

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
JUNE 19, 2012**

6:00 p.m. Workshop

- A. Presentation by the Maine Turnpike Authority regarding the Old Lisbon Road Bridge replacement - 15 minutes
- B. Discussion of City Council Workshop schedule - 30 minutes

6:45 p.m. Executive Session - To discuss a personnel matter.

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag.
Moment of Silence.

Award Presentation - Maine Tennis Association Recreation Department of the Year (2011) Award
Lewiston Youth Advisory Council - Farewell to graduating seniors

Public Comment period - Any member of the public may make comments regarding issues pertaining to Lewiston City Government (maximum time limit is 15 minutes for all comments)

ALL ROLL CALL VOTES FOR THIS MEETING WILL BEGIN WITH THE COUNCILOR OF WARD 5.

CONSENT AGENDA: All items with an asterisk (*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- * 1. Repeal City Council Policy 61 regarding the City's Community Forest Program and Board.
- * 2. Amendments to the General Assistance Policy regarding overall maximum levels of assistance.

REGULAR BUSINESS:

- 3. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Irish Twins Pub, 743 Main Street.
- 4. Public Hearing and Final Passage regarding an amendment to the Vegetation Ordinance to establish regulations for the Community Forest.
- 5. Public Hearing and Final Passage regarding an amendment to the Business Licensing ordinance pertaining to second hand dealers.
- 6. Public Hearing and First Passage regarding amendments to the General Assistance Ordinance.
- 7. Resolve approving the City of Lewiston's application to the State of Maine to be designed as a Business Friendly Community.
- 8. Hearing regarding possible suspension or revocation of Special Amusement permit for Altera/Club Karma, 16-18 Park Street.
- 9. Condemnation Hearing for the building located at 122 Pierce Street.

10. Resolution terminating the City's agreement with the Lewiston Auburn Economic Growth Council to manage and operate the Lewiston Economic Stimulus Loan Pool.
11. Order approving the addition of two employees to the MainePERS Retirement plan (2C) for Firefighters.
12. Resolve accepting the donation of an Automated External Defibrillator from the Lewiston Firefighters Association's Community Benefit Fund.
13. Reports and Updates
14. Any other City Business Councilors or others may have relating to Lewiston City Government.

LEWISTON CITY COUNCIL
MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6:45pm

SUBJECT:

Executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

INFORMATION:

The Maine State Statutes, Title 1, section 405, define the permissible grounds and subject matters of executive sessions for public meetings.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Entering into executive session is permitted and defined under Maine State Statutes.

ERB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To enter into an executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Repeal of City Council Policy 61 regarding the City's Community Forest Program and Board.

INFORMATION:

At the June 5 Council meeting, the Council approved first passage of the newly proposed Community Forest ordinance. The Council at this meeting is asked to approve final passage of the proposed ordinance. The ordinance replaces Policy Manual 61 regarding the Community Forest Program and Board. The language in the policy manual regarding this program is now incorporated into the new ordinance and therefore the Council is asked to repeal the current Policy in light of the new ordinance.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

CAJ/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To repeal the Lewiston-Auburn Community Forest Program & Board Policy, Policy Manual Number 61, as recommended by the City Administrator and Public Works Director.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Amendments to the General Assistance Policy regarding overall maximum levels of assistance.

INFORMATION:

Due to recent changes by the Maine State Legislature regarding the General Assistance program, the City needs to review and amend the maximum amounts of assistance issued by the City for residents in need. The Director of Social Services is recommending the City adopt the MMA General Assistance Overall Maximums effective July 1, 2012 to June 30, 2013. Please see the enclosed memorandum from Social Services Director Sue Charron for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the overall maximum amounts allowed for general assistance and the maximum amounts allowed for transportation expenses in the General Assistance Policy, for persons eligible to receive assistance in accordance with the standards of eligibility, be amended and adopted in accordance state and federal regulations.

(NOTE: New items in the attached Policy are underlined, deleted items have ~~strikeouts~~.)

GENERAL ASSISTANCE POLICY

As provided by Chapter 46 of the Code of Ordinances, the City Council hereby establishes the following allowed maximum amounts for food, housing, personal/household supplies, utilities, heating fuel, clothing, burial, ~~and cremation,~~ and transportation expenses for persons eligible to receive assistance in accordance with the standards of eligibility.

MAXIMUM AMOUNTS

The total maximums allowed for general assistance, which are 110% of HUD guidelines, (reduced by 10% from 7/1/2012-6/30/2013, are:

No. in Household	Weekly	Monthly		
1	122.00	<u>110.00</u>	523.00	<u>471.00</u>
2	152.00	<u>137.00</u>	655.00	<u>590.00</u>
3	186.00	<u>167.00</u>	800.00	<u>720.00</u>
4	236.00	<u>212.00</u>	1031.00	<u>912.00</u>
5	261.00	<u>235.00</u>	1122.00	<u>1010.00</u>
6	278.00	<u>251.00</u>	1197.00	<u>1078.00</u>

Additional persons in the household will be budgeted at ~~\$75.00~~ 68.00 per person per month.

TRANSPORTATION 2009-2013

This municipality adopts the State of Maine travel expenses reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents per mile.

Note: Additions are underlined; deletions are ~~struck out~~.



Social Services Department
Sue Charron
Social Services Director



MEMORANDUM

TO: Mayor Macdonald and Members of the City Council

FR: Sue Charron, Social Services Director

RE: G.A. Maximums and Ordinance Changes

DT: June 19, 2012

Enclosed is material related to the general assistance overall maximums; housing limits; hardship exception; other changes required by Statute (lump sum and emergencies); changes that are consistent with the majority of the municipalities (misconduct, safety code and transportation); and housekeeping items.

Enclosed are the MMA General Assistance Overall Maximums (Appendix A-Lewiston/Auburn MSA), effective July 1, 2012- June 30, 2013. The overall maximums are 90% of the maximum levels in effect on April 1, 2012. These maximums will be amendments to the General Assistance Policy.

This reduction only applies to the overall maximums, it does not affect the current categorical maximums. The food, rental, utility and personal maximums are the same amounts that were adopted for the period of 10/1/2011-9/30/2012. However, it is important to note that, all assistance authorized for categorical maximums cannot exceed the overall maximums, unless there is an emergency situation.

Also enclosed is the amended language for 22 MRSA §4305, sub- §3-C, pertaining to the reduction in the overall maximums; and the language for 22

*City Hall • 27 Pine Street • Lewiston, Maine • 04240 • Voice Tel. 207-513-3130 • Fax 207-784-2959
• TTY/TDD 207 784-5999 • Email: scharron@ci.lewiston.me.us*

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities, and/or in the delivery of its programs, activities and services based on an individual person's race, ancestry, color, religion, gender, age, physical or mental disability, veteran status, or limited English speaking ability. For more information about this policy, contact or call Compliance Officer Mike Paradis at (V) 207-513-3140, (TTY) 207-784-5999, or email mparadis@ci.lewiston.me.us.



**Social Services Department
Sue Charron
Social Services Director**



MRSA §4308, sub-§§1-A and B, pertaining to the 9 month housing limit and the hardship exception.

Below are the ordinance revisions reflecting the amendments to 22 MRSA §4305, sub- §3-C, 22 MRSA §4308, sub-§§1-A and B.

Sec. 46-98. Basic necessities; maximum levels of assistance.

(a) Overall maximum levels of assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his income from the overall maximum level of assistance, established in Title 22, section 4305, subsection 3-C, as set in the general assistance policy for the applicable household size.

(2) Housing. The administrator will provide assistance with rent or mortgage payments that are reasonable within the allowed maximum levels established by the city council in the general assistance policy, and in accordance with the housing assistance limits provided in Title 22, section 4308, subsection 1-A; and in accordance with the housing exceptions provided in Title 22, section 4308, subsection 1-B.

Enclosed are sections of the ordinance reflecting recent law changes regarding lump sum and emergencies; and changes that are consistent with policies that are in effect in other municipalities; as well as some housekeeping changes.

The new transportation rate and associated language will be an amendment to the General Assistance Policy.

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Social Services Department
 Sue Charron
 Social Services Director



GENERAL ASSISTANCE POLICY

As provided by Chapter 46 of the Code of Ordinances, the City Council hereby establishes the following allowed maximum amounts for food, housing, personal/household supplies, utilities, heating fuel, clothing, burial and cremation, and transportation expenses for persons eligible to receive assistance in accordance with the standards of eligibility.

MAXIMUM AMOUNTS

The total maximums allowed for general assistance, which are 110% of HUD guidelines (reduced by 10% from 7/1/2012-6/30/2012), are:

No. in Household Weekly Monthly

1	122.00	<u>110.00</u>	523.00	471.00
2	152.00	<u>137.00</u>	655.00	<u>590.00</u>
3	186.00	<u>167.00</u>	800.00	<u>720.00</u>
4	236.00	<u>212.00</u>	1013.00	912.00
5	261.00	<u>235.00</u>	1122.00	<u>1010.00</u>
6	278.00	<u>251.00</u>	1197.00	<u>1078.00</u>

Additional persons in the household will be budgeted at \$75.00 68.00 per person per month.

BURIAL

The maximum amount of general assistance granted for the purposes of burial is \$1,000.00, with additional payments, where there is an actual cost, for the wholesale cost of a liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

CREMATION

The maximum amount of assistance granted for a cremation shall be \$785.00, with additional payments where there is an actual cost, for the wholesale cost of a liner if the

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Lewiston



2007

Social Services Department
Sue Charron
Social Services Director



cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally-owned cemetery or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

TRANSPORTATION 2009-2013

This municipality adopts the State of Maine travel expenses reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents per mile.

PENALTY - Confidentiality of information

A civil penalty of not less than \$30.00 nor more than \$105.00. Note: This penalty is outlined in the City Code of Ordinances Chapter 46 General Assistance, Article I In General.

GA MAXS COUNCIL June 2012-July 2013 10% Reduction

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Appendix A

Effective: 07/01/12-06/30/13

Amend the Town/City of _____ General Assistance Ordinance to incorporate the following maximum levels of assistance to be effective on and after July 1, 2012, as follows:

GA Overall Maximums**Metropolitan Areas****Persons in Household**

COUNTY	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	550	641	818	1040	1174
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	561	563	676	845	1036
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	471	590	720	912	1010
Portland HMFA: Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	731	868	1124	1416	1517
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	912	918	1100	1603	1746
Cumberland County HMFA: Baldwin, Bridgton, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	607	715	922	1101	1410
Brunswick	608	727	939	1190	1427

Attachment 2 - Corrected
Appendix A
 Effective: 07/01/12-06/30/13

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	723	724	869	1095	1504
York County HMFA: Acton, Alfred, Arundel, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Shapleigh, Waterboro, Wells Biddeford, Saco, Sanford	661	688	873	1045	1141
	668	744	938	1190	1407

*Note: Add \$68 for each additional person.

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	428	527	631	824	912
Franklin County	530	572	696	832	1079
Hancock County	579	668	822	1094	1125
Kennebec County	459	550	684	933	996
Knox County	524	693	791	1071	1236
Lincoln County	633	680	821	991	1118
Oxford County	442	588	678	902	1130
Piscataquis County	550	627	775	984	1053
Somerset County	440	547	632	914	970
Waldo County	617	662	798	979	1041
Washington County	530	572	683	846	923

* Please Note: Add \$68 for each additional person.

F. Special Assistant to the Public Advocate, salary range 20.

The employees listed in this subsection serve at the pleasure of the Public Advocate and are confidential employees. All other employees of the Public Advocate are subject to the Civil Service Law.

~~The Public Advocate may, at the Public Advocate's discretion, substitute an Economic Analyst position at salary range 36 for any vacant Senior Counsel position. The Public Advocate also may compensate one or more Senior Counsels at salary range 37 if, in the judgment of the Public Advocate, an increase is necessary to provide competitive salary levels.~~

PART Q

Sec. Q-1. 5 MRSA §1591, sub-§5 is enacted to read:

5. Executive Department. The Executive Department shall carry forward any General Fund balances remaining in the Administration - Executive - Governor's Office program, the Blaine House program, the Governor's Office of Communications program, the Office of Policy and Management program and the Governor's Energy Office program at the end of any fiscal year for use in the next fiscal year.

PART R

Sec. R-1. 22 MRSA §4305, sub-§3-C is enacted to read:

3-C. Maximum level of assistance from July 1, 2012 to June 30, 2013. Notwithstanding subsection 3-A or 3-B, for the period from July 1, 2012 to June 30, 2013, the maximum level of assistance is 90% of the maximum level of assistance in effect on April 1, 2012.

Sec. R-2. 22 MRSA §4308, sub-§§1-A and 1-B are enacted to read:

1-A. Limit on housing assistance. Except as provided in subsections 1-B and 2, housing assistance provided pursuant to this chapter is limited to a maximum of 9 months during the period from July 1, 2012 to June 30, 2013.

1-B. Extension of housing assistance due to hardship. An applicant is eligible for housing assistance under this chapter beyond the limit established in subsection 1-A if the applicant has a severe and persistent mental or physical condition warranting such an extension or has an application for assistance pending with the federal Social Security Administration.

Sec. R-3. Temporary reduction in 90% general assistance reimbursement. Notwithstanding the Maine Revised Statutes, Title 22, section 4311, subsection 1, for the period from July 1, 2012 to June 30, 2013, the state reimbursement rate pursuant to the Maine Revised Statutes, Title 22, section 4311, subsection 1 is reduced to 85% for a municipality that incurs net general assistance costs in a fiscal year in excess of .0003 of that municipality's most recent state valuation.

LEWISTON CITY COUNCIL
MEETING OF JULY 10, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Irish Twins Pub, 743 Main Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Irish Twins Pub, 743 Main Street.

The Police Department has reviewed and approved the application.

There was no reference to the business or property address in the Council Constituent Concern log, as maintained by the Administrator's Office.

The business owner has been notified of the public hearing and requested to attend.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAS/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to Irish Twins Pub, 743 Main Street.

CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 6/14/12 Expiration Date: 6-24-2013 License fee: \$116.00

- Class A - restaurants with entertainment, which does not have dancing
- Class B - lounges/bars with entertainment, which does not have dancing
- Class C - either restaurants or lounges/bars with entertainment, including dancing
- Class D - function halls with entertainment, including dancing
- Class E - dance hall or nightclub that admits persons under the age of 21
- Class F - "chem-free" dance hall or nightclub for patrons aged 18 years and older, with no liquor service

Renewal Applicants: Has any or all ownership changed in the 12 months? Yes No

****PLEASE PRINT****

Business Name: Irish Twins Pub, LLC Business Phone: 3763088

Location Address: 743 Main St

(If new business, what was formerly in this location: _____)

Mailing Address: 743 Main St

Contact Person: Debbie Martel Home Phone: 5762603

Owner of Business: Debbie Martel Date of Birth: 1/24/67

Address of Owner: PO Box 406 Greene, Me 04236

Manager of Establishment: Deb Martel Date of Birth: 1/24/67

Owner of Premises (landlord): Lewiston Milling

Address of Premises Owner: 741 Main St

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes No
If yes, list the name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Lewiston? Yes No If yes, please list business name(s) and location(s): Irish Twins Pub 743 Main St

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of the law? Yes No If yes, please explain: _____

CORPORATION APPLICANTS: Please attach a list of all principal officers, date of birth & town of residence

Corporation Name: Irish Twins Pub, LLC

Corporation Mailing Address: 743 Main St

Contact Person: Deb Martel Phone: 576 2603

Do you permit dancing on premises? ___ Yes X No (If yes, you must first obtain a dance hall permit from the State Fire Marshall's Office) If yes, do you permit dancing or entertainment after 1:00 AM? ___ Yes ___ No

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 1 mile

Please describe the type of proposed entertainment:

- dancing
- music by DJ
- live band/singers
- stand up comedian
- karaoke
- magician
- piano player
- other, please list _____
- other, please list _____

If new applicant, what is your opening date?: _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We hereby waive any rights to privacy with respect thereto.

Signature: Deb Martel Title: owner Date: 6/14/12

Printed Name: Deb Martel

Sent to Code Enforcement: _____ Need reply by: _____ Approved: _____

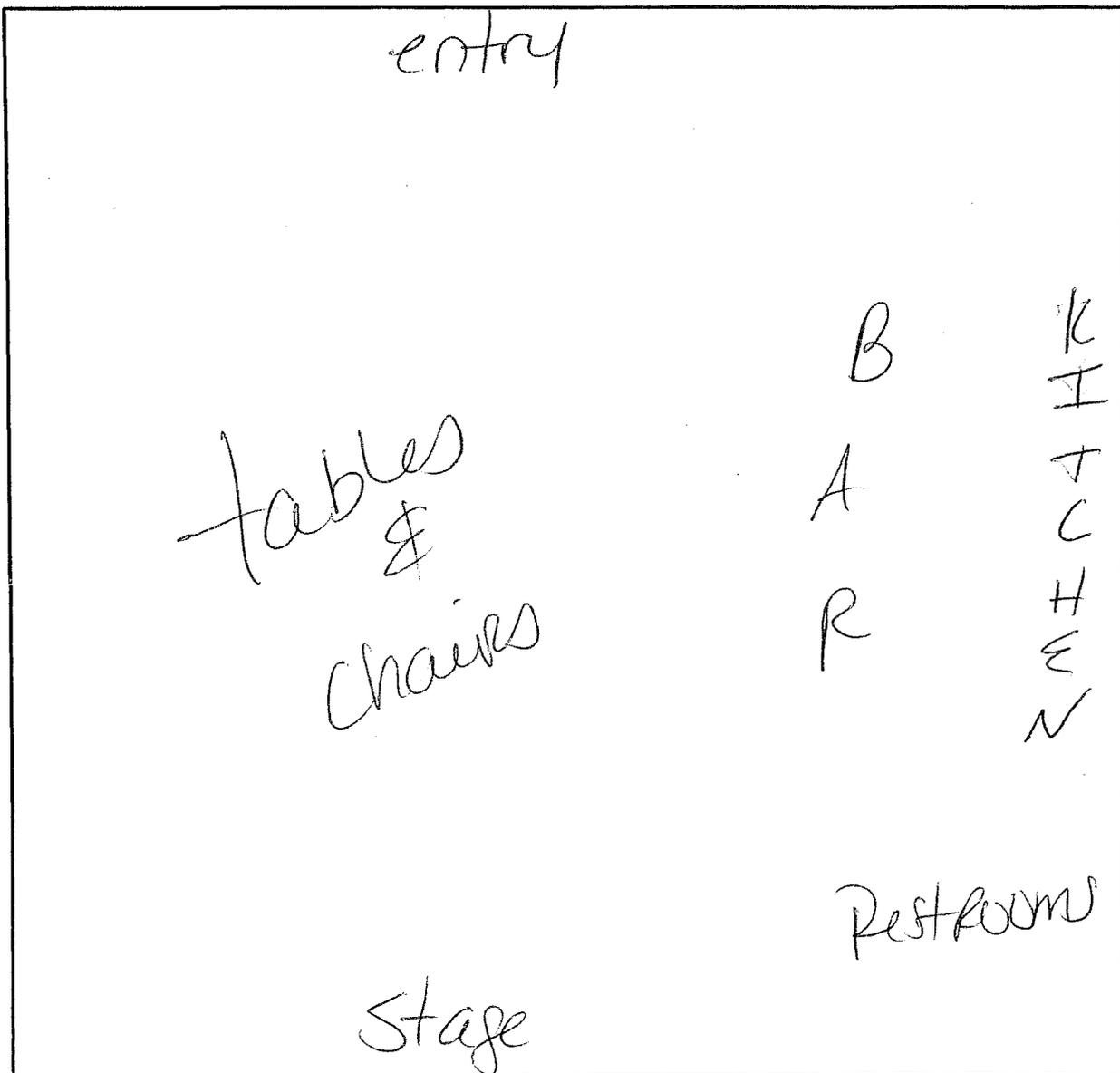
Sent to Police & Fire: _____

Hearing Date: _____ Approved by Council: _____ Vote No: _____

**SPECIAL AMUSEMENT PERMIT
SUPPLEMENTAL APPLICATION FORM
ON-PREMISE DIAGRAM**

In an effort to clearly define your licensed premise and areas that the entertainment is allowed, the City of Lewiston is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram showing where in the facility the entertainment will be, the direction of any speakers and where the dance floor, if any will be located.



