other written material in accordance with this Article after the expiration of its license until a decision by the City Council denying the license renewal.

The license shall be renewed by the City Council if at the conclusion of the hearing the City Council determines:

1. The violations have been reasonably corrected or are expected to be corrected in the future; and
2. The violations that have occurred in the past are not expected to occur in the future; and

3. An agreement has been entered into that provides relief for the residents or property owners that have been adversely impacted by the license holder; and
4. That there are no mitigating circumstances warranting a denial of the license renewal.

An annual administrative fee of one hundred dollars (\$100.00) shall be due and payable by December 1 of each year to accompany the license application or renewal. The license may not be issued until all outstanding penalties, fees, attorney fees, court costs, and any other charges have been paid.

Sec. 34-36. Prohibition of Delivery to Opt-Out Properties: No person, organization, business, or other entity, or their employees, authorized agents or representatives, including but not limited to the authorized agent described in section 34-34 thereof and their delivery persons and carriers, shall deliver, distribute, throw, cast or place or cause or permit to be delivered, distributed, thrown, cast, or placed any unsolicited print or other written materials of any nature whatsoever upon the premises of any City resident or property owner who has requested that such print or other written materials not be delivered to their property and whose address has been listed with the City pursuant to section 34-33 hereof.

This section shall not apply to persons, organizations, businesses, or other entities, or their agents or representatives, who distribute or deliver unsolicited print or other written materials upon the property of any City resident on no more than two occasions in any calendar year.

Sec. 34-37. Delivery in Public Places: No person, organization, business or other entity shall throw, cast or place in or upon any City right-of-way, street, avenue, highway or sidewalk any unsolicited print or other written material, including but not limited to newspapers, handbills, circulars, advertising and cards.

This section shall not apply to public service announcements or notices distributed by the City or a Department of the City. Such announcements or notices shall be placed on the driver's side of the windshield of the vehicle.

Sec. 34-38. Required Removal from Public Places: Any person, organization, business, or other entity, or their agents or representatives, that delivers or distributes any unsolicited print or other written materials shall collect and remove all of its print or other written materials, from the City right-of-ways, streets, avenues, highways, sidewalks, and all other locations set forth in section 34-37 within seventy-two (72) hours from the time of delivery.

Sec. 34-39. Required Removal of Uncollected Items: Any lawfully delivered items that are not collected by the resident or property owner must be removed by the person, organization, business, or other entity distributing such materials within seventy two (72) hours from the time of delivery.

This section shall not apply to persons, organizations, businesses, or other entities, or their agents or representatives, who distribute or deliver unsolicited print or other written materials upon the property of any City resident or property owner on no more than two occasions in any calendar year.

Sec. 34-40. Violations and Penalties:

1. Penalties for Violations. Any person, organization, business or other entity that violates any provisions of this Article may be subject to a minimum penalty of \$100.00 and a maximum penalty of \$2,500.00 per violation. Provided, however, that any person, organization, business or other entity that fails to obtain or renew a license in accordance with this Article may be subject to a minimum penalty of \$500.00 and a maximum penalty of \$2,500.00 per violation. The amount of the penalty assessed by the City shall be based upon the frequency and severity of the violation(s) and whether the violation(s) was corrected within a reasonable time.
2. Revocation of License. The City Council, after notice and hearing may revoke the license of any person, organization, business or other entity that has violated this Article on five (5) or more separate days in a calendar year or who has failed to pay any fines, penalties and costs assessed under this Article.
3. Recovery of Costs. In any action that the City initiates to enforce the provisions of this Article, the City if it is the prevailing party shall be entitled to recover its reasonable costs, including attorneys fees and court costs.

Sec. 34-41. Severability: If any section or provision of this Article is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate,

distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

NOTE: This new ordinance was reviewed by the Policy Committee at their August 14, 2017 meeting and voted unanimously to forward to City Council for approval.

Motion by Councilor Ready, seconded by Councilor McCurry to grant the first reading of the ordinance amendment.

Vote: Unanimous.

2017.104 **IN BOARD OF CITY COUNCIL..SEPTEMBER 19, 2017**

BE IT ORDERED, that the City Manager be authorized to sign a contract with Gale Associates, Inc. for airport planning and engineering services for the Biddeford Municipal Airport for a 5-year term (from mid-2018 to mid-2023). The consultants would focus on projects that are eligible for Federal and State grants covering 95% of the cost. The project costs that are eligible for grants also include the consultant's fees.

NOTE: At their August 17, 2017 meeting, the Airport Commission reviewed the RFQ's for an Airport Consulting Firm and have recommended Gale Associates, Inc.

Motion by Councilor McCurry, seconded by Councilor Ready to grant the order.

Vote: Unanimous.

2017.105 **IN BOARD OF CITY COUNCIL..SEPTEMBER 19, 2017**

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to enter into a 99-year lease with Bangor Savings for the upgrade and permanent maintenance of City Square Park (located at 58 Lincoln Street, GIS 38-132), subject to the terms and conditions presented, and after review by the City Attorney.