CITY OF LEWISTON, MAINE
Department of City Clerk

Supplementary Questionnaire for Corporate Applicants

1. Exact corporate name: Irish Twins Pub, LLC
2. Date of incorporation: 2008
3. State in which you are incorporated: Maine
4. If not a Maine corporation, date corporation was authorized to transact business within the State of Maine: _____
5. List the names, addresses previous 5 years, birth dates, title of all officers, directors, and % of stock owned:

NAME	ADDRESS... PREVIOUS 5 YEARS	BIRTH DATE	% OF... STOCK	TITLE
Deb Martel	PO Box 406 Greene Me	1/24/67	50	Owner
Ron Tierney	760 Tower St Turner Me	11/18/67	50	Owner

6. What is the amount of authorized stock? _____ Outstanding stock? _____
7. Is any principal officer of the corporation a law enforcement official?
no

Dated at Lewiston on 6/14/12
City or Town Date

Deb Martel
SIGNATURE OF DULY AUTHORIZED OFFICER



POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: March 16, 2012

RE: Liquor License/Special Amusement Permit – **Irish Twins Pub**

We have reviewed Liquor License/Special Amusement Permit Application and have no objections to the following establishment;

Irish Twins Pub
743 Main Street



LEWISTON CITY COUNCIL
MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Public Hearing and Final Passage regarding an amendment to the Vegetation Ordinance to establish regulations for the Community Forest.

INFORMATION:

The Lewiston-Auburn Community Forestry Committee has been working on this proposed ordinance for a while and is presenting the ordinance for Council adoption.

The proposed amendment to the Vegetation Ordinance will outline requirements regarding the Community Forest and provide for the public health and safety by regulating the planting, maintenance, removal and harvesting of trees and shrubs which are part of the community forest.

The amendments also define the duties of the Municipal Arborist, procedures for requests to the Arborist, notice by the Arborist for proposed tree work and notice of tree work by utilities.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to the City Code of Ordinances, Chapter 78 "Vegetation", Article III "Community Forest", receive final passage by a roll call vote.



Department of Public Works

David A. Jones, P.E.
Director



May 29, 2012

To: City Administrator Ed Barrett

Re: Proposed Lewiston Community Forest Ordinance

Ed,

We held a workshop with the City Council on May 24th to introduce and respond to questions and concerns regarding the proposed Community Forest Ordinance. At the end of the workshop, we indicated we would bring the proposed ordinance for a first reading to the June 5, 2012 meeting.

The City's Website describes the Community Forest Board as "*a committee which will develop and implement a Community Forest Program, advocate for the community forest, advise and consult on community forestry issues and projects, and develop and advise on policy changes for the City Councils of Lewiston and Auburn. In addition, the Board will develop a plan for and provide advice on management of the public sector portion of the community forest and educate the communities about the community forest and how to care for it. This is a joint citizen committee with the City of Auburn.*"

The Board has a number of active members, and, as part of their charge, they developed a proposed ordinance (attached) they request the City Council to adopt. The Board plans to also ask the City of Auburn to do the same. The Board has worked for several years to develop the ordinance which provides a framework from which the community forest will be managed. The ordinance:

- establishes the community forest as including all trees growing on public property and trees growing within the limits of any public way within the Urban Compact Zone;
- requires a forest management plan (already adopted by the Council) be followed and administered by the Municipal Arborist;
- outlines the responsibilities and qualifications of the Municipal Arborist and tasks him/her with developing rules, regulations and standard practices for trees in the public right-of-way and other public sites for review by the Board and adoption by the City Council;
- establishes a permitting and appeal process for planting, pruning, removing, or otherwise disturbing any public tree;
- requires utility company notifications before affecting public trees;
- establishes the existence and responsibilities of the Community Forest Board in statute;
- assigns 80% of revenues generated from timber harvests to the general fund and 20% to a fund for protecting and enhancing the community forest; and
- establishes penalties for violation of the ordinance.

The City's attorney has reviewed and approved the draft ordinance. Representatives of the Community Forest Board are expected to attend the Public Hearing and will be available to address any questions the City Council might have. I recommend approval of the proposed ordinance.

Sincerely,

David A. Jones, P.E.
Director

Cc: K. Montejo, S. Murch, J. Braunscheidel, C. Webber, B. Damon, M. Bates, J. Elie

Summary of Significant Provisions of Proposed Lewiston Community Forest Ordinance

Sections 78-40 and 78-41 These sections provide an overview of the findings and purposes of the ordinance and attempt to establish a legal basis for imposing obligations and restrictions on abutting property owners with respect to trees which legally belong to them. The legal ownership of street trees by the abutting landowners was established by the Maine Supreme Court in the case of *Brooks v. Bess*, 135 Me. 290 (1937).

Section 78-43 This section defines significant terms used in the ordinance. It also adds the definition of the term "topping" taken from the Georgia model and a definition of the term "shrub" which limits the term to woody vegetation likely to grow to a height of 15 feet or less.

Section 78-44 This section advocates the establishment of a forest management plan to govern the harvesting of trees and directs how the revenues derived from any such harvest will be apportioned.

Section 78-47 This section establishes minimum qualifications for the Municipal Arborist. It should be noted that the only Municipal Arborist presently possessing these qualifications is Steve Murch.

Section 78-48(a) This section establishes the general responsibilities of the Municipal Arborist including an obligation to maintain a list of plants which are suitable for planting in Maine as well as those that are not.

Section 78-48(b) The Municipal Arborist may order an abutting landowner to trim or remove trees and shrubs within the right of way to provide for public safety and prevent the spread of disease. The authority to do so is conferred by 30-A M.R.S.A. § 3291(2). If the property owner neglects to do so, the city can take the necessary actions at the property owner's expense. The city can waive the claim for reimbursement if the city is the primary beneficiary of the corrective work.

Section 78-48(c) The Municipal Arborist is authorized to issue regulations regarding the planting, maintenance, and removal of trees within the right of way. Such regulations will have the force of law when adopted by the City Council.

Section 78-49(a) and (b) These subsections forbid private property owners from cutting or planting trees or shrubs within the right of way without first obtaining a permit from the Municipal Arborist. They also offer protection against a property owner deciding on his or her own to cut down a valuable tree located in the right of way because he or she is tired of raking leaves.

Section 78-49(c) This subsection establishes a procedure by which an abutting landowner can request the Municipal Arborist to prune or cut trees in front of his or her

residence and be authorized to do the work themselves in cases not considered to be sufficiently urgent to warrant the use of city resources.

Section 78-49(d) This subsection establishes a permitting process for requests to plant trees or shrubs within the right of way. It also protects against haphazard planting of trees or shrubs within the right of way which will create safety issues, threaten the viability of existing trees, or interfere with utility wires.

Section 78-49(e) This subsection establishes an appeal process for persons who disagree with a decision of the Municipal Arborist. Members of the Forest Board would serve as members of the body hearing the appeal.

Section 78-50(a) The Municipal Arborist is required to give abutting landowners notice before removing or spraying trees in front of their homes. This section is intended to prevent situations in which valuable trees are cut or disfigured with no opportunity for input from the abutting property owners.

Section 78-50(b) This subsection establishes an appeal process in cases where the property owner objects to a decision of the Municipal Arborist. Steve Murch has indicated that this provision will not unduly burden his operations since he would not be prevented from proceeding with less drastic operations such as trimming and pruning.

Section 78-51-(a) This subsection requires a utility to give 30 days' notice to the Municipal Arborist before beginning a project which involves cutting or removing trees located in the right of way.

Section 78-51(b) Although the regulation of cutting trees within the right of way by utilities is generally controlled by state law, local municipalities can require more effective notice of what is proposed so that abutting property owners will not be surprised to see a utility crew coming down their street cutting down trees within the right of way before they have an opportunity to be heard about whether the work as proposed is necessary.

Section 78-52 This section confirms the existence of the Lewiston-Auburn Forest Board in essentially the same terms as were used in the resolve adopted by both City Councils in 2002. It also provides for the appointment of ex officio members from city staff to provide a link between the operations of the city and the volunteer Board.

Section 78-53 This section establishes civil penalties for violations of the ordinance. It contains a provision for awarding attorneys' fees to the city if it prevails in an enforcement action. This will help avoid having the ordinance become a scofflaw under which a property owner can remove a tree he or she dislikes with the only consequence being a small monetary penalty. It will also encourage the city to prosecute violators since it can recoup the cost of doing so.

AN ORDINANCE PERTAINING TO COMMUNITY FOREST

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 78 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 78

VEGETATION

ARTICLE III. COMMUNITY FOREST

Sec. 78-40. Findings.

The City Council finds that the community forest is important in advancing the economic and ecological health of the community and in protecting and enhancing its historic and esthetic characteristics. The City Council also finds that public trees beautify our streets and neighborhoods and also serve important environmental and economic purposes in that they release oxygen into the air, absorb carbon dioxide, reduce stormwater runoff, and reduce energy costs by providing shade in warm weather and protection from cold winter winds.

Sec. 78-41. Purpose.

The purpose of this ordinance is to promote these values and to provide for the public health and safety by regulating the planting, maintenance, removal, and harvesting of trees and shrubs which are part of the community forest.

Sec. 78-42. Authority.

The City has authority to enact this ordinance under its home rule powers provided in 30-A M.R.S.A. §§ 2003 and 2004.

Sec. 78-43. Definitions.

- (a) *Board*: The Lewiston-Auburn Community Forest Board as described in § 78-52 of this ordinance.
- (b) *Community forest*: includes all trees growing on public property as well as all trees growing within the limits of any public way located within the Urban Compact Zone.
- (c) *Forest management plan*: A written document, prepared by a Maine licensed professional forester, which, considering landowner objectives, establishes direction and goals for the management of a specific forest land area. A plan normally provides a description of the woodlot including

maps, timber inventory data, wildlife habitat, recreation potential, historic features, and special attributes. It will specify silvicultural practices and activities necessary to harvest products, improve forest health, and minimize adverse environmental impacts. The forest management plan serves as the basis for specific harvest plans.

- (d.) *Pruning*: systematic trimming or cutting branches throughout a tree or plant to enhance its health.
- (e.) *Public tree*: any tree or other woody vegetation which is located within the limits of any public way situated within the Urban Compact Zone.
- (f.) *Shrub*: any woody vegetation likely to grow to a mature height of fifteen (15) feet or less.
- (g.) *Topping*: the severe cutting back of tree limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree as to reduce the height of the tree by removing or substantially diminishing the normal canopy and disfiguring the tree.
- (h.) *Trimming*: includes pruning

Sec. 78-44. Management.

The broad objectives stated in § 78-40 "Findings" and § 78-41 "Purpose" will be achieved by the active management of the community forest, using best known practices and, within the guidelines of a forest management plan, to promote public safety, forest health, species diversity, and environmental benefit to the community. Harvesting trees may be part of the overall management objectives of this plan.

Sec. 78-45. Harvest Revenues.

If and when revenues generated from any timber harvests exceed the expense of conducting that harvest, the surplus revenues will be distributed as outlined below:

- (a.) 80% to municipal general fund
- (b.) 20% to designated account established for the purpose of protecting and enhancing the community forest

Sec. 78-46. Administration.

The Municipal Arborist shall administer the management plan in coordination with such other municipal agencies/departments that now or may in the future share in the responsibility of caring for and maintaining the community forest.

Sec. 78-47. Municipal Arborist.

The Director of the Department of Public Works shall appoint the Municipal Arborist who shall have a degree in forestry, arboriculture, or urban forestry from an accredited college or university or have equivalent field experience. The Municipal Arborist shall at all times during his or her employment hold a valid arborist's license issued by the State of Maine.

Sec. 78-48. Duties of the Municipal Arborist.

- (a.) The Municipal Arborist shall have responsibility for planting, maintaining, preserving, and removing trees and plants which are part of the community forest in order to promote public safety and to protect and preserve the symmetry, health, and beauty of the community forest and the places where public trees and shrubs are located. The Municipal Arborist shall maintain a list that includes trees and shrubs which are suitable for planting as well as those which are unsuitable in general or under specific circumstances. This list shall be made readily available to members of the public.
- (b.) The Municipal Arborist may order the trimming or removal of trees or shrubs which are located within the public right of way to lessen the danger of travel or to suppress tree pests or insects as provided in 30-A M.R.S.A. § 3283. The Municipal Arborist may also order the trimming or removal of trees or shrubs located on private property outside the right of way for similar reasons by notifying the owner of the property in writing of the required action. In the event that a property owner does not initiate the requested action within 10 business days of receiving notice to do so, the Municipal Arborist may cause such action to be taken at the city's expense. The property owner may appeal the decision of the Municipal Arborist in the manner provided by § 78-49(e) and the Municipal Arborist shall take no action during the pendency of such appeal.
- (c.) The Municipal Arborist shall develop rules and regulations as well as standards of practice governing the planting, placement, maintenance, removal, fertilization, pruning, and bracing of trees in public rights of way and other public sites. These rules shall be reviewed by the Lewiston-Auburn Community Forest Board which may recommend changes and additions for the Municipal Arborist and the City Council to consider. Once adopted by the City Council, the rules and regulations shall have the force of law and violators of any such rules and regulations shall be subject to the penalties established by this ordinance. Copies of such rules and regulations shall be available from the City Clerk and from the Municipal Arborist and shall be posted on the city's website. The Municipal Arborist shall be responsible for initiating proceedings to enforce such rules and regulations.

Sec. 78-49. Requests to the Municipal Arborist; Written Permits Required; Appeals.

(a.) No person shall plant, prune, remove, or otherwise disturb, above or below ground, any public tree without first filing an application with and obtaining a permit from the Municipal Arborist. Any permit granted shall contain a definite date of expiration and may contain conditions attached thereto by the Municipal Arborist. Any violation of this article or the terms of the permit shall be grounds for revocation of the permit, after notice and hearing. In emergency situations, such as storm damage to trees requiring immediate pruning or removal, the work may be performed without permits; however, the Municipal Arborist shall be notified as soon as possible.

(b.) It is the intent of this article to preserve public trees. The Municipal Arborist may issue a permit to cut down, remove, or destroy a public tree under one or more of the following circumstances:

(1) The tree is diseased, injured, in danger of falling too close to existing or proposed structures, interferes with existing utility services, creates unsafe vision clearance or other traffic hazard, or is otherwise dangerous to people or property.

(2) The tree is located in an area where a structure or other improvements will be placed in accordance with plans approved under the Land Use Ordinance.

(c.) Requests for Tree Removal, Pruning, or Trimming

Persons owning or occupying property abutting a public way or their representatives may request the Municipal Arborist to remove or top trees located within the limits of the public way or, alternatively, for a permit authorizing them to do the work on their own. If the Municipal Arborist concludes that the request is not urgent, he may decline to do the work and issue a written permit allowing the property owner or his or her representative to undertake the work on their own and at their own expense. The permit may specify conditions and shall establish an expiration date. Failure to comply with the conditions specified in the permit will subject the property owner and his or her representatives to the penalties established by this ordinance. In lieu of initiating enforcement proceedings when the conditions imposed by the permit are violated, the Municipal Arborist may cause any necessary corrective work to be done at the expense of the property owner or his or her representatives.

(d.) Requests to Plant Trees or Shrubs

Persons owning land abutting a public way or their representatives may request the Municipal Arborist to issue a written permit to plant trees or

shrubs within the limits of the public way. The Municipal Arborist shall issue a permit if he or she determines that the proposed planting will not be harmful to public health or safety, will not damage or encroach upon existing public trees, shrubs, or utility lines, will not damage the public street, sidewalk, or public or private utilities located in the right of way, and that suitable arrangements have been made to provide for future maintenance of the proposed tree or shrub. The Municipal Arborist may specify reasonable conditions in the permit which the property owner or his or her representatives must follow in carrying out the work. Failure to comply with the conditions in the permit will subject the property owner to the penalties established by this ordinance. In lieu of initiating proceedings to enforce the conditions stated in the permit, the Municipal Arborist may cause any necessary corrective work to be done at the expense of the abutting owner.

(e.) Appeals

Any person who is denied permission by the Municipal Arborist to act under this section or who disagrees with a restriction or condition imposed on the action to be taken may appeal the same by filing a notice of appeal to the Board within ten (10) days from the date the action appealed from was taken. The notice of appeal shall contain the name and address of the person filing the appeal, the date and nature of the action from which the appeal is being taken, and a brief description of the basis for the appeal. The notice of appeal shall be filed with the Municipal Arborist who shall promptly forward it, as well as a response to the appeal, to the Chair and Secretary of the Board. The Board shall hear and decide the appeal within thirty (30) days from the date that the appeal was taken. A majority of the members of the Board shall constitute a quorum for purposes of hearing an appeal. The Board shall develop procedures governing the processing of such appeals. Such procedures to be made available to the public.

Sec. 78-50. Notice by Municipal Arborist of Proposed Tree Work; Appeals.

- (a.) Except in the case of an emergency, the Municipal Arborist shall notify any abutting property owner at least ten (10) days before removing, topping, or spraying any public tree. In the case of an abutting property owner who does not occupy the property, notice may be given to any occupant of suitable age and discretion. Notice may be given by mail, by telephone, by electronic transmission, by leaving written notice attached to the person's door, or in person. The notice shall describe the work to be done, when it is scheduled to begin, the process by which an appeal may be taken, and how to contact the Municipal Arborist. With respect to pruning and trimming public trees, no formal notice is required, but the Municipal Arborist shall make a good faith effort when feasible to advise abutting property owners of the work to be done and to provide them with an opportunity to express any objections they may have.

- (b.) Within ten (10) days of the date when notice of the Municipal Arborist's intention to remove, top, or spray a tree is given, an abutting owner or his or her representative may give notice to the Municipal Arborist that he or she is appealing the decision to the Board. Such notice of appeal may be given in person, by telephone, mail, or electronic communication. The procedure with respect to appeals under this section shall be the same as that for appeals under § 78-49(e) of this ordinance except that the proposed action shall be held in abeyance until the appeal has been heard and the Board has rendered a decision.

Sec. 78-51. Notice of Tree Work by Utilities.

- (a.) At least thirty (30) days before initiating any trimming, cutting, or removal of public trees, a utility company must notify the Municipal Arborist who may request the City Council to hold a public hearing to discuss the request.
- (b.) At least thirty (30) days before initiating any trimming, cutting, or removal of public trees, a utility company shall publish notice of its proposal on its website and in at least one newspaper which has daily circulation in the area in which the work is to be done. The notice shall describe the work which is proposed, the streets on which the work is scheduled to be carried out, and the dates on which the work is to be done. The notice shall be published in a display advertisement format which is easily readable and sufficiently prominent so that it is likely to come to the attention of persons whose property will be affected by the proposed tree work. The published notice shall also advise the members of the public of their right pursuant to state law to be added to a list of persons who must be consulted by the utility company before it trims, cuts, or removes trees in which they have a legal interest.

Sec. 78-52. Lewiston-Auburn Community Forest Board.

- (a.) *Statement of purpose.* The existence of the Lewiston-Auburn Community Forest Board is formally recognized. The Board shall develop and implement a community forest program which promotes the economic, environmental, and esthetic values of the community forest.
- (b.) *Members.* The Board shall consist of nine members appointed by the respective mayors.
- (c.) *Qualifications of members.* Members must be residents of Lewiston or Auburn, or own property in either city, and be interested in developing and preserving a healthy community forest. There shall be a minimum of four members from each city although five members shall constitute a quorum and may act regardless of whether there are vacant positions on the Board.

When members of the Board are acting as a Board of Appeals, a quorum shall require the participation of at least two (2) members from each city.

- (d.) *Ex officio members.* There shall be six (6) ex officio members of the Board consisting of the Director (or Superintendent) of the Parks Department in Auburn and the Public Works Director in Lewiston, a member of each city's Planning Board or planning staff to be chosen by the respective Mayors, and the Municipal Arborist from each city. The Board may adopt a by-law regarding the election of associate members of the Board who may participate in the affairs of the Board, but they will not be eligible to vote except in the absence of a regular member of the Board.
- (e.) *Members' terms of office.* Each member shall serve for a term of three (3) years and may be reappointed by their respective mayors. Members currently serving may complete their current terms of office and may be reappointed for additional three-year terms. Terms of office will continue to be staggered to provide for continuity in the Board's program and activities.
- (f.) *Vacancies.* When vacancies occur, the Board shall take appropriate steps to recruit applicants to fill the vacant positions. Members appointed to fill vacant positions on the Board shall serve out the terms of the persons they are replacing.
- (g.) *Compensation.* Members of the Board shall serve without compensation.
- (h.) *Duties and responsibilities.* The Board shall:
 - (1) Develop a plan for and provide advice to city staff and agencies regarding the management of the community forest including the anticipated impact of proposed development;
 - (2) Raise community awareness regarding the importance of the community forest;
 - (3) Raise funds to establish a community forest trust fund;
 - (4) Hear appeals filed pursuant to this ordinance;
 - (5) Adopt by-laws to govern the internal affairs of the Board; and
 - (6) Perform such other functions as are permitted by this ordinance.
- (i.) *Administration.* The Board shall elect a Chair, Vice Chair, Secretary, and Treasurer. Except for the Chair, the officers shall serve for renewable one-year terms. The Chair shall be elected for a renewable two-year term. The

Board may allow the duties of the Secretary and Treasurer to be performed by the same person.

Sec. 78-53. Penalty.

- (a.) Any violator of any provision of this article shall be subject to a civil penalty payable to the city. Each act of violation shall constitute a separate offense.
- (b.) Should any public tree be destroyed, the person causing the destruction shall also make restitution to the city or to the abutting landowner in an amount equal to the cost of removing the destroyed tree plus its replacement value. Replacement value shall be calculated as follows:
 - (1) For a tree up to and including 2 inches in diameter measured at a distance of 4.5 feet from the ground, the replacement value shall be \$200.
 - (2) The replacement value of a tree in excess of 2 inches in diameter as measured at a distance of 4.5 feet from the ground shall be calculated by using the following formula: $\text{restitution} = \$200 + (d^2 \times \$40)$ not to exceed \$2,500 where d equals the diameter of the trunk as measured in inches.
- (c.) The court may also order the violator to reimburse the city for the cost of any action which was necessary to correct violations of the ordinance. If the city is the prevailing party in an enforcement action, it shall be awarded reasonable attorneys' fees and costs.

LEGAL AD

**PUBLIC HEARING NOTICE
CITY OF LEWISTON
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, June 5, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

COMMUNITY FOREST ORDINANCE

This is a new ordinance which establishes the community forest as all trees growing on public property and trees growing within the limits of any public way within the Urban Compact Zone. This ordinance requires a forest management plan be followed and administered by the municipal arborist.

BUSINESS LICENSING ORDINANCE

This amendment is regarding second hand dealer licenses and outlines requirements for the license holders to retain sales records, notify the police department of certain sales, record identification of the seller and addresses low value goods and goods with serial numbers.

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

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, May 31, 2012

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Public Hearing and Final Passage regarding an amendment to the Business Licensing ordinance pertaining to second hand dealers.

INFORMATION:

At the June 5 Council meeting, attorney Tom Peters expressed concerns about the new proposed language for Section 22-194. The Council approved first passage of the ordinance amendments at the June 5 meeting with direction to staff to review the concerns with Mr. Peters and to report back at the next meeting. The Police Department and Mr. Peters are still reviewing and discussing the issues that he rose and will be working on a compromise for the revised language. In the meantime, both are under agreement to have the ordinance changes as presented be approved by Council to allow for the benefit to other businesses that are waiting these changes, such as the Bull Moose Music store. Once the adjusted changes to Sec. 22-194 are determined, these will be brought back at a future Council meeting for approval.

The proposed changes are presented at the request of a few local businesses which hold second hand dealer licenses from the City. The changes are being recommended by the Police Chief and the City Administrator. One amendment states the license holder shall not accept goods from any person whom the licensee has reason to believe is a thief or receiver of stolen property. The other amendments pertain to record retention of goods sold and application of the ordinance regarding low value/high volume goods, such as used books or DVDs.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/ikmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 22 "Businesses", Article VII "Junk Collectors, Pawnbrokers and Secondhand Dealers", receive final passage by a roll call vote.



City of Lewiston Executive Department

EDWARD A. BARRETT
City Administrator

PHIL NADEAU
Deputy City Administrator



May 31, 2012

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Proposed Amendments to Pawnbrokers and Secondhand Dealers Ordinance

Recently, the City was approached by representatives of a local pawnbroker and a retail store that sells both new and secondhand goods regarding concerns they have with sections of the City's pawnbrokers and secondhand dealers ordinance. As a result of these conversations, we are proposing two amendments to the ordinance.

The first is to Section 22-193, which requires all licensed junk collectors or secondhand dealers to maintain a listing of all articles they have received, information on the individuals from whom this material is purchased, the date and time received, and the amount for which it was sold. The amendment would provide an alternative method by which secondhand dealers could comply with this requirement in situations where a dealer handles a large volume of relatively low value goods such as books, dvds, used video games, and the like. For items valued below \$20 (excepting goods with a serial number or other personalized identifying characteristic), the dealer must continue to maintain all of the required information and must provide it to the Police Department on a monthly basis. This change will, however, will allow dealers with computerized point of sale and inventory systems to more easily comply with information requirements by use of electronic record systems. In addition, these items are exempted from the 15 day retention requirement currently set by Section 22-195.

The second change involves Section 22-194, receiving articles from minors, thieves. Tom Peters, representing a local pawnbroker, has raised concerns that this section was problematic for his client, particularly the following language: "or from a person known or suspected to be a thief or a receiver of stolen property," suggesting that it was vague and potentially placed his client in jeopardy, even when acting appropriately. As a result of this concern, we are proposing an amendment that would eliminate the word "suspected" and adding the following new language: "or from any person whom the licensee has reason to believe to be a thief or receiver of stolen property." I have attached a letter from Mr. Peters on this subject along with an opinion provided by the City Attorney's Office addressing his concerns and suggesting this amendment.

These amendments have been reviewed by both the Police Department and the City Attorney, and I would recommend your approval.

AN ORDINANCE PERTAINING TO SECOND HAND DEALERS

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 22 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

CHAPTER 22

BUSINESSES

ARTICLE VII. JUNK COLLECTORS, PAWNBROKERS AND SECONDHAND DEALERS

Sec. 22-193. List of transactions; seller to furnish proof of identification.

- (a) Every person licensed as a junk collector or secondhand dealer shall make out, and have available for periodic collection, a legible and correct list, upon a format furnished by the police chief, containing an accurate description of all articles taken in pawn, purchased, or taken in exchange, the name, residence and date of birth of the buyer or seller other than the licensee, together with the correct and exact time when such articles were pawned or purchased, and the amount the item was sold for. Before recording the information required by this section, a dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item which confirms the person's identification by date of birth and by physical description.
- (b) Alternative compliance mechanism for secondhand dealers. In lieu of the requirements set forth in subsection (a), a secondhand dealer is in compliance with this section with respect to certain secondhand goods if it establishes and maintains the following system for identifying and reporting the purchase of such goods:
- (i) Application to low value goods. This section shall apply only with respect to individual secondhand goods of a mass manufacture process with no specific individual identifying feature, valued at or below \$20, provided the total value of secondhand goods sold by a person to the dealer within a 30 day period does not exceed \$100. Any sale of a secondhand good in excess of the limits established in this paragraph must comply with the requirements set forth in subsection (a) of this section.
- (ii) Goods with serial number. This section shall not apply to a second hand good displaying a readily identifiable serial number or similar registration number, or any other personalized identifying characteristic marking having been uniquely applied. Any sale of a secondhand good with an identifiable number, along with all other secondhand goods sold at such time by the same individual, must comply with the requirements set forth in subsection (a).

- (iii) Record retention. With respect to any sale of secondhand goods under this subsection, the dealer shall maintain records of each secondhand good purchased by the dealer, the date of the purchase, and the name and address of the person selling the good to the dealer. Records may be retained in electronic form.
- (iv) Transmittal to police department. No later than the 15th day of each calendar month, the dealer shall transmit to the chief of police, or the chief's designee, the purchase records collected by the dealer under subparagraph (iii) during the prior calendar month. Transmittal may be provided in electronic form.
- (v) Identification of seller. At the time of purchase of a secondhand good by a dealer, the dealer shall verify the name, address, and date of birth of the person making the return using reasonable means of identification as described in subsection (a).
- (vi) Definitions. For purposes of this section, the term "purchase" includes the provision by the secondhand dealer of any item or thing of value in exchange for the acquisition of a secondhand good.

Sec. 22-194. Receiving articles from minors, thieves.

No one licensed pursuant to this article shall purchase or receive any article from any person under the age of 18 years without the written consent of such person's parent or guardian, ~~or from a~~ any person known by the licensee ~~or suspected~~ to be a thief or a receiver of stolen property, ~~or from any person whom the licensee has reason to believe to be a thief or receiver of stolen property.~~

Sec. 22-195. Retention of articles purchased.

- (a) Articles purchased by anyone licensed in accordance with the provisions of this article, excepting pawnbrokers, shall be retained by such licensee in the same condition in which they were obtained and in an accessible place at the licensed business location where such articles can be examined and inspected for at least 15 days before they are disposed of. This paragraph does not apply with respect to the sale of any secondhand good or goods which conforms to the requirements of section 22-193(b).
- (b) No pawnbroker shall sell, destroy or alter any property pawned until it has remained in his possession for the duration of time as required by this article, unless forfeited in writing by the customer.

Note: Additions are underlined; deletions are ~~struck-out~~.



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March 19, 2012

Mr. Edward Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, ME 04240

Re: Lewiston Ordinance § 22-194

Dear Ed:

Thank you for a very productive meeting regarding the Section 22-194 city ordinance.

I trust it was clear we are all on the same page regarding doing what we can legally to minimize any avenue whereby stolen items may be sold to any merchant. Our concern has been and remains that we work together, within the confines of the law, so neither the City nor my client violate individual rights or be seen as punishing someone for *potential* wrong doing or *re-punishes* them for a conviction in the past for which they served their time and were never told of additional punishment under city ordinances.

You asked I provide you with some of the research I have done. I will not write a brief but rather point you in the direction where I have concerns.

First, the part of the ordinance that gives me great concern is the part that reads... "*or from a person known or suspected to be a thief or a receiver of stolen property*".

My first concern is one that should be apparent to any reader and certainly to the city attorney upon initial read of the ordinance. I believe this statute violates the **vagueness doctrine**, which "is a derivative of due process, and protects against the ills of laws whose prohibitions are not clearly defined." U.S.C.A. Const. Amend. 14. National Organization for Marriage v. McKee, 649 F.3d 34. The vagueness doctrine invalidates statutes "whose terms are so uncertain that persons of *average intelligence would have no choice but to guess at their meaning and application*." U.S.C.A. Const. Amend. 14. IMS Health Inc. v. Mills, 616 F.3d 7. The "Due Process clauses of Maine and United States Constitution require that a statute *provide reasonable*

and intelligible standards to guide the future conduct of individuals and to allow courts and enforcement officials to effectuate legislative intent in applying the laws.” Maine Real Estate Commission v. Kelby, 360 A.2d 528.

The ordinance raised many questions as written. What constitutes when a shopkeeper knows someone was convicted of a theft. Are they to know the court records? From the newspaper? How far back? Forever? What does it mean to suspect someone is a thief? If they bring in one new unopened package does that mean they should be suspected of stealing it? What if they bring in ten of those items? One can certainly have a hunch but that would not be sufficient for a probable cause standard. What standard are we to use? And how are we to determine someone is a receiver of stolen property?

The point of all this is to be clear with those that have a license to operate within the city when they are and when they are not in violation of the ordinance. The way it is now written I believe it violates the Constitutions under the vagueness doctrine.

Second, I have concerns under the *ex post facto* provision of the US Constitution which prohibits laws that “retroactively alter the definition of crimes or *increase* the punishment for criminal acts.” Collins v. Youngblood, 497 U.S. 37, 43. Both the Maine Constitution and the US Constitution state that a statute “violates the prohibition against *ex post facto* laws if it... *makes more burdensome the punishment for a crime* after it has been committed.” State v. Letalien, 985 A.2d 4, 14. If this case, if someone had a prior conviction of theft, then the city ordinance would add an additional burden by not allowing that person to ever sell goods to a pawnshop.

Typically, the *ex post facto* clause only applies to penal statutes, however it can apply to civil issues “if the party challenging the statute provides the clearest proof that the statutory scheme is so punitive either in purpose or effect as to negate the State’s intention to deem it civil.” Kansas v. Hendricks, 521 U.S. 346, 361. Generally, there are seven factors that provide the framework for this determination and they are:

“whether the sanction involves an affirmative disability or restraint;
whether it has historically been regarded as a punishment;
whether it comes into play only on a finding on scienter;
whether its operation will promote the tradition aims of punishment – retribution and deterrence;
whether the behavior to which it applies is already a crime;
whether an alternative purpose to which it may rationally be connected is assignable for it;
and whether it appears excessive in relation to the alternative purpose assigned.”

Mendoza-Martinez, 372 U.S. 168-169. In this case, there is a strong argument that the statute is penal in nature because violation of the statute would result in the loss of the pawnbroker’s business license and thus the loss of his ability to make a living. As I mentioned during the meeting in addition there are a significant number of people whose only recourse to get cash advances is a pawnshop and not being able to do so because of a prior conviction could well convert this issue from civil to criminal for them. This is not a new issue in Maine. I would refer you to the cases that ultimately removed civil OUI from our books and the more recent case of State v. Letalien (985 A.2d 4, Me. 2009) where the court concluded registration of sex offenders (SORNA) was an *ex post facto* law albeit non written as criminal in nature.

Lastly there is some question whether the city can legislate in this arena. The State of Maine has laws governing pawnshops. Has the State preempted the field?

Generally speaking, municipal legislation will only be preempted "when the Legislature has expressly prohibited local regulation, or when *the Legislature has intended to occupy the field* and the municipal legislation would frustrate the purpose of the state law." Tisei v. Town of Ogunquit, 491 A.2d 564, 570 (Me. 1985). State and federal regulations are so pervasive in regards to the business of pawnbrokers; it well may be a tenuous argument to say that the Legislation did not intend to occupy the field.

I am also concerned that if the ordinance is found valid then given my research which finds no other city has such an ordinance then it will take little time for those to whom this ordinance is directed to simply cross the river to pawn their goods. At the moment no statewide system is in place where all pawnbrokers report the items they receive. Thus a citizen of Lewiston whose item was stolen will have less of a chance to recover that item as the thief expands the geographic scope of where they sell the item in response to the enforcement of this ordinance.

And, lastly, we should be mindful to not create a standard for one merchant that does not apply to other merchants dealing in similar purchases from the public. To do so will give the other merchants an economic advantage over the merchant that has these restrictions. I am sure that is not the intent of the city. If we are truly to find ways to remove options from those that steal I suggest legislation be statewide and cover all merchants that face the potential of being placed in the position of possibly buying stolen goods.

We look forward to your reply and wish to continue to work as a team in the best interests of all the citizens of Lewiston. Thank you and the Mikes for your time and ear to hear our concerns.

Sincerely,
PETERS AND ASSOCIATES, P.A.



Thomas P. Peters, II
Attorney at Law

TPP/jmp.lewistonpawnshop 031912
cc Ricky LaChapelle

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MEMORANDUM

**Confidential & Subject to
Attorney-Client Privilege**

To: Edward A. Barrett, City Administrator
From: Daniel C. Stockford, Brann & Isaacson
Re: Pawnshop Licensing Ordinance
Date: April 4, 2012

This memorandum is in response to your request that we review the concerns raised by Attorney Tom Peters regarding Section 22-194 of the City's pawnshop licensing ordinance. The ordinance provides that "No one licensed pursuant to this article shall purchase or receive any article from...a person known or suspected to be a thief or a receiver of stolen property."

In regard to Attorney Peters' assertion that the ordinance is unconstitutionally vague, the Maine Law Court has held that courts must presume the constitutional validity of an ordinance and that the party attacking the ordinance has the burden of demonstrating its unconstitutionality. "An ordinance is unconstitutionally vague only when it sets guidelines which would force persons of general intelligence to guess at its meaning..." Britton v. Town of York, 673 A.2d 1322, 1324 (Me. 1996). "A municipal ordinance is not unconstitutionally vague where it contains sufficient guidance to allow for effective judicial review and this protects the individual from arbitrary municipal action." Nugent v. Town of Camden, 710 A.2d, 245, 248 (Me. 1998). Because failure to define a term in an ordinance "does not render an ordinance unconstitutionally vague," the courts do not look at whether the ordinance could have provided more specific guidance by defining every term in the ordinance, but at whether the ordinance contains sufficient standards to provide guidance and limit a city's discretion. Britton, at 1324.

In this case, we do not believe that the ordinance provision is unconstitutionally vague. The ordinance simply requires that a pawnshop licensee not purchase or receive articles from persons whom the licensee knows or has reason to suspect are thieves or receivers of stolen property. The City has a strong argument that the ordinance need not define what constitutes knowledge or reason to suspect that a person is a thief or receiver of stolen goods.

Knowledge or reason to suspect theft or receipt of stolen goods could be based on a range of information, including suspicious circumstances surrounding the goods or the person's

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attempt to pawn the goods, knowledge of a person's criminal record, or receipt of information from third parties. In order to enforce the ordinance, the City would need to make a finding that the licensee had such knowledge or reason to suspect. The licensee would have the opportunity to argue that the facts are not sufficient to make such a finding, and the City's finding ultimately would be subject to judicial review in the courts. In these circumstances, we believe that the ordinance provides sufficient guidance and that there are adequate due process protections in place for the licensee.