Motion by Councilor Belanger, seconded by Councilor Quattrone to grant the order.

A representative from Bangor Savings Bank gave a brief overview of the project.

Motion by Councilor Belanger, seconded by Councilor McCurry to include language in the lease agreement that if there is a sale of the property within the time period of the lease, that there is an option for the City to terminate the lease agreement.

Vote: Unanimous.

Vote on order, as amended: Unanimous.

2017.106 **IN BOARD OF CITY COUNCIL..SEPTEMBER 19, 2017**

BE IT ORDERED, that the City Council of the City of Biddeford does hereby authorize the City Manager to execute a Joint Development Agreement with LHL Holdings, LLC, substantially in the form as presented, for the development of the Lincoln Mill.

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the order.

Vote; Unanimous.

2017.107 **IN BOARD OF CITY COUNCIL..SEPTEMBER 19, 2017**

BE IT ORDERED, that the City Manager is authorized to enter into an agreement with Smith Marine, Inc of Marblehead, MA with terms favorable to the City in an amount not greater than \$150,000 plus disposal at specified unit rates, for the clearing of identified debris in the Saco River. The clearing of debris shall be in accordance with the *Request for Bids - Saco River Marine Debris Cleanup Project* and other such terms required to successfully accomplish the debris removal project in anticipation of the USACE Dredging Project scheduled for November 2017.

BE IT FURTHER ORDERED that the City Manager be authorized to contract with a qualified project manager, at his discretion, to oversee all or a portion of the Marine Debris Cleanup Project at a rate no greater than \$100/hr.

Saco River Marine Debris Cleanup Project shall be funded jointly between the City of Saco and the City of Biddeford. Additionally, Biddeford and Saco intend to pass along the cost of the cable removal portion to Central Maine Power Company for reimbursement. The funding source for the City of Biddeford shall be 22001-60974 Miscellaneous Reserve.

Motion by Councilor Ready, seconded by Councilor Lessard to grant the order.
Vote: Unanimous.

Appointments:

IN BOARD OF CITY COUNCIL...SEPTEMBER 19, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

Harry R. Courtois
21 Evanthia Drive
Ward 3

to the *Biddeford Fire Advisory Committee (BFAC)*, for an initial term to expire in December 2018.

Motion by Councilor McCurry, seconded by Councilor Quattrone to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...SEPTEMBER 19, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

John Gilbert

as the CHAIR of the *Biddeford Police Advisory Committee* for a two-year term,
to expire in December 2019.

Motion by Councilor McCurry, seconded by Councilor Foley to confirm the appointment.
Vote: Unanimous.

IN BOARD OF CITY COUNCIL...SEPTEMBER 19, 2017
ORDERED, that I, Alan M. Casavant, Mayor of the City of Biddeford, do hereby appoint:

Roger Cantara

as the CHAIR of the *Biddeford Fire Advisory Committee* for a two-year term,
to expire in December 2019.

Motion by Councilor Foley, seconded by Councilor Lessard to confirm the appointment.
Vote: Unanimous.

There was no *City Manager Report*

Public Addressing the Council..(3 minute limit per speaker; 30 minute total time limit)
There were no public comments.

Other Business:

Councilor Lessard: reminded the Council that we are about nine months out from the union contracts expiration dates. He strongly urged the Councilors to get the message out of an “open door policy” so that union members may feel comfortable talking about their concerns prior to the contracts expiring.

Councilor St. Cyr: gave a shout out to the Heart of Biddeford and Saco Spirit for putting on a weekend of great events; starting with the Fringe Fest on Friday night in downtown Biddeford and then River Jam on Saturday with events in both Biddeford and Saco.

Councilor Swanton: feels that last Saturday's Hazardous Waste Day went exceptionally well; and the new organization of the event made for shorter lines and wait times for citizens.

Council President Addressing the Council: Councilor McCurry thanked his fellow Councilors for their hard work at tonight's meeting to work through some big decisions for the City.

Councilor McCurry recognized all the work and effort that has gone into the renovations of Waterhouse Field thus far. He especially thanked all those who have provided in-kind work.

Mayor Addressing the Council: Mayor Casavant echoed Councilor St. Cyr's praises to the Heart of Biddeford and Saco Spirit. He felt that Friday's Fringe Fest truly had a community feel to it and in its first year, was a definite success. He had many folks approach him and express much positivity about the newly paved Main Street, the cobblestoned crosswalks and the flower planters.

Mayor Casavant is convinced that Biddeford is on the right path to get the City where it needs to be in this economy.

Lastly, Mayor Casavant announced another upcoming fun event for our community – the Biddeford-Saco Mayoral Gala & Fundraiser, which is scheduled for Friday, October 20th from 8:00 – 11:00 p.m. at the Pepperell Center. The Easy Money Band will be performing, local breweries will be showcased and the Chef & the Gardener will be providing the food. He encouraged all to attend.

Motion by Councilor McCurry, seconded by Councilor Lessard to adjourn.

Vote: Unanimous.

Time: 8:02 p.m.

Attest by: _____
Carmen J. Morris, City Clerk