While we believe that the ordinance is not unconstitutionally vague as currently drafted, we believe that the language could be tightened up to address this argument. Following is possible revised language that makes more clear that it is directed to those whom the licensee has actual knowledge is a thief/receiver of stolen goods or whom the licensee has reason to believe is a thief/receiver of stolen goods:

No one licensed pursuant to this article shall purchase or receive any article from any person under the age of 18 years without the written consent of such person's parent or guardian, ~~or from any person known by the licensee or suspected to be a thief or a receiver of stolen property, or from any person whom the licensee has reason to believe to be a thief or receiver of stolen property.~~

We do not agree with the other concerns that have been raised. In order to demonstrate that the ex post facto clause applies, it would be necessary to show that the ordinance increases the punishment of a crime after it has been committed. The impact of the ordinance on the pawnbroker is not relevant to this analysis, because the pawnbroker is not the individual who may have committed the crime of theft. Limiting an individual's ability to pawn goods is not a type of restraint that historically has been regarded as punishment.

In addition, there is no indication that the Legislature has intended to occupy the field in a way that would preempt municipal regulation of pawnbrokers. To the contrary, the legislature has specifically delegated to municipalities the authority to grant licenses to pawnbrokers without limiting the conditions that may be imposed on such licenses. 30-A MRSA §3961.

Attorney Peters makes a policy argument suggesting that no other city has such an ordinance, but it appears that a number of municipalities both inside and outside of Maine, including Auburn, have very similar or identical ordinance provisions. Auburn Code section 4-22, which applies to secondhand dealers and pawnbrokers, states that "No person licensed pursuant to this section shall purchase or receive any article from any person under the age of 18 years without the written consent of the person's parent or guardian, or from a person known or suspected to be a thief or a receiver of stolen property."

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Finally, you raised the question of whether the City could be liable for red flagging individuals on the pawnshop's computer system to bring attention to known or suspected thieves. This practice could give rise to a defamation claim if an individual could demonstrate that the information is false. If the City continues this practice it should ensure that any flagging is based on objectively provable information, e.g., prior criminal convictions for theft. Although there is some risk to this practice, defamation claims are the type of tort for which the City generally would have immunity under the Tort Claims Act.

DCS/lh

LEGAL AD

**PUBLIC HEARING NOTICE
CITY OF LEWISTON
PROPOSED ORDINANCE AMENDMENTS**

Public hearings on the following ordinance amendments, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, June 5, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

COMMUNITY FOREST ORDINANCE

This is a new ordinance which establishes the community forest as all trees growing on public property and trees growing within the limits of any public way within the Urban Compact Zone. This ordinance requires a forest management plan be followed and administered by the municipal arborist.

BUSINESS LICENSING ORDINANCE

This amendment is regarding second hand dealer licenses and outlines requirements for the license holders to retain sales records, notify the police department of certain sales, record identification of the seller and addresses low value goods and goods with serial numbers.

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

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Thursday, May 31, 2012

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL
MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing and First Passage regarding amendments to the General Assistance Ordinance.

INFORMATION:

The Social Services Director and the City Administrator are recommending amendments to the General Assistance ordinance which governs the City's assistance program for low income and eligible residents. These amendments would change the ordinance regarding overall maximum levels of assistance granted, housing limits, hardship exceptions, changes required by state statute regarding emergency situations and amendments regarding misconduct, housing safety standards and transportation.

Note the underlined language is the new proposed language and the words that are struck out are proposed to be deleted.

Please see the attached memorandum from Social Services Director Sue Charron for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to the City Code of Ordinances, Chapter 46 "General Assistance", Article I "General", Article II "Application Procedure", Article III "Eligibility Factors", Article IV "Determination of Eligibility", and Article VI "Recovery of Expenses", receive first passage by a roll call vote and that the public hearing on said ordinance be continued to the next regularly scheduled City Council meeting.

AN ORDINANCE PERTAINING TO GENERAL ASSISTANCE

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 46 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 46-1. Introductory provisions.

(c) The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on ~~sex~~, gender, age, race, religion, disability or political affiliation. The applicant or recipient will be informed of his rights and responsibilities under the general assistance program.

(g) The general assistance administrator will refer to and abide by any other city ordinance to define a condition, area or situation. The administrator will not pay rent to a building owner or landlord when that building, or any unit in that building, has been placarded, condemned, unlicensed, or is known to be in violation of any other municipal ordinance.

Sec. 46-2. Definitions.

General assistance administrator means a municipal official designated to receive applications, make decisions concerning an applicant's right to receive assistance, and prepare records and communications concerning assistance. ~~He~~ The administrator may be an overseer or an authorized agent such as a town manager, welfare director, or caseworker.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality.

Notwithstanding this prospective calculation, if any applicant or recipient receives a lump sum payment prior or subsequent to applying for assistance, that payment must be prorated over future months.

Lump sum payment means a one-time or typically nonrecurring sum of money issued to an applicant or recipient ~~after an initial application~~. "Lump sum payment" includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a nonliquid resource to a liquid resource if the liquid resource

has been used or is intended to be used to replace the converted resource or for other necessary expenses.

Misconduct ~~means conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violations or disregard of standards of behavior which the employer has a right to expect of his employee, or in carelessness or negligence of such degree or recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to his employer.~~ shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interests may also be found guilty of misconduct.

Resources means and includes any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: available and potential.

(2) Potential resources. Potential resources are programs, services, nonliquid assets, or trusts which typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released. Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual. Potential resources include AFDC TANF, food stamps supplement, fuel assistance (HEAP), subsidized housing, and similar programs.

ARTICLE II. APPLICATION PROCEDURE

Sec. 46-31. Right to apply.

(d) Applications accepted; posted notice. ~~Applications forms~~ will be available processed during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance, and will include the name of information on the ~~administrator~~ emergency contact available to take emergency applications at all other times. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator; however, in an emergency, the administrator will be available to accept applications for assistance whenever necessary.

Sec. 46-34. General assistance administrator's responsibilities at time of application.

(b) Application requirements. The administrator will ~~help the applicant~~ fill out the application ~~form~~ as described in section 46-33, with information and documentation provided by the applicant. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will

fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

(d) Applicant rights. The administrator will inform all applicants of their rights to, review this chapter and the state general assistance law, apply for assistance, receive a written decision concerning eligibility within 24 hours of applying for assistance, confidentiality, contact the department of health and human services, and challenge the administrator's decision by requesting a fair hearing.

State law references: Similar provisions, 22 M.R.S.A. §§ 4318, 4319.

Sec. 46-36. Action on applications.

(b) Content of decision. The written decision on the application will contain the following information:

(5) The applicant's right to notify the department of health and human services if he believes the municipality has acted illegally.

Sec. 46-39. Emergencies.

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household. Although ~~they~~ applicants may be considered otherwise ineligible to receive general assistance, persons ~~people~~ who apply for assistance to alleviate an emergency will be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency. The following exceptions and conditions apply when determining eligibility for emergency assistance.

(4) Limitation on emergency assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation.

According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

a. The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

b. The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his basic necessities for the applicable time period, including evidence of all income and resources for the applicable time period.

- c. The administrator shall compute all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this chapter for the specific basic necessities or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d. From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e. The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (4) d, above, even when such a grant will not totally alleviate the emergency situation.
- f. The administrator may waive this limitation on emergency assistance in life threatening situations or for first time applicants, that is, persons who have never before applied for general assistance.
- g. Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. Upon subsequent applications, that household's eligibility is subject to all the standards established by this chapter.

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(4), 4308, 4308(2)(A), 4308(3), 4309(3), 4310.

ARTICLE III. ELIGIBILITY FACTORS

Sec. 46-64. Personal property.

(c) Automobile ownership. Ownership of one automobile per household will not make a person ineligible for assistance, if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant and his family. Recipients of general assistance who own an automobile with a market value greater than \$5, 800.00. may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than \$5, 800.00. Any income received by the applicant by virtue of such a trade-down must be used for his basic necessities. Failure to liquidate or trade down the excess value of an automobile asset can result in disqualification. The municipality will neither pay, nor consider as necessary expenses, any car payment for which the applicant is responsible.

General assistance for travel-related needs shall be computed in accordance with section 46-98, regarding work related expenses.

Sec. 46-66. Work requirement.

All general assistance recipients are required to work, look for work, and fulfill the work requirements, unless they are exempt as provided in this section.

(2) Verification. Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. If employment is pursued online, an actual application must be completed, and a receipt for the completed application must be provided. Pursuit of employment means actually submitting a written application or applying for a job in person when reasonable, or ~~submitting a written application or letter of inquiry to employers~~ an online application. For the duration of any repeat applicant's period of unemployment or partial employment, each recipient will be responsible for providing documentation of their pursuit of employment applying for no less than five jobs per day according to the conditions set forth by the administrator. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

ARTICLE IV. DETERMINATION OF ELIGIBILITY

Sec. 46-97. Income.

(c) Types of income. Income which will be considered in determining an applicant's need includes:

(2) Income from other assistance or social services programs. State/federal categorical assistance benefits, SSI payments, social security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits food stamps and fuel assistance payments made by the home energy assistance program (HEAP ~~and ECIP~~) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise obliterated an actual fuel-related cost over the prospective 30-day period. The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP ~~or ECIP~~ as if that applicant paid for his total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward nonheating purposes solely on the basis of the recipient's receipt of HEAP/~~ECIP~~.

(8) Lump sum income. A lump sum payment received by a household in the 30-day period prior to the date of application for general assistance ~~an applicant or recipient, prior to or subsequent to applying for assistance~~ shall be considered as income available to the household, with the exception of any required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant or recipient can document was spent on basic necessities, as described below. ~~In the case where a lump sum payment was received by a household at any time prior to the date of application for general assistance, the administrator may also assess the possibility of prorating an applicant's eligibility for general assistance~~ The lump sum payment must be prorated over future months according to the following criteria:

The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; reasonable payment of funeral or burial expenses for a family member; reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid. All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum. The period of proration is then determined by dividing the remainder of the lump sum payment by the greater of the verified actual monthly amounts for all of the household's basic necessities or 150% of the applicable federal poverty guidelines. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

- a. ~~Identify the date the lump sum payment was received;~~
- b. ~~Subtract from the lump sum payment all required payments;~~
- c. ~~Subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities provided by general assistance in reasonable conformance with the specific maximum levels of assistance, per month, provided in this chapter; any reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities.~~
- d. ~~Divide the remaining amount by the applicant's maximum monthly allocation of general assistance.~~
- e. ~~Add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance.~~

~~f. — Divide the sum created by subsection (8) of this section by the aggregate maximum monthly allocation of general assistance available to the household pursuant to 22 M.R.S.A. § 4305(3-B).~~

~~The dividend remaining after following the above guidelines represents the number of months from the receipt of the lump sum payment that the applicant(s) will not be eligible for general assistance, except that no proration of eligibility can extend longer than 12 months from the date of application. Applicants who have been declared ineligible for reasons of lump sum proration will not be eligible for emergency general assistance during the period of proration.~~

State law references: Similar provisions, 22 M.R.S.A. § 4301(7), (8-A), (12-A), 4308.

Sec. 46-98. Basic necessities; maximum levels of assistance.

(a) Overall maximum levels of assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his income from the overall maximum level of assistance, established in Title 22, section 4305, subsection 3-C, as set in the general assistance policy for the applicable household size. The difference yielded by this calculation shall be the applicant's deficit. Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 46-39.

(b) Maximum levels of assistance for specific basic necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance as set forth in the general assistance policy. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs (*Glidden v. Town of Fairfield, et al, CV79-17, Somerset County Superior Court*). In all cases, either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need. The applicant's need for common living expenses for food, rent, fuel, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. This presumption may be rebutted by evidence that the other household members had no income with which to pay their share of common expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person, or which has been incurred in another person's name.

(2) Housing. The administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels established by the city council in the general assistance policy, and in accordance with the housing assistance limits provided in Title 22, section 4308, subsection 1-A; and in accordance with the housing exceptions provided in Title 22, section 4308, subsection 1-B. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed

housing maximums to assist the applicant in his search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed. Single individuals will be required to live in rooms, boardinghouses or shelters when such housing is available. Persons will be required to find rooms or apartments that have utilities furnished, unless they are residing in subsidized housing. Persons will be required to apply for, and accept, subsidized housing. The municipality will not pay security deposits or back bills, except in an emergency as provided in section 46-39.

(13) Other basic necessities. Expenses falling under this subsection may be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

f. *Work-related expenses.* In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include child care costs, work clothes, and supplies and transportation (if it is not available by the local bus service or car pooling) at the actual costs, not to exceed ~~\$0.22 per mile~~ the ordinance maximum as established by the city council in the general assistance policy. ~~child care costs, work clothes and supplies.~~ The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.

g. *Burial, cremations.*

2. Funeral directors must give timely notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of ~~the next 3 business days~~ following the funeral director's receipt of the body, whichever is earlier. This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact with the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

6. The financial responsibility of certain family members. Grandparents, parents, ~~siblings~~, children and grandchildren of the deceased, who live in the state or own property in the state, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator, with any reasonable requested information regarding their income, assets, and basic living expenses. If any responsible family members refuse to provide the requested information or refuse to allow the municipality to investigate their resources, the municipality will not grant the requested

burial or cremation assistance. If the administrator makes a finding that one or more legally liable relatives has a financial capacity to pay for the burial or cremation, the municipality will not grant the requested burial or cremation assistance.

7. ~~Ten~~ Eight days to determine eligibility. The administrator may take up to ~~ten~~ eight days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation.

h. *Burial expenses.* The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremation. Burial services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, preparation of the body, a minimum casket, and necessary transportation. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a cement liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery, or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

i. *Cremation expenses.* In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator will issue general assistance for cremation services. Minimum services for a cremation shall include removal of the body from a local residence or institution, a secured death certificate and obituary, an appropriate container for cremation, and necessary transportation. Additional payments for the actual cremation charge shall be paid directly to the cremation facility. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a liner if the cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery, or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(6), (7-A), 4305, 4308(2), 4309, 4313(2), 4319(2), 4320, 36 M.R.S.A. § 841(2).

ARTICLE VI. RECOVERY OF EXPENSES

Sec. 46-147. Relatives.

The spouse of an applicant and the parents of any applicant under the age of 25 years are liable for the support of the applicant. In addition, children, grandchildren, ~~siblings~~, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility.



Social Services Department
Sue Charron
Social Services Director



MEMORANDUM

TO: Mayor Macdonald and Members of the City Council

FR: Sue Charron, Social Services Director

RE: G.A. Maximums and Ordinance Changes

DT: June 19, 2012

Enclosed is material related to the general assistance overall maximums; housing limits; hardship exception; other changes required by Statute (lump sum and emergencies); changes that are consistent with the majority of the municipalities (misconduct, safety code and transportation); and housekeeping items.

Enclosed are the MMA General Assistance Overall Maximums (Appendix A-Lewiston/Auburn MSA), effective July 1, 2012- June 30, 2013. The overall maximums are 90% of the maximum levels in effect on April 1, 2012. These maximums will be amendments to the General Assistance Policy.

This reduction only applies to the overall maximums, it does not affect the current categorical maximums. The food, rental, utility and personal maximums are the same amounts that were adopted for the period of 10/1/2011-9/30/2012. However, it is important to note that, all assistance authorized for categorical maximums cannot exceed the overall maximums, unless there is an emergency situation.

Also enclosed is the amended language for 22 MRSA §4305, sub- §3-C, pertaining to the reduction in the overall maximums; and the language for 22

*City Hall • 27 Pine Street • Lewiston, Maine • 04240 • Voice Tel. 207-513-3130 • Fax 207-784-2959
• TTY/TDD 207 784-5999 • Email: scharron@ci.lewiston.me.us*

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities, and/or in the delivery of its programs, activities and services based on an individual person's race, ancestry, color, religion, gender, age, physical or mental disability, veteran status, or limited English speaking ability. For more information about this policy, contact or call Compliance Officer Mike Paradis at (V) 207-513-3140, (TTY) 207-784-5999, or email mparadis@ci.lewiston.me.us.



Social Services Department
Sue Charron
Social Services Director



MRSA §4308, sub-§§1-A and B, pertaining to the 9 month housing limit and the hardship exception.

Below are the ordinance revisions reflecting the amendments to 22 MRSA §4305, sub- §3-C, 22 MRSA §4308, sub-§§1-A and B.

Sec. 46-98. Basic necessities; maximum levels of assistance.

(a) Overall maximum levels of assistance. Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his income from the overall maximum level of assistance, established in Title 22, section 4305, subsection 3-C, as set in the general assistance policy for the applicable household size.

(2) Housing. The administrator will provide assistance with rent or mortgage payments that are reasonable within the allowed maximum levels established by the city council in the general assistance policy, and in accordance with the housing assistance limits provided in Title 22, section 4308, subsection 1-A, and in accordance with the housing exceptions provided in Title 22, section 4308, subsection 1-B.

Enclosed are sections of the ordinance reflecting recent law changes regarding lump sum and emergencies; and changes that are consistent with policies that are in effect in other municipalities; as well as some housekeeping changes.

The new transportation rate and associated language will be an amendment to the General Assistance Policy.

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LEGAL AD

**PUBLIC HEARING NOTICE
CITY OF LEWISTON
PROPOSED ORDINANCE AMENDMENT**

A public hearing on the following ordinance amendment, for passage on first reading, will be held in the Council Chambers, Lewiston City Hall, on **Tuesday, June 19, 2012, at 7:00pm**, or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said ordinance adoption.

GENERAL ASSISTANCE ORDINANCE

These amendments would change the ordinance language regarding overall maximum levels of assistance granted, housing limits, hardship exceptions, changes required by state statute regarding emergency situations and amendments regarding misconduct, housing safety standards and transportation.

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

Kathleen M. Montejo, MMC
City Clerk

LEGAL AD - SUN JOURNAL - Friday, June 15, 2012

TO: LSJ Advertising Dept. 784-3062 fax Attn: Venise
FROM: Lewiston City Clerk's Office 784-2959 fax

Thank you.

Please bill the City Clerk's Dept account.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Resolve Approving the City of Lewiston's application to the State of Maine to be designated as a Business Friendly Community.

INFORMATION:

The State of Maine had inaugurated a program to recognize communities that meet various standards as Business Friendly Communities, a designation that will enhance the reputation of the City as a community with the necessary skills, programs, and policies to assist businesses in expanding or locating here. Specifically, the State requests information on City staff involved in economic development efforts; our relationship with the business community; our planning and zoning policies, including the availability of land that is ready for industrial and commercial uses; our permit fee structure; programs we offer to assist businesses; and our permit fees, among others. Staff has prepared the necessary application, a draft copy of which is attached to this item.

Please note that given the historic close coordination between the Cities of Lewiston and Auburn, this application will be submitted jointly with theirs.

Lewiston has long been recognized as a community which places a high priority on economic development and job creation and one which has implemented the necessary systems to assist businesses in locating and growing here. As a result, we request your approval of this application following the required public hearing.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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1) To conduct a public hearing to receive citizen input and comment regarding the City's application for designation as a Business Friendly Community.

2) To adopt the Resolve approving the City's application to the State of Maine to be designated a Business Friendly Community, and to authorize the submittal of the application to the state for their consideration.



**City of Lewiston Maine
City Council Resolve
June 19, 2012**



Resolve, Approving the City of Lewiston's Application to the State of Maine to be Designated a Business Friendly Community.

Whereas, the State of Maine had inaugurated a program to recognize communities that meet various standards as a Business Friendly Community; and

Whereas, this designation will enhance the reputation of the City as a community with the necessary skills, programs, and policies to assist businesses in expanding or locating in our community; and

Whereas, given the historic close coordination between the Cities of Lewiston and Auburn, this application will be joined with that of the City of Auburn; and

Whereas, Lewiston has long been recognized as a community which places a high priority on economic development and job creation and one which has implemented the necessary systems to assist businesses in locating and growing here; and

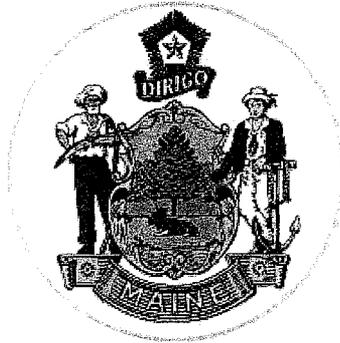
Whereas, the necessary application for such designation has been prepared and has been considered at a public hearing called for the purpose of soliciting input and comment from the business community and the public;

Now, therefore, be It Resolved by the City Council of the City of Lewiston that

the City's application for designation as a business friendly community, in a form substantially as is attached hereto, is hereby approved and accepted, and the City Administrator is authorized to submit this application to the State of Maine.



2012 BUSINESS FRIENDLY COMMUNITY
CERTIFICATION PROGRAM APPLICATION



Applicant:

The City of Lewiston



Lewiston is a business friendly city that works closely with our neighbors and businesses to make it easy to operate and thrive here, proving to prospective businesses that the City is Open for Business.

Customer Service/Product/Capacity

The City of Lewiston's dedicated staff works closely with Auburn to eliminate competition between the sister cities and to facilitate economic development. In January 2010, the City appointed Edward Barrett as the new City Administrator, coming to Lewiston after two decades as Bangor's City Manager. In Bangor, his major accomplishments included: downtown revitalization, waterfront redevelopment, and significant retail and business growth and expansion. He represents the City of Lewiston on a number of area coordinating boards and organizations including the Androscoggin Valley Council of Governments, the Androscoggin County Chamber of Commerce, and serves with Lincoln Jeffers and Mayor



Macdonald on the Lewiston Auburn Economic Growth Council (LAEGC).

In addition to a development conscious manager, the City employs Lincoln Jeffers as Assistant to the City Administrator and Economic and Community Development Specialist. In the summer of 2011, Mr. Jeffers was promoted to the position of Director of Community and Economic Development, assuming oversight of the Community Development Block Grant program. He has overseen more than \$500 million dollars in investment in the city since 2000.

Programs and services for existing businesses and to attract new businesses

The Lewiston/Auburn Economic Growth Council

Both Lewiston and Auburn share the costs of funding the operating budget for the Lewiston/Auburn Economic Growth Council, which is the central economic development agency for the two cities. The Council works closely with clients offering services including technical assistance, commercial financing, site searches, and marketing. LAEGC is staffed by five professionals and a part-time support staff position. The Council attends industry trade shows in partnership with the local business community, including hosting its own large trade show every year that attracts over 2,500 attendees and 200 exhibitors. LAEGC promotes LA with the coordinated and successful "LA: It's Happening Here" campaign. The Board of Directors is comprised of business representatives, elected officials, and economic development professionals apportioned equally to each community.



LAEGC is the primary coordinating agent for both Lewiston and Auburn in interactions with businesses that have expressed an interest or inquired about locating in LA. Of special note, LAEGC has played a lead role in developing policies governing regional economic development protocols and the use of TIFs that are designed to minimize the competition between Lewiston and Auburn. These protocols and policies have been adopted by the Councils of both communities and ensure a strong and coordinated local effort to

attract business investment and jobs. Both City Councils have adopted a Joint Economic Development Protocol to reinforce LAEGC's role, support collaborative economic development, and eliminate the barriers that competition between communities can create. A copy of this protocol is attached as Exhibit 1.

LAEGC administers four different business loan programs including a Finance Authority of Maine loan pool, an Intermediary Re-lending Program, an Economic Stimulus Loan Pool, and a Micro-Enterprise Loan Program. In fiscal year 2012, LAEGC was approved for up to \$2,795,000 from F.A.M.E. to re-seed its Revolving Loan Pool. A project application has been approved by the United States Department of Agriculture that will establish a Rural Micro-entrepreneur Revolving Fund with a \$500,000 loan pool and a \$105,000 technical assistance grant to assist small businesses. LAEGC's active loan portfolio has resulted in total regional investments of \$22,568,002, including \$4,427,577 from LAEGC itself and \$18,140,425 leveraged from other sources (consult Exhibit 2, LAEGC Active Loan Portfolio and History).

City Programs

Lewiston directly administers a Commercial Rehabilitation Loan Program, Downtown Improvement Loan Program, Facade Grant Program, and Elevator Grant Program, all designed to spur investment in the city and aid local and prospective businesses. These loan and grant programs can be accessed when businesses match 50% of project costs from other sources. From 2005 to 2011, the Commercial Rehabilitation Program loaned \$365,000 to ten businesses at a low 3% interest rate for the rehabilitation of commercial properties city-wide. Loans can be used on building exteriors, interiors, mechanical systems, and structural repairs. Over the same period, the Downtown Improvement Program has loaned \$280,000 to three businesses at a similar interest rate for the acquisition, demolition, and/or rehabilitation of downtown commercial properties. The Facade Grant Program has allocated \$387,300 for eleven downtown projects. Recipients must commit to improving the facade of the entire, privately owned, taxable, commercial building. The Elevator Grant Program's purpose is to stimulate new private investment in existing multi-story downtown buildings by underwriting the cost of installing an elevator to make the upper stories more accessible. From 2005-2011, this program has granted \$230,000 to enhance the economic value of Lewiston's tallest

buildings. The City has information regarding their loan and grant programs readily available on the City's website as well as through LAEGC. In addition, the City periodically markets these programs to local banks and other lending institutions.

Since Tax Increment Financing (TIF) was authorized in Maine, Lewiston has aggressively utilized TIFs to provide new employment opportunities, increase and broaden the tax base, and improve the general economy of the City. Lewiston has approved 15 TIF districts since 1993, proving the City can creatively work with businesses by encouraging development through its willingness to invest a portion of new taxes generated into either the infrastructure necessary to support a project or directly back to the business itself when essential to make the project economically viable. The City is currently negotiating two additional TIFs that are anticipated to be in place within the next year.

Here again, the Councils of Auburn and Lewiston have adopted a Joint Tax Increment Financing Policy to further support the collaborative approach we take to economic development and to underscore the minimum standards that must be met for a TIF to be considered. A copy of this Joint Policy can be found as Exhibit 3.

The City is judicious in its use of TIFs, recognizing its responsibility to its citizens and taxpayers. Each TIF is evaluated based on its documented need and the return on investment that will be realized by our taxpayers, ensuring that that each and every program brings more jobs and broadens our tax base. An example of such judicious investment is a TIF agreement with Central Maine Power that assisted in expanding an electrical substation near the Gendron Business Park that will supply reliable industrial power to the South Lewiston Growth Area. CMP lacked the willingness make this investment and planned to build only to meet the demand of the Wal-Mart Distribution Center, an approach that would not have addressed the future demands of Gendron Business Park where the City anticipates the potential for over 1 million square feet of industrial/commercial development.

The Wal-Mart Distribution Center is another example of how economic development success can contribute to growth and development. This project, which represented an investment of over \$800 million and the creation of 800+ jobs, also included a TIF. Revenues from this TIF are allocated in part to economic development and have been used for a variety of such purposes including the development of several industrial parks that have resulted in additional job creation.

Lewiston was one of the first communities to adopt the Pine Tree Zone Program,

which aids businesses through a combination of tax incentives. Lewiston is home to three Pine Tree zones: one at Lewiston Fairgrounds, the former location of a harness racing facility; the second incorporates the Southern Gateway on Lisbon street and stretches east to the Gendron Business Park; the third encompasses downtown and Riverfront Island, an area immediately adjacent to downtown extending to the Androscoggin River.

Comprehensive Plan, Strategic Plan, and Other Plans

The City's comprehensive plan was adopted in 1997 and has been certified by the State. Since then, the city has undertaken a variety of planning efforts, all designed to keep the plan current while addressing the priorities identified in the comprehensive plan. A number of these planning efforts will be separately discussed below. In May, recognizing the need to update the comprehensive plan in light of other planning efforts, the Council appropriated \$100,000 toward this effort. We anticipate work will begin shortly.

The current comprehensive plan identifies economic development and downtown revitalization as major priorities. These priorities will be carried forward into any revision or update.

The City has implemented significant elements of the current comprehensive plan. For example, the City has invested heavily in its Mill District, particularly in the Bates Mill Complex. This investment, when coupled with a quality developer, has allowed Bates Mill to once again flourish. After employing over 6,000 at its peak, the mill declined to less than 100 prior to its full closure. The City acquired ownership of the complex and has invested more than \$30 million to support its redevelopment – primarily for infrastructure improvements and parking. This has resulted in over a thousand jobs -- including back offices workers for TD Bank and Androscoggin Bank, a rapidly expanding Baxter Brewing Company, multiple restaurants, and the soon to be completed 48 units of workforce and market rate housing.

The Downtown master plan was completed in 1999. Since its approval, the city has completed 85% of the plan including a Library Expansion (which doubled its size), expansion of the City's downtown loan and grant programs, street and streetscape improvements, location of the district court and a state office building on Lisbon and Main Streets respectively, and numerous other improvements. The city also implemented short term goals to increase parking access in the downtown, an essential element to business attraction efforts and improving access to existing businesses.

Lewiston's strategic plan, adopted in 2010, emphasizes economic and community development as essential to improving the city's quality of life. The plan provides guidance and outlines policies designed to improve the city, including enhancing the city's business-friendly environment through outreach, marketing, and infrastructure investment. The plan stresses coordination with businesses to improve services, such as working with Central Maine Power to increase electrical capacity and improve reliability within the downtown and with the Androscoggin Transportation Resource Center, the Maine Department of Transportation, the Maine Turnpike Authority, and federal sources to prioritize Lewiston transportation projects and secure funding. The strategic plan was developed after significant input from citizens, the City Council, administration, and business representatives, all of whom came together to advance a vision for the future of the City with an emphasis on improving Lewiston's image, economy, and attractiveness as a place to live, work, and play.

The City has a variety of pre-permitted sites at a number of locations. In terms of industrial commercial development, the most notable are in the Gendron Business Park. Two years ago, phase one of this Park was completed. Phase Two will be completed this summer. The park offers 11 building lots designed to accommodate over 1 million square feet of space at an estimated eventual investment of over \$53 million dollars. To facilitate this development, the City has invested over \$5 million in infrastructure, including roads and utilities. This has been done in close partnership with the property owner who has invested in spec buildings and the cost of preparing these lots for development. As noted, this industrial subdivision has been pre-permitted by all state and federal agencies. A variety of other pre-permitted sites are available throughout the City.

Lewiston was founded at the fall of the Androscoggin River where hydro power allowed its initial industrialization in the early 1800's. The Androscoggin River remains a tremendous resource, which the city has recognized in its recently completed Riverfront Island Master Plan. Riverfront Island has seen significant investment in recent years. Green space, cultural resources, restaurants, businesses, and events have all brought new life and activity to the area -- and more is on the way. This growth has been facilitated by a variety of City investments and through close cooperation with businesses interested in the area.

Lewiston's Industrial/commercial growth areas

The City of Lewiston consists of approximately 21,951 acres, or 34.3 square miles of area.

The City has ten zoning districts dedicated to industrial and commercial growth.

Growth in the Downtown. Approximately 280 acres of Lewiston's downtown is identified and zoned for commercial growth.

Riverfront (RF).

Consisting of approximately 52 acres, the purpose of the riverfront district is to promote redevelopment of the riverfront area for recreation, employment, and mixed-age and mixed-income housing by encouraging the development of new buildings and the reuse or conversion of existing buildings that can benefit from the amenity values provided by close proximity to the Androscoggin River.

Mill district (M).

Consisting of approximately 105 acres, the purpose of the mill district is to develop a major employment center in the downtown by fostering the development of mixed use commercial enterprises and appropriate high-density residential areas while preserving and restoring historic buildings and properties. Developments located within this district should enhance the commercial, cultural, educational, and residential vitality of the downtown and link the downtown to the riverfront through a series of pedestrian corridors, pocket parks, and open spaces, utilizing the historic canal system, with expanded arts and recreational amenities.

Centreville district (CV).

Consisting of approximately 123 acres, the purpose of the Centreville district is to encourage a concentration of economic enterprises in the central business district that is convenient and attractive to a wide range of retail, service, financial, government, professional, entertainment, and appropriate residential uses in a setting conducive to a high volume of pedestrian traffic.

Commercial/Industrial Growth Areas. Approximately 4,936 acres of Lewiston outside the downtown area is identified and zoned for commercial growth.

Office-residential district (OR).

Consisting of approximately 328 acres, the purpose of the office-residential district is to provide for the orderly transition of older residential areas along major traffic arteries to low-intensity nonresidential uses and multifamily housing.

Institutional-office (IO).

Consisting of approximately 285 acres, the purpose of the institutional-office district is to provide areas within the city for the location of major community facilities including hospitals, schools, colleges and similar institutions. The standards of the district are designed to provide these institutions with flexibility within their property limits while establishing safeguards to protect adjoining residential areas from undesirable impacts associated with these uses.

Community business district (CB).

Consisting of approximately 282 acres, the purpose of the community business district is to provide areas within the city for the location of major shopping facilities including shopping centers which serve the wider community. The standards of the district are intended to encourage well planned commercial developments which have controlled vehicular access and high standards of site design.

Highway business district (HB).

Consisting of approximately 1,363 acres, the purpose of the highway business district is to provide areas within the city for the location of businesses which are dependent on automobile borne customers and which require large parking areas to be successful. The standards of this district are intended to allow commercial uses while requiring controlled highway access, good quality site design, and protection of adjacent residential property.

Office service (OS).

Consisting of approximately 798 acres, the purpose of the office-service district is to set aside areas within the city for the development of major economic activities which

do not have significant environmental issues associated with them. The standards of the district provide for well-planned developments with attention to controlled traffic access and buffering of adjacent residential areas.

Industrial district (I).

Consisting of approximately 1,233 acres, the purpose of the industrial district is to set aside areas of the city for the development of major economic activities, including manufacturing and processing, and to protect these areas from encroachment from non-compatible residential or commercial uses.

Urban enterprise district (UE).

Consisting of approximately 649 acres, the purpose of the urban enterprise district is to encourage the improvement, reuse, and redevelopment of older mixed use areas of the city by allowing a wide range of uses with appropriate development standards.

Programs and services utilized/offered within the community

In addition to Community Development Block Grants that, in recent years, have ranged between \$750,000 and \$1.2 million, community development administers \$4.9 million in other federal, state, and local grants including funding from the Environmental Protection Agency's Brownfield program, Housing and Urban Development lead hazard control funding, Neighborhood Stabilization Program funding, and the Auburn-Lewiston Home Consortium grant. These funding sources are all used to assist the city in reaching its goal as the place of choice to live, work, play, and raise a family.

Lewiston is home to Oxford Networks, which maintains a robust and redundant Fiber Optic Network running from Bangor to Boston. Oxford Networks supports medical facilities, educational institutions, banks, restaurants, and all variety of businesses in between. Oxford relocated to Lewiston in part through the assistance of the City's Tax Increment Financing Program that supported development of the Southern Gateway Project at a major entrance into our Downtown.

The City of Lewiston is directly responsible for providing water and sewer services through separate enterprises funds. This provides the City with great flexibility in addressing the needs of potential customers. Both utilities prepare and operate under five year capital

improvement programs that outline needed projects, both in terms of utility extensions, upgrades, and maintenance of current facilities. When necessary, such as in the case of the Gendron Business Park, the City will finance utility extensions through a Tax Increment Financing District, resulting in lower costs to businesses seeking locations.

Since 2000, Lewiston has invested over \$19 million in structured and surface parking to support and encourage growth in the downtown and mill districts. Most recently in 2010, the city completed a five million dollar, 396 space parking garage on Lincoln street to provide parking for surrounding businesses including a future hotel and to support continued redevelopment of the adjacent Bates Mill Complex. The downtown enjoys four other conveniently located parking garages: Canal Street, adjacent to the Bates Mills, has 365 parking spaces; Southern Gateway, fronting on both Lisbon and Canal Streets, with 360 parking spaces; Oak Street, serving the Lisbon and Main area, has 378 parking spots with 164 additional spaces on an adjacent surface lot. In the heart of the mill district, Chestnut Street is the City's largest garage with 610 spaces. The City provides daily and monthly parking at these facilities at discounted rates in an effort to support downtown and mill district businesses and residents.

Business/Local involvement/Collaboration

The City of Lewiston is intensively involved in collaborative efforts associated with economic development. Notable among these are the City's heavy participation in the Lewiston/Auburn Economic Growth Council, the Androscoggin Chamber of Commerce, and the Androscoggin Valley Council of Governments, the regional Economic Development District for our area.

Government Coordination

The Lewiston/Auburn Economic Growth Council is a public/private partnership that focuses on attracting new businesses and assisting existing ones to expand. It is a clearing house that provides information on a wide variety of business resources, financial assistance, local statistical data, site search, and networking opportunities. LAEGC is the initial point of contact for businesses evaluating the area as a location into which to move or expand.

The Council has been a principal driver of much of the economic development in the twin cities, including the development of the Turnpike Industrial Park, revitalization of the

Bates Mill, the establishment of a Foreign Trade Zone near the Auburn-Lewiston airport, and the renovation of an historic building in Lewiston's Southern Gateway, which LAEGC now calls home. This Business Service Center at Key Bank Plaza, located in a revitalized historic structure at a key location on Lisbon Street, the economic heart of Lewiston, was supported by the City through Tax Increment Financing. The business service center brings the LAEGC, the Chamber of Commerce, several private businesses, and SCORE (a volunteer business assistance group) under the same roof, increasing coordination and communication between a number of the City's strongest economic development partners. The City has several representatives on the LAEGC Board, and City Administrator Ed Barrett serves on the Executive Committee and as the organization's Treasurer.

The City of Lewiston is an active member of the Androscoggin Valley Council of Governments (AVCOG), which includes communities from Androscoggin, Franklin, and Oxford Counties. Lewiston's City Administrator, Deputy City Administrator, Community and Economic Development Director, and several members of City Council are involved in a variety of AVCOG's boards and committees including its Executive Committee and Board of Directors. AVCOG's economic development business support programs and professional staff are a valuable resource to all 42 member communities. AVCOG provides financing assistance for business start-ups, expansions, and modernizations throughout the tri-county area. Services to small businesses include comprehensive management assistance, training, and information through a statewide network of professional, certified business counselors. AVCOG is also home to the Androscoggin Transportation Resource Center (ATRC), the Metropolitan Planning Organization that is responsible for regional multi-modal transportation planning and allocating state and federal transportation funding for projects in Lewiston and Auburn. Here again, Lewiston and Auburn are both active members in an effort that directly supports the transportation infrastructure essential to economic activity and business expansion.

Business advocacy has been the focus of the Androscoggin County Chamber of Commerce. Lewiston businesses are active members of the ACCC, and Lewiston's City Administrator is an ex officio member of the board of directors. A variety of City staff serve on various Chamber Committees including the Regional Image Committee, which is actively engaged in marketing our region both to those from away and our own residents. The chamber is focused on promoting Androscoggin County as a wonderful place to own and

operate a business. Through this forum, the City and our businesses formulate advocacy positions on the federal, state, and local issues affecting businesses and our economy. The Chamber also provides a setting for business and governmental leaders to discuss issues of concern and work toward complementary policies and approaches.

Education

The Regional Technical Center, located at Lewiston High, offers students from the region an alternative to traditional high-school. Taking a hands-on, career-oriented approach, the Center offers programs in a variety of areas ranging from the skilled trades to computer networking to manufacturing engineering.

After high-school, the city and region offer students a variety of career training options ranging from Central Maine Community College in Auburn, to the Lewiston/Auburn College of the University of Southern Maine, to career-oriented Kaplan University, to Bates College with its focus on liberal education. The City has worked to foster positive relationships with each of these institutions. Lewiston and others in the region have worked diligently to expand opportunities for higher education in the area. These efforts were instrumental in creating USM/LA. It required a coordinated community effort to bring the University of Maine to the second largest city/metro area in the state. Now we have a state school dedicated to educating our workforce. The college offers a variety of undergraduate, and graduate degrees and certifications.

In addition to a wide range of associate degree programs and certifications, Central Maine Community College offers training consultation and custom training to help employers improve quality, productivity, and profitability by upgrading the skill levels of their employees. Maine Quality Centers offers grants to businesses to encourage them to locate or expand operations in Maine by providing workforce training at no cost to the business or trainees through Central Maine Community College.

Cooperative efforts are now focusing on educational aspirations through programs such as College for Me – Androscoggin. The goal of this effort, which the City supports and collaborates with, is to raise the educational attainment of our region with a focus on older workers seeking to return to school to complete a degree or gain additional skills.



The Chamber of Commerce's Workforce and Education Development Committee collaborates with local businesses, LAEGC, officials from the cities of Lewiston and Auburn, representatives from the K-12 and higher education institutions, Chamber leaders, and Career Center staff. This committee connects those in school and preparing to enter the workforce with opportunities for employment after graduation. The committee sponsors career fairs, job fairs, a career exploration program, and a young entrepreneurs academy where high school students run their own businesses while being mentored by professionals.

The City also has a close and collaborative relationship with the Lewiston Career Center. In interacting with businesses, it is not unusual for City staff to become aware of employer needs for either training or recruiting personnel. When this occurs, we reach out to the Career Center and ensure that Center staff contact these businesses and work with them to address these needs.

Ten percent of Lewiston's population are members of the Somali community. A federally funded earmark program, the New Mainers-Refugee Workforce Development Project, is a collaboration between the Lewiston Career Center, Lewiston Adult Education, and Catholic Charities of Maine that prepares members of the refugee and immigrant communities for the workforce through English instruction as well as cultural and practical skills training. The City works closely with Catholic Charities in its effort to facilitate the integration of our new Mainers into the community and our workforce. The Lewiston School Department provides English as a Second Language training to a large number of our immigrant population and has expanded this program as the need has grown.

Public Hearing Process/Nomination Support Letters

The City Council held a public hearing on this application at its regular meeting of June 19, 2012. Subsequently, the Council voted unanimously to submit this application. The required support letters are attached as Exhibit 4.

Permitting and Licensing

The City has developed a streamlined permitting process that, when coupled with staff's dedication to working with businesses, generally results in the need for only *one* meeting with the planning board to approve subdivisions and site plans, making our city hall one of the easiest places to do business in Maine. Given that the Planning Board generally meets twice a month, most approvals can be received within thirty days of submitting a completed application.

Lewiston's Development Review and Permitting

The City of Lewiston strives to provide a streamlined process for reviewing developments and permits. Staff works closely with property owners and clients throughout the permitting and review process in an effort to expedite approval in an efficient manner by avoiding any unexpected surprises and eliminating uncertainties while ensuring the ability for public participation throughout the process. The cooperation of various city departments, including Planning and Code Enforcement, Public Works, Fire, and Police provides applicants direct access to key staff in an effort to address questions and provide the direction needed for projects to proceed. City staff takes the lead in coordinating the review process to remove the burden from the applicant and to ensure that all appropriate departments are involved in a timely manner.

The City provides the following services: zoning and land use planning and enforcement; building permitting, inspection and enforcement; plumbing permitting, inspection and enforcement; electrical permitting, inspection and enforcement; property maintenance inspection and enforcement; and sanitarian inspections, enforcement, and licensing. Staff also provides technical and administrative support for the Planning Board, Staff Review

Committee, Board of Appeals, and Historic Preservation Review Board.

In all cases, the City works to create a transparent environment in which the review and permitting process is understood by property owners, developers, and applicants.

Development Review: Lewiston's development review process provides two methods for projects to be approved. In working with applicants closely from start to finish, developments are typically approved in one public meeting.

- The Planning Board is responsible for developing and maintaining the official zoning map and the comprehensive plan; zoning and land use amendments; review and approval of development activity that requires site plan review approval such as subdivisions, commercial projects, etc. Staff works closely with applicants prior to submitting an application to the Board in effort to address all local or state regulations.
- The Staff Review Committee is comprised of staff from the Departments of Planning and Code Enforcement, Public Works, Fire, and Police. This committee is empowered to approve minor development review projects. This is a less formal process than the Planning Board and allows property owners and developers to meet directly with staff to seek approval for smaller projects.
- Municipal Delegated Review Authority. The City of Lewiston has been granted Municipal Delegated Review Authority by the Department of Environmental Protection (DEP). This allows the City to approve State of Maine site location of development permits for projects that impact from three to seven acres of non-revegetated area and grant permits under the State's storm water management rules. The City has also been authorized by the Maine Department of Transportation (MDOT) to issue traffic movement permits for projects that generate 100 or fewer passenger car equivalents in the peak hour. This authority was granted in consideration of staff's technical expertise, including staff support from the Public Works Department, Police Department, and the Fire Department. Likewise, staff maintains close relationships with various State agencies and departments in an effort to obtain guidance and assistance when needed. Delegated Review Authority results in a faster, more efficient approval process that saves developers considerable time and money.

Permitting: The City of Lewiston undertakes plan review, permit issuance, and related

inspections to ensure that developments are in compliance with the State of Maine Uniform Building and Energy Conservation Codes (MUBEC), the State Internal Plumbing Code, the Maine Subsurface Waste Water Disposal Rules, and the National Electrical Code. In addition, the City is one of four cities in the State of Maine that undertakes inspections of food service establishments on behalf of the Department of Human Services, as does Auburn.

The City also participates in the National Flood Insurance Program so that owners of flood prone properties have the ability to purchase flood insurance. Staff has taken steps to exceed the minimum requirements necessary for participation in the flood insurance program and, as a result, Lewiston has been assigned a class 8 rating yielding a 10% reduction in the cost of flood insurance for individual policy holders. Both Lewiston and Auburn participate in the flood insurance program. Auburn and Lewiston have been working for the last several years to coordinate fee schedules and development applications in order to make these processes as similar as possible for the ease of our citizens and businesses. An essential element of this effort is a shared planning, code, and business licensing program – Energov – which is being implemented and which will allow applicants to more easily apply for permits and licenses. Once fully implemented, applicants will be able to apply for and receive many permits and licenses via the internet, avoiding the time and cost associated with coming to City Hall. In addition, the program will allow individuals to request and schedule inspections electronically, again saving time and money.

Permit Fee Schedule as shared by both cities: As of January 2010, Lewiston and Auburn generally share the same fee schedule as part of a coordinated effort to assist businesses and citizens that deal with both cities. A complete listing of such fees can be found in Exhibit 5.

EXHIBIT 1

JOINT ECONOMIC DEVELOPMENT PROTOCOL

WHEREAS, Auburn and Lewiston are committed to pursuing economic development collaboratively in order to increase our ability to attract and maintain investment in our respective communities; and

WHEREAS, competition for economic development can create barriers and be a hindrance to prospective developers; and

WHEREAS, Auburn and Lewiston desire to set forth uniform procedures to eliminate any real or perceived perception of a competitive environment in the pursuit of economic development opportunities; and

WHEREAS, the City Councils of Auburn and Lewiston believe the role that each public, quasi-public, and private organization plays to promote the area and attract new investments that contribute to expanding employment and property tax base is properly set forth in the articulation of this policy,

IT IS HEREBY RESOLVED, That the Cities of Auburn and Lewiston, the Lewiston/Auburn Economic Growth Council, the Auburn Business Development Corporation, and the Lewiston Development Corporation hereby subscribe to the Economic Development Protocol as set forth herein.

New Business Inquires

1. When an individual or business contacts, LAEGC, it shall serve as a coordinating agent to inform the cities of the inquiry. If the inquiry is first made to either city, the information will be forwarded to LAEGC.
2. The City or LAEGC will focus on the prerequisite needs of the project. The client will be informed of opportunities that may exist in either Auburn or Lewiston. LAEGC should then prepare a project description and disseminate that information where appropriate.
3. The cities will work with LAEGC staff to put together a list of potential sites that address a client's needs and the information will be forwarded to the clients.
4. As the list of potential sites becomes more focused and narrowed, LAEGC shall continue to work with the cities to identify potential issues and develop strategies to overcome impediments.
5. Once a site(s) is selected and incentives are considered, the City(ies) will present the proposal(s) to LAEGC. No counter offer will be submitted by either community to unfairly induce the development proposal.

6. It is recognized that many development projects are not the main focus of, nor consistent with, the stated purpose of LAEGC, such as housing and retail clients and are not subject to this protocol.

Existing L-A Businesses

1. The Cities of Lewiston and Auburn will not recruit businesses from the other city.
2. Preference in the project development process should be given to the host community.
3. If a City receives an inquiry from a business located in the other city, LAEGC will be informed and take a lead role, unless the client expresses a preference to the contrary.

Tax Increment Finance Districts

When the Cities are considering establishing a TIF for a prospective development, exceptions from the Joint TIF Policy may be agreed to if it is determined that it is in the best interest of either community to support business retention or attraction. If either City Council wishes to deviate from the Joint TIF Policy, it agrees to follow the Joint L/A Economic Development Protocol and agrees to work collaboratively on the presentation of the TIF proposal to prospective business.

Notice of Intent to Withdraw

If either City wishes to discontinue this joint approach to economic development, it must give the other City at least 60 days notice of its intent to withdraw from using the protocol.

Periodic Review

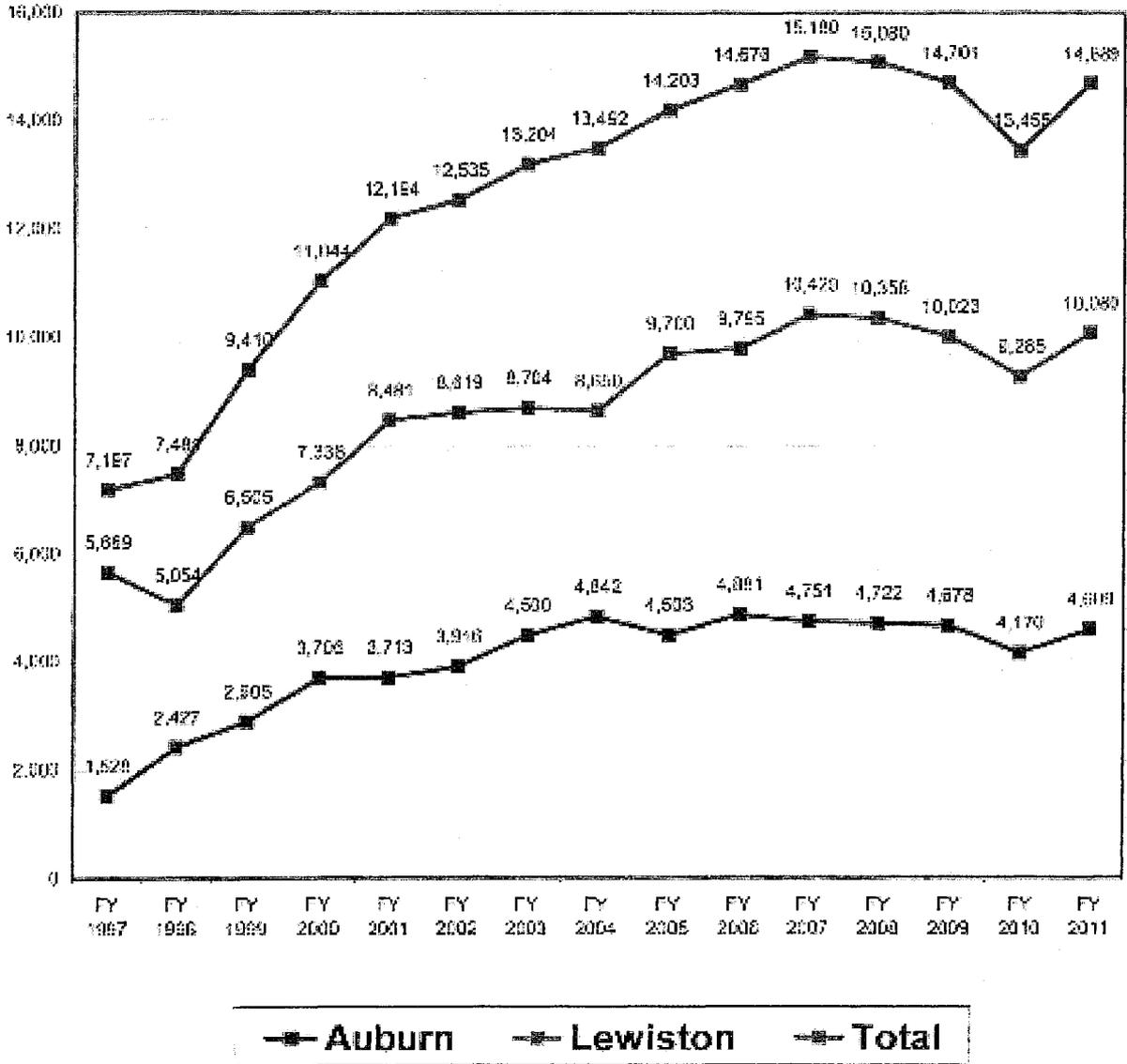
The Staff Protocol Committee will meet no less than twice per year to review any apparent variance. Unresolved variances will be presented to the LAEGC Planning Committee. This Protocol will be reviewed periodically by the Auburn and Lewiston City Councils and revised as necessary.

Adopted by the City Council on April 21, 1998.

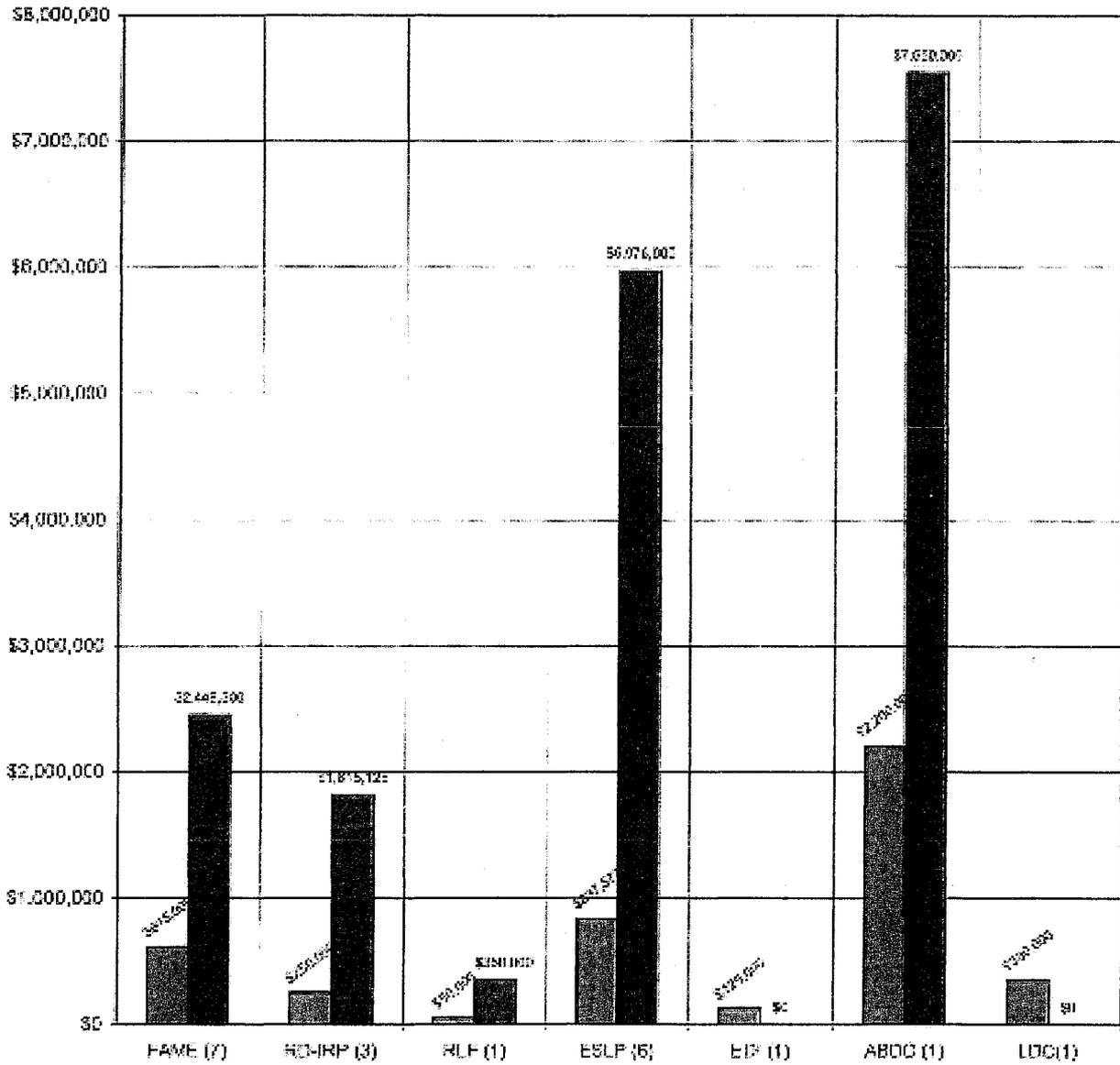
EXHIBIT 2: LAEGC LOAN PORTFOLIO AND HISTORY

Job Count at LAEGC Assisted Companies

(Data Compiled from 1981 through 2011)



LAEGC Active Loan Portfolio



LAEGC Amount
 Leveraged from Other Sources

**LAEGC Loan Portfolio Detail
Active Loans**

Auburn Economic Stimulus Loan Pool			
Company	City	Loan Amount	Average # of Jobs
RRC Realty Co.	Auburn	\$50,000	10
Rural Development Intermediary Relending Program			
Company	City	Loan Amount	Average # of Jobs
Pacific Ranch	Auburn	\$100,000	4
LJA Brewing, LLC	Auburn	\$100,000	11
The Horse Gate	Auburn	\$50,000	20
Finance Authority of Maine Relending Program			
Company	City	Loan Amount	Average # of Jobs
Michael Fenwick	Lewiston	\$25,000	2
Lewiston-Auburn Railroad Co.	Lewiston	\$150,000	1
Foss Road, LLC	Lewiston	\$200,000	*
Optical Solution	Auburn	\$35,000	2
NeoKiosk	Lewiston	\$30,000	1
MicronalPX Communications	Lewiston	\$50,000	7
Auburn Business Development Corp.	Auburn	\$125,000	0
Lewiston Economic Stimulus Loan Pool - CDBG			
Company	City	Loan Amount	Average # of Jobs
Mile 3 & 6 LLC	Lewiston	\$320,000	17
Lewiston House of Pizza	Lewiston	\$50,000	2
Sarah Jerome's	Lewiston	\$30,000	2
Foss Road, LLC	Lewiston	\$120,000	3
ASB Participation Loan	Lewiston	\$300,000	0
Lewiston Variety & Home Market	Lewiston	\$17,577	1
Economic Development Initiative - EDI			
Company	City	Loan Amount	Average # of Jobs
Southern Gateway, LLC	Lewiston	\$125,000	28
Auburn Business Development Corp.			
Company	City	Loan Amount	Average # of Jobs
Auburn Riverwatch	Auburn	\$2,200,000	66
Lewiston Development Corp.			
Company	City	Loan Amount	Average # of Jobs
RAR Enterprises	Lewiston	\$350,000	73
Total Auburn	7 loans	\$2,660,000	115
Total Lewiston	13 loans	\$1,767,577	147
Total Combined	20 loans	\$4,427,577	262

* The Average # of Jobs is already accounted for in the Lewiston EELP category.

** The Average # of Jobs is already accounted for in the IRF category.

EXHIBIT 3

JOINT TAX INCREMENT FINANCING POLICY

The *Cities of Auburn and Lewiston Tax Increment Financing (TIF) Policy* includes the following:

- Purpose
- Eligibility Requirements
- General Guidelines
- Terms
- Performance Standards
- Applicant and Fees Information
- Annual Review
- Definitions

The Cities of Auburn and Lewiston are referred to as “the City” or “Cities” in this policy.

PURPOSE

The four (4) primary reasons and public benefits for the Cities tax increment financing policy are, as follows:

1. To establish a collaborative and joint approach to economic development in the Cities when tax increment financing is involved;
2. To stimulate expansion of the City commercial/industrial tax base;
3. To retain and create employment; and
4. To establish standards upon which the City Councils will authorize a TIF.

ELIGIBILITY REQUIREMENTS

Any current or potential owner of taxable property in the City may request the creation of a TIF district subject to this policy.

The establishment of a TIF district is an action by the City Council. A TIF is not a right under Maine law, and meeting these guidelines does not create a right or entitlement to any applicant. For a TIF application to be considered by the Cities, the project must meet or exceed the following requirements:

Types of Businesses. The business expansion or establishment must be one (1) of the following business types:

- research facility;
- high-technology facility;
- manufacturing/assembly;
- regional distribution;
- financial services;

- telecommunication intensive;
- back office operations;
- a business which is significantly involved in the exporting of goods or services outside of Maine; or
- other similar businesses.

Real Property Improvements and Job Creation.

- **Minimum Investment.** There must be real property improvements of a minimum of \$2 million or the creation of a minimum of twenty-six (26), full-time equivalent jobs which meet or exceed “livable wage”*. Companies assisted shall provide employees access to benefits to include health insurance; vacation and sick leave; and a retirement plan.
- **Exceptional Investment.** A project may qualify as “exceptional investment” if initial total improvements are at least \$5 million or at least 100 new full-time livable wage jobs are created. It should be noted that the “minimum investment” level of \$2 million must be met. Companies assisted shall provide employees access to benefits to include health insurance; vacation and sick leave; and a retirement plan. Exceptional investment enables the Cities to consider a higher level of financial participation or provide for a longer time period for a TIF.

Job Retention.

There must be real property improvements of a minimum of \$2 million and the retention of the existing workforce.

GENERAL GUIDELINES

This policy recognizes tax increment financing will be provided by a credit enhancement agreement. The applicant must provide any and all other documentation that will protect the City’s economic and financial position, and/or that confirm both the letter and spirit of the underlying agreement between the applicant and the City.

A TIF may be granted only for the additional value of eligible real property improvements, subject to limitations by the City. The City will not allow TIF’s for improvements begun before the application is filed or begun without notification of the construction, expansion, or modernization date.

If a leased facility is a TIF, the agreement may be executed by the lessor and lessee. In such cases, the lessor must demonstrate binding contracts with the lessee to guarantee job retention or creation. The TIF agreement should include the lease.

In all instances, applicants requesting tax increment financing must demonstrate:

Economic Necessity. The City’s participation is economically necessary, and involvement by the City is needed in order for the project to be undertaken. Justification for economic need and the City involvement must be demonstrated by:

- A need to offset public/private infrastructure costs unique to the site;
- A need to offset economic advantages available to the corporate entity if it should build or

- expand outside of the Cities; or
- The unavailability of sufficient private or other public funding sources to meet the full capital investment needs of the corporate entity seeking assistance.

*Livable wage as defined by the Maine Economic Growth Council as adjusted annually. Please refer to the Definition Section of this policy.

Financial Capability. Financial capability to undertake the project must be evidenced prior to review.

Location Considerations. The project improves a blighted area or building in need of redevelopment or an area identified as a priority by the City such as the downtown area.

Regulatory Compliance. Compliance with all statutory and regulatory guidelines of the City and the State of Maine.

TERMS

Effective Date. TIFs are granted, effective with the April 1st valuation date immediately preceding the date of execution of the April 1st valuation date(s) as agreed to by the City. If a modernization project includes facility replacement, the TIF value shall be the value of the new investment minus the value of the existing real property.

Amount of Value. The TIF is based upon capital cost for each year that the TIF is in effect. In general the amount of value the City will share with the business is directly related to the extent to which the project meets the guidelines set forth in this policy.

- **Minimum Investment.** A maximum tax benefit of up to 40% is available for projects with real property improvements of a minimum of \$2,000,000. The determination of municipal participation will be based upon the amount of business investment, type of business, number and quality of jobs retained/created and other considerations outlined in this policy.

- **Exceptional Investment.** A tax benefit exceeding 40% may be available based upon real property improvements which meet the exception level of investment.

Time Period.

- **Minimum Investment.** The TIF time period ranges from five, but not to exceed fifteen years. The length of the time period for a TIF will be based upon the amount of business investment, type of business, number and quality of jobs retained/created and other considerations outlined in this policy.
- **Exceptional Investment.** The TIF time period may extend beyond fifteen years for projects which meet the exception level of investment.

PERFORMANCE STANDARDS

It is the policy of the City that a TIF is a business partnership and that the recipient of the TIF must meet the standards that led to the City approving the TIF. Any company or business that

is granted a TIF, or its tenants if they are part of the incentive program, must meet the following standards:

Capital Improvements. Within one (1) year of the TIF agreement being signed, a minimum of 40% of the capital funds for the designated project must be spent.

Within two (2) years of the TIF agreement being signed, a minimum of 80% of the capital funds for the designated project must be spent.

Within three (3) years of the TIF agreement being signed, 100% of the capital funds for the designated project must be spent.

Employment Retention/Creation. Within two (2) years of the TIF agreement being signed, when new jobs are designed as part of the TIF agreement, a minimum of 50% of the new jobs must be filled.

Within three (3) years of the TIF agreement being signed, when new jobs are designated as part of the TIF agreement, a minimum of 100% of the new jobs must be filled.

If the project involves job retention, then at least 95% of the jobs must remain filled for a minimum of three (3) years.

The City Administrator's/Manager's office will determine, in cooperation with the TIF recipient prior to the execution of the TIF, the methodology of reporting job retention/creation.

Penalty. If any of the above standards are not met, the TIF benefits may be voided.

Use of Local Contractors. Any business that is granted a TIF will agree to use local contractors where possible.

APPLICATION AND FEES

Application Information and Contact. The City's Administrator's/Manager's office will act as a clearinghouse and coordinate all activity regarding tax increment financing proposals.

Working with potential applications, the office will:

- Maintain a tax increment financing application;
- Provide information on tax increment financing;
- Discuss project proposals and accept preliminary application from the applicant;
- Review preliminary application based upon City TIF Policy with the City Administrator/Manager;
- Advise the applicant on findings of City Staff and preliminary result of City Council review;
- Schedule a City Council meeting for action on a TIF application and provide assistance to the City Administrator/Manager in the formulation of a recommendation to the City Council;
- Submit application to the State Department of Economic and Community Development (DECD) based on the direction of the City Council; and
- Monitor on-going public and private investment in the development project.

Administration Fees. If tax increment financing is approved, an annual administrative fee equal to 1% of the incremental taxes reallocated back to the project may be charged.

Extraordinary Expenses. In addition, any extraordinary out-of-pocket expenses incurred by the City in connection with the tax increment financing proposal will be reimbursed by the applicant whether or not tax increment financing is approved.

PERIODIC REVIEW

This policy shall be reviewed periodically by the Auburn and Lewiston City Councils and revised as necessary.

DEFINITIONS

Livable Wage. The reference to livable wage shall be defined by the Maine Economic Growth Council.

Full-Time Equivalent Job. Combining jobs to equal full-time (approximately 40-hours per week) employment.

EXCEPTIONS FROM TIF POLICY

Exceptions to the TIF Policy may be granted in accordance with the Joint Economic Development Protocol.

Adopted by the City Council on March 2, 1999.

EXHIBIT 4: LETTERS OF REFERENCE

A number of letters of reference are attached from businesses that the City has assisted in recent years. This introduction summarizes the ways the City has supported their growth/expansion/location in Lewiston.

Parallax Partners, Inc.

Parallax Partners is in the process of developing a hotel in Lewiston within our Riverfront Island Redevelopment area, an area to which they were attracted in part due to the City's master planning process for the area. To assist in making this project economically feasible, the City provided a 10 year TIF designed to focus assistance in the early years of hotel operation, a period when such assistance is necessary as the hotel becomes established. The City also sold the land to Parallax for the project at a favorable price and is committed to investing the proceeds of the sale into beautification and improvements to property located along the River and adjacent to the hotel site that connects into the City's Payne-Simard Park. Working closely with the developer, we also facilitated contacts with a potential New Market Tax Credit source to assist in project financing. As the project was planned and designed, Code and Planning staff worked closely with the developer to assist in preparing the proposed site plan for consideration by the Planning Board. As is the case with most developments, we anticipate that this plan will be approved at a single Planning Board meeting scheduled for later this month.

Eric Agren and Fuel Restaurant

Mr. Agren has redeveloped two properties on Lisbon Street in downtown Lewiston, each housing one of his restaurants. He is currently in the process of renovating his third downtown property. To support these efforts, which have brought new life and vitality to our downtown, the City has provided multiple façade grants and, more recently, an elevator grant along with low interest financing to assist in all three of these properties. The City is also working with the developer, DECD and SHPO to get approval to reallocate \$76,000 received from the sale of a Neighborhood Stabilization Grant (NSP1) funded duplex renovation and sale, to be used to make development of three apartment units economically feasible in a currently vacant and dilapidated downtown building. The NSP funds will be invested in one of the units which will be income limited to 120% of AMI, adding to the quality workforce housing available in the downtown. The street level of that building will become a third Agren owned restaurant, expanding job opportunities and transforming a blighting building. As a simple example of how we can support businesses, we recently amended a City ordinance to make it easier for him to place tables on the sidewalk in front of his business during the summer months.

Baxter Brewing

We assisted Luke Livingston in his search for a site for his new brewery in Lewiston. His selection of the Bates Mill further contributed to the City's on-going work with Mill developer

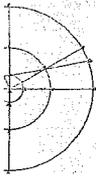
Tom Platz to renovate and reuse this historic structure located in our Riverfront Island Redevelopment Area. We helped Luke in his search for financing and investors and assisted with a low-interest loan. We also worked closely with Luke in meeting the various state and local regulatory requirements faced by a brewery.

The Szanton Company

Szanton is currently in the process of constructing 48 mixed income apartments in 66,000 square feet of the Bates Mill Complex, a project that furthers the City's goal of increasing the number of quality downtown housing units. City assistance includes a TIF, use of HOME and LEAD grant funds, and support for the project's application for both low income and historic tax credits, including the designation of the Bates Mill Complex as a National Register property. The City facilitated Szanton's cooperative efforts with the Lewiston Housing Authority which will assist in ensuring the project's financial feasibility. The market value units included in this project are intended to prove to the market as a whole that there is a need and demand for quality market rate housing in our downtown.

Oxford Networks and Northeast Bank

These major local institutions are the anchor tenants of the City's Southern Gateway redevelopment project which replaced a blighted area on a major entrance into our downtown. To make this project a reality, the City provided assistance through land acquisition, relocating existing businesses, constructing an adjacent parking garage, making significant streetscape improvements, and providing a TIF sufficient to allow for economically viable lease agreements for both Oxford and Northeast. What was once a significantly underutilized area of Lisbon Street has now become a vibrant business center supporting two innovate and growing local companies.



Parallax Partners, Inc.
Hotel Development & Management
55 Lisbon Street, Suite 2400
Lewiston, Maine 04240
207.784.0335 (tel)
207.784.3319 (fax)

June 2, 2012

Edward A. Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

Dear Mr. Barrett:

On behalf of Parallax Partners, Inc., I am pleased to provide this letter in support of the City of Lewiston's designation as a Business Friendly Community.

Our group has been a part of the Lewiston business community for decades. We have been proud to have Lewiston as home base for our regional development efforts, and never more so than in recent years as the City has demonstrated such leadership in fostering sustainable economic development and a healthy climate for business.

I can say without reservation that the City of Lewiston is cooperative and business-friendly. This extends not only to staff members directly responsible for economic development but to other involved staff as well -- from Planning and Code to Engineering, Public Works, and Utilities. City Hall has been a helpful and worthy partner in assisting our business, both in terms of keeping our home office here, and working with us to develop a new hotel project on Lincoln Street, which we plan to begin building this year. We have found the Riverfront Island Master Planning effort to be an exciting and timely project that has placed smart growth principles at the forefront of the push toward utilizing one of the City's key assets—the river and its surrounding neighborhoods and adjacent canals—as a driver of growth.

The City's cooperative permit/licensing process, helpful loan and grant programs, assistance in site selection, and willingness to utilize Tax Increment Financing have been essential in supporting business growth and development. The Lewiston/Auburn region is also unique in its ability to work cooperatively in supporting businesses and our economy. The relationships engendered through the Lewiston Auburn Economic Growth Council, existing tax sharing agreements, and agreed to protocols involving business attraction and tax increment financing allow both communities to focus on the business customer's needs and not on competition with each other. This is exemplified in this application process where the communities agreed to jointly apply for designation.

For these reasons I am pleased to support Lewiston's application for designation as a Business Friendly Community.

Sincerely,

Chris Thompson
President, Parallax Partners, Inc.



Letter.

June 4th, 2012

Edward A. Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

Dear Mr. Barrett:

As the owner of 3 buildings on Lisbon Street and the owner of Fuel and Marché restaurants, I am happy to write this letter supporting Lewiston's application for designation as a Business Friendly Community.

The City of Lewiston has been incredibly supportive and helpful with several of my projects, including the complete rehab of two buildings, and the build out of my restaurants.

The staff is extremely accessible, positive, and genuinely want to help business people in our community succeed.

Our developments have utilized low interest financing through the City, and have taken advantage of façade grant programs to help in the cost of rehabbing our buildings.

Additionally, in a brand new project we are undertaking, the City has supported the development of a multi-story residential project with an elevator grant. Without the support, the project would not have made financial sense.

From acquiring building permits, help with public works, and the ease of getting in touch with the right people to move things forward, I have nothing but positive things to say about the City of Lewiston.

Additionally, there is shared focus between Lewiston and Auburn concerning a positive place to do business. This has helped our businesses by encouraging development around us, and improving the business climate as a whole.

I believe it is a unique model that both cities have great focus, tax increment financing and other programs that are shared, creating a team effort to improve our communities.

I thank the City of Lewiston for providing such a positive place to develop and do business.

Sincerely,

Eric Agren
Fuel Restaurant
Marché Restaurant
Lewiston, Maine



BAXTER BREWING CO.

We Do What We Can. We Can What We Do.

June 7th, 2012

Edward A. Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

Dear Mr. Barrett:

As a local business owner, I can say without hesitation that the City of Lewiston is cooperative and business-friendly. This extends not only to staff members directly responsible for economic development but to other involved staff as well -- from Planning and Code to Engineering, Public Works, and Utilities. City Hall has been a helpful and worthy partner in assisting my business to start and to prosper in Lewiston.

The City's cooperative permit/licensing process, helpful loan and grant programs, assistance in site selection, and willingness to utilize Tax Increment Financing have been essential in supporting business growth and development. The city of Lewiston itself helped finance Baxter Brewing Co. because of our decision to locate in the historic downtown region. But far beyond that, I have no doubt that our business has seen the early success it has because of the great workforce and the loyalty of the people of the Lewiston-Auburn to locally-made products.

The Lewiston/Auburn region is also unique in its ability to work cooperatively in supporting businesses and our economy. The relationships engendered through the Lewiston Auburn Economic Growth Council, existing tax sharing agreements, and agreed to protocols involving business attraction and tax increment financing allow both communities to focus on the business customer's needs and not on competition with each other. This is exemplified in this application process where the communities

agreed to jointly apply for designation.

For these reasons I am pleased to support Lewiston's application for designation as a Business Friendly Community.

Sincerely,

Luke

H. Luke Livingston
Founder/President
Baxter Brewing Co., LLC
ph. (207) 333-6769
f. (207) 333-6768
www.BaxterBrewing.com
Facebook.com/baxterbrewing

We Support Renewable Energy



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ENERGY



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Proudly Brewed in Lewiston, Maine

PO Box 603
Auburn, ME 04212
207-333-6769

www.BaxterBrewing.com
Facebook.com/baxterbrewing
info@baxterbrewing.com

The Szanton Company
One City Center, 4th Floor
Portland, ME 04101

June 12, 2012

Edward A. Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

Dear Ed:

I write in strong support of the City of Lewiston's application for designation as a Business Friendly Community.

When I became interested in doing business in Lewiston, in February of 2010, I had been a developer or development consultant in Maine for 14 years. I had proposed and completed housing development projects in Portland, Biddeford, South Portland, Augusta, Bath, Sanford, and Kittery.

Never, in all of my development efforts in Maine, had I seen the kind of effort to reach out to me and make me feel welcome, valued and supported as I did in Lewiston. I remember well the first time I met with Lincoln Jeffers, Assistant City Manager, and Mark McComas, Director of Housing, about my proposal to convert part of the Bates Mill Complex from empty space into 48 mixed-income apartments. Their enthusiasm for my proposed project almost made me feel as though *they* were the developer and I the City, rather than the other way around!

At the end of that first meeting, when it was time for me to return to Portland, Lincoln walked me down to my car, which I had parked on the street. He explained that he wanted to do this in case I had, due to unfamiliarity with Lewiston's parking policies, incurred a ticket, in which case he would take care of it for me. (Fortunately, I had not.)

That gesture typified the type of support for our efforts to do business in Lewiston that my team has experienced since early 2010. Lincoln and Mark, yourself, and later Jayne Jochem, have been proactive and dedicated in helping us navigate the City's rules and regulations, and line up financing to structure a deal to purchase and renovate 65,000 square feet of Bates Mill #2. You supported us as we asked the City Council for a 15-year TIF and \$600,000 of below-market gap financing which was needed in order to make the project economically feasible. You attended meetings of the Board of the Lewiston Housing Authority, at which we made a pitch for some critical financial assistance from that organization. At every juncture, you and your staff did everything you could possibly do to ensure that The Lofts at Bates Mill received the support it needed, and ultimately succeeded.

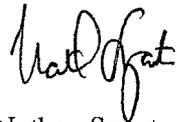
Mr. Edward A. Barrett
June 12, 2012
Page Two

Without that type of vision on the part of the City, and its unwavering support for our development proposal, we could not be, as we are today, four and half months away from opening The Lofts at Bates Mill.

In short, I do not know of any city in Maine which more richly deserves the designation of Business-Friendly Community than does Lewiston today. Please let me know if you have any questions, or if the body which makes the determination of "Business-Friendly Community" would like to discuss this matter further.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan Szanton". The signature is written in a cursive, somewhat stylized font.

Nathan Szanton
President



OXFORD NETWORKS

www.oxfordnetworks.com

June 12, 2012

Edward A. Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

Dear Mr. Barrett:

As a local business that decided to relocate from Buckfield to Lewiston in 2004, I can say without reservation that the City of Lewiston is the most business-friendly community with which I have done business. This extends not only to staff members directly responsible for economic development but to other involved staff as well -- from Planning and Code to Engineering, Public Works, Law Enforcement and Utilities. The City has been a helpful and worthy partner in assisting my business to re-locate to Lewiston and has been incredibly helpful ever since. We look at the City of Lewiston as a true partner.

The City's cooperative permit and licensing process, assistance in site selection, and willingness to utilize Tax Increment Financing have been extremely helpful to Oxford's successful relocation and growth. The City made numerous promises associated with our move. We assumed some of those promises would be difficult to accomplish. In every respect, the City exceeded our expectations. The support and desire to help us succeed has made our move and relocation to Lewiston an outstanding success.

The Lewiston/Auburn region is also unique in its ability to work cooperatively in supporting businesses and our economy. The relationships engendered through the Lewiston Auburn Economic Growth Council, existing tax sharing agreements, and agreed to protocols involving business attraction and tax increment financing allow both communities to focus on the business customer's needs and not on competition with each other. This is exemplified in this application process where the communities agreed to jointly apply for designation.



Edward A. Barrett
City Administrator
City of Lewiston
27 Pine Street
Lewiston, Maine 04240

June 1, 2012

Dear Mr. Barrett:

As a local business CEO, I can say without reservation that the City of Lewiston is cooperative and business-friendly. This extends not only to staff members directly responsible for economic development but to other involved staff as well -- from Planning and Code to Engineering, Public Works, and Utilities. City Hall has been a helpful and worthy partner in assisting our business to grow in Lewiston.

The City's cooperative permit/licensing process, assistance in site selection, and willingness to utilize Tax Increment Financing have been essential in supporting business growth and development. Our organization had many options, however, the City of Lewiston made our decision easy by virtue of their willingness to maintain a positive "can do" attitude.

The Lewiston/Auburn region is unique in its ability to work cooperatively in supporting businesses and our economy. The relationships engendered through the Lewiston Auburn Economic Growth Council, existing tax sharing agreements, and agreed to protocols involving business attraction and tax increment financing, allow both communities to focus on the business customer's needs and not on competition with each other. This is exemplified in this application process where the communities agreed to jointly apply for designation.

For these reasons I am pleased to support Lewiston's application for designation as a Business Friendly Community.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Delamater", is written over a horizontal line.

Jim Delamater
President & CEO
Community Banking Division

EXHIBIT FIVE

FEE SCHEDULES FOR
BUILDING PERMITS
ELECTRICAL PERMITS
PLUMBING PERMITS
ZONING AND LAND USE CODE APPLICATIONS
BUSINESS LICENSES

BUILDING PERMIT FEE SCHEDULE

In accordance with the provisions of the Code of Ordinances of the City of Lewiston, the City Council hereby establishes the following fees:

Single Family

New construction/Additions	\$20 base + \$0.21 sf
Accessory Structure	\$20 base + \$0.05 sf
Renovation < \$2,500	\$20
Renovation > \$2,500	\$20 base + \$5.00 per \$1,000 value

Multi-family

New Construction/Additions	\$20 base + \$0.25 sf
----------------------------	-----------------------

Mobile Home

New or Used	\$20 base + \$0.14 sf
Additions	\$20 base + \$0.21 sf

Commercial

New Construction	\$20 base + \$0.30 sf (per floor)
Renovation	\$20 base + \$7.00 per \$1,000 value
Foundation Only	\$20 base + \$5.00 per \$1,000 value

Swimming Pools

Above Ground Swimming Pool	\$30
In-ground Swimming Pool	\$75

All Structures

Fences	\$20
Underground Storage Tank	\$32 (first tank) + \$11 (additional tanks)
Moving Building	\$100
Driveways	\$21
Change of Use	\$32
Certificate of Occupancy	Included in Permit (\$260 penalty)
Signs	\$25 base + \$0.50 sf

Demolition

Less than 1,000 sf	\$27
Greater than 1,000 sf and less than 5,000 sf	\$80 + \$0.02 sf
Greater than 5,000 sf	\$210 + \$0.02 sf

BUILDING PERMIT FEE SCHEDULE

Building Permit Fee Reimbursement Policy

In the event that the recipient of a building permit does not undertake any of the building activity associated with a given permit, he/she may submit a written request to the Director of Planning and Code Enforcement for the reimbursement of the permit fee paid for said permit. If the request for reimbursement is made within six months of the issuance of said permit, and if no work associated with said permit was commenced, 75% of the permit fee will be reimbursed. The City shall retain 25% of the permit fee to provide compensation for the costs associated with issuance of said permit and to process reimbursement.

Note: sf - square feet

ELECTRICAL PERMIT FEE SCHEDULE

In accordance with the provisions of the Electrical Code, Chapter 18 of the Code of Ordinances, the City Council hereby establishes the following fees:

Minimum Fees

Residential Minimum Fee	\$32.00
Commercial Minimum Fee	\$42.00
Dwelling Units (Single Family/Multi Family) Incls Service	\$58.00
Manufactured Homes	\$42.00
Temporary Services	\$30.00

Service Equipment Single Phase

Single Phase Meter and One Panel up to 100 amps	\$12.00
Each additional 100 amp or Fraction thereof	\$7.00
Additional Meter	\$7.00
Additional Sub Panel up to 100 Amps	\$7.00
Each Subpanel, additional 100 Amp or Fraction thereof	\$10.00

Service Equipment Three Phase

Meter and Panel up to 100 Amp	\$30.00
Each additional 100 Amp or Fraction thereof	\$7.00
Each additional Meter	\$7.00
Each additional Subpanel up to 100 Amps or Fraction thereof	\$10.00
Each Subpanel, additional 100 Amps or Fraction thereof	\$10.00

120 Volt Wiring(Opening =Total # of Outlets Lights and Switches

1 to 10 Openings	\$12.00
11 to 30 Openings	\$15.00
31 to 60 Openings	\$20.00
Each additional opening over 61	\$0.50
Appliances fixed in place	
120 Volt (Compactors, Dishwashers, Disposals, Air Conditioners)	\$5.00
240 Volt (Wiring Receptacles, Switches, Appliances, Each Device)	\$10.00

ELECTRICAL PERMIT FEE SCHEDULE

Heating

Electric per KW or Fraction thereof	\$3.00
Gas Oil or Other	\$12.00

Swimming Pools and Spas

Above Ground	\$40.00
In Ground	\$50.00
Hot Tub, Spas, Sauna's	\$37.00

Alarm Systems & Low Voltage Systems (Cooper or Fiber)

Fire, Burglar Alarms (Permit and Licenses Required) Up to 10 Devices	\$18.00
Computer, Phone, Cable, Satellite Dish, Sound, Closed Circuit TV (Permit required, No license required)	\$18.00
Over 10 Devices = Fee +.55 per device over 10	\$0.55

Transformers, Generators, UPS (Battery Backup)

1 to 10 KW/KVA	\$18.00
11 to 25 KW/ KVA	\$24.00
Over 25 KW/ KVA	\$30.00

Circuses, Fairs, Special Events (Mass Gatherings)

Up to 400 Amps	\$50.00
More than 400 Amps	\$100.00

Motors

Fractional to 5 HP	\$8.00
6HP to 10 HP	\$12.00
11HP up to 25HP	\$18.00
Each additional 5 HP or Fraction thereof over 25HP	\$2.00

Signs

Permanent	\$25.00
Portable Mobile	\$15.00

Emergency Lights

Battery and one light unit (per unit)	\$7.00
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ELECTRICAL PERMIT FEE SCHEDULE

Water Pumps, Sewer Pumps, Gas Pumps, Well Pumps (per Unit)	\$10.00
Private request electrical inspection/report	\$150.00
Inspection for State licensing of a business	\$40.00
Belated Fees	
Fee for electrical work undertaken prior to the issuance of the appropriate electrical permit:	
First offense per calender year	\$200.00
Second or additional offense(s) per calender year double to a maximum per offense	\$1,600.00
Inspections and department call outs after normal hours (minimum)*	\$150.00
* = Additional time beyond three hours shall be calculated @ Time and one half for the electrician on call*	

PLUMBING PERMIT FEE SCHEDULE

In accordance with the provisions of the Code of Ordinances of the City of Lewiston, the City Council hereby establishes the following fees:

INTERNAL PLUMBING

L/A Permit Fee	\$10 per fixture/\$40.00 minimum
----------------	----------------------------------

SUBSURFACE WASTE WATER

Non-engineered Systems	\$250.00
Field Only	\$150.00
Treatment Tank Only (non eng.)	\$150.00
Engineered System	\$300.00
Treatment Tank Only (eng.)	\$120.00
Holding Tank	\$150.00
Other System Components	\$50.00
Separate Laundry Disposal Field	\$50.00
Seasonal Conversion	\$75.00
Variance	\$50.00
Primitive System (inc 1 alt wc)	\$150.00
Alternative Toilet Only	\$75.00

ZONING AND LAND USE CODE APPLICATION FEE SCHEDULE

In accordance with the provisions of the Code of Ordinances of the City of Lewiston, the City Council hereby establishes the following application fees:

Zoning Amendments

Text Amendment	\$400 + PRA
Map Amendment	\$400 + PRA

Zoning Board

Appeal/Interpretation/Variance/Conditional Use Permit: Multiple appeal types ie. administrative/interpretational/variance, etc are \$150 per appeal type	\$150 + PRA
--	-------------

Site Plan Review

Minor projects: Interdepartmental/Staff Review	\$200
Major Projects and Subdivision of Existing Structures: Planning Board Review/Special Exceptions	\$500 + PRA

Site Plan Amendment

Staff Approved Amendment/De minimis change	\$100
Planning Board Approved Amendment	Same as Site Plan Review Major Projects fee above

Subdivision Review

New lots/structures	\$750 for first 3 lots, plus \$100 per unit thereafter
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Delegated Review (In addition to Site Plan or Subdivision fee when required)

Includes one or all areas (stormwater, TMP, Site Law, etc.)	\$1000 plus applicable site plan review fee
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Zoning Conformance/Rebuild Letter

\$50

Independent professional review fees

Staff may determine, due to the size and nature of a project, that a peer review is necessary to generate facts sufficient to warrant a finding that certain applicable criteria have been met. The developer/applicant is responsible for the additional costs of this peer review.

Engineering Inspection Fees

Inspections required by the City Engineer for projects that directly impact municipal infrastructure or for proposed city streets shall be paid for by the developer/applicant.

ZONING AND LAND USE CODE APPLICATION FEE SCHEDULE

PRA: Plus Required Advertising

\$100 per required public newspaper notice (see table below)

Request Type	Planning Board(PB) or Zoning Board(ZB)	City Council (CC)	Total Advertising fee
Zoning Ordinance Text or Map Amendment Petitions	2 PB	1 CC	\$300
Zoning Board of Appeals	2ZB(Auburn) 0ZB (Lewiston)	0	\$200 N/A
Site Plan Review (Major/Special Exception with or without Delegated Review)	2PB	0	\$200

NOTES:

Delegated Review - Authority to review (1) large developments that generate 100+ trips in an hour [TMP] for MDOT; (2) development three to seven acres in area for the MDEP;(3) stormwater permits for projects that disturb 1+ acres of area for the MDEP.

MDEP - Maine Department of Environmental Protection

MDOT - Maine Department of Transportation

Special Exception/Conditional Use - Permitted uses subject to additional regulations and conditions.

Subdivision of Existing Structures - Any proposal for re-use /redevelopment of existing building(s) that result in the creation of 3 or more dwelling units.

TMP - Traffic Movement Permit

CITY BUSINESS LICENSE APPLICATIONS

FEES, PENALTIES AND INSPECTION & APPROVAL SCHEDULE

Unless otherwise provided, no person shall engage in any of the following businesses or activities in the city without having paid the proper fee and obtained a license or permit therefor:

(1)	Adult amusement device, per device	\$ 1055.00
(2)	Adult entertainment license.	1580.00
(3)	After hours entertainment events.	210.00
(4)	Automobile Graveyards and Junkyards:	
	a. Non-refundable application fee	30.00
(5)	Beano/bingo approval.	16.00
(6)	Billiard and pool halls, per room	85.00
(7)	Bowling alley	85.00
(8)	Carnivals and circuses, per day	170.00
(9)	Class A lounge:	
	a. Up to 1200 sq. ft.	1400.00
	b. 1201sq. ft. to 2000 sq. ft.	1725.00
	c. 2001sq. ft. to 3000 sq. ft.	1945.00
	d. 3001sq. ft. and over.	2165.00
(10)	Closing out sales	58.00
	Sixty-day extension	27.00
(11)	Coin-operated amusement devices, per device ..	58.00
	Ten devices or more	580.00
(12)	Flammable liquid (storage):	
	a. For retail sale	110.00
	b. Not for retail sale	58.00
(13)	Flea market:	
	a. One through 75 spaces, per day	32.00
	b. Seventy-six spaces and over, per day ...	58.00
	c. Yearly permit	550.00
(14)	Food service establishment:	
	a. Class A:	
	1. Up to 3,000 sq. ft.	325.00
	2. 3,001 sq. ft. to 6,000 sq. ft.	430.00
	3. 6,001 sq. ft. and over.	536.00
	b. Class B	163.00
	c. Class C.	163.00
	d. Class D	116.00
	e. Class E	337.00
	f. Class F	58.00
	g. Class G	27.00
(15)	Games of Chance.	11.00
(16)	Garage sale permit.	10.00
(17)	Group care facility	63.00
(18)	Innkeeper:	
	a. Not offering for sale spirituous, vinous and malt liquor	111.00
	b. Offering for sale spirituous, vinous and/or malt liquor	405.00
(19)	Junk collector	42.00
(20)	Liquor service approval:	
	a. Catering permit for off premise liquor service.	16.00
	b. Application for license for incorporated civic organization.	16.00

CITY BUSINESS LICENSE APPLICATIONS

FEES, PENALTIES AND INSPECTION & APPROVAL SCHEDULE

(21)	Lodging house:	
	a. Ten rooms or less	37.00
	b. Over ten rooms	80.00
(22)	Massage establishment and therapists:	
	a. Application fee.....	105.00
	b. License fee.....	185.00
	Medical Marijuana	
	a. Non-refundable application fee for Registered Primary Caregiver Operation.	525.00
	b. Non-refundable application fee for Registered Dispensary.....	525.00
(23)	Mobile home park:	
	a. Per park	105.00
	b. Per space over 20	5.00
(24)	Motion picture theater	275.00
	Special 30-day license	27.00
(25)	Outdoor entertainment event.....	11.00
(26)	Outpatient Addiction Treatment Clinic:	
	a. Non-refundable application fee	525.00
(27)	Pawnbroker	84.00
(28)	Peddler:	
	a. In State	53.00
	b. Out of State.....	105.00
	c. Special Event License	37.00
(29)	Racetrack	111.00
(30)	Roller skating rink	58.00
(31)	Roving diner	84.00
(32)	Secondhand dealer	84.00
(33)	Shelter.....	85.00
(34)	Sound amplification, per day	16.00
(35)	Special amusement permit:	
	a. Six months or less	58.00
	b. One year	116.00
(36)	Special food handler:	
	a. Prepackaged food only	42.00
	b. Processing	84.00
(37)	Tattooing:	
	a. Application fee.....	105.00
	b. License fee.....	185.00
(38)	Taxicabs:	
	a. Per cab	53.00
	b. Driver	21.00
	c. New card for cab	3.00
	d. New card for driver	3.00
	e. Transfer	11.00

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Hearing regarding possible suspension or revocation of Special Amusement permit for Altera/Club Karma, 16-18 Park Street.

INFORMATION:

The City Council shall conduct a hearing to receive input regarding the special amusement (live entertainment) permit for Altera/Club Karma. Per state statutes and city code, the municipal officers are responsible for issuing special amusement permits and also have the authority to revoke, suspend or amend an existing special amusement permit.

The Police Department has concerns with the operations of this business, some as outlined in their attached memorandum, and is suggesting the revocation of the Special Amusement permit for this establishment. This business opened in January 2012 and there have been numerous police calls regarding underage drinking, disorderly complaints, disorderly arrests, assault cases, and indecent exposure.

After the hearing, the City Council may consider the possibility of revoking, suspending or amending the special amusement permit Altera/Club Karma. The City Council also has the right to take no official action on this issue after the hearing, if that is the will of the Council.

Additional information will be presented at the City Council meeting.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator reserves comment on this issue until the hearing.

EAJ/kmm

REQUESTED ACTION:

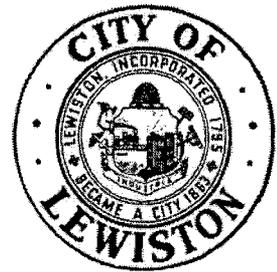
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To conduct a hearing regarding the Special Amusement permit for Altera/Club Karma, 16-18 Park Street, in order to receive input on the possibility of revoking, suspending or amending the business license, and to take final action as the City Council may deem appropriate.



POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



June 14, 2012

To: Kathy Montejo (City Clerk)

Fr: Lt. Adam D. Higgins

Re: Revocation of the Special Amusement Permit at 18 Park St.

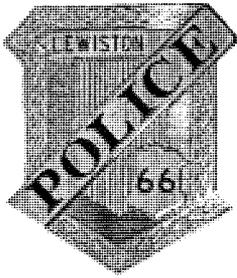
Since Club Karma/Altera opened on January 13, 2012 we have responded to numerous calls to the bar as well as the surrounding area due to their clients. At least 10 disturbance/disorderly complaints, 3 disorderly arrests, 2 assault cases, indecent exposure & many summonses for underage drinking. A few examples are as follows:

1. On 03-09-12 at 0021 hrs. officers observed a high number of Bates College students outside the bar. Officers could also hear the music from the bar two blocks over. While investigating the noise, officers came across several underage Bates students drinking inside the bar. Nine (9) Bates students were summonsed with (11) summonses being issued in total. I spoke with the bar owners, Chad Fitzherbert, Paul Fitzherbert and Steven Wallace. During the incident Paul Fitzherbert and Chad Fitzherbert were trying to sneak underage patrons out the back door to avoid detection by Law Enforcement.
2. On 04/20/12 at 2234 hrs, officers responded to a male subject masturbating outside the bar. A 40 year old male was issued a summons for indecent conduct.
3. On 05/19/12 at 0051 hours officers found an extremely intoxicated male urinating on the side of the building as the bar was letting out. Officers witness the male leave the bar where he preceded to walk around to the side of the building and begun urinating. The male became very disorderly and was arrested for Disorderly Conduct. Stephen Wallace was spoken to about over service.
4. On 05/19/12 at 0109 hrs. officer began dealing with a 20 year old female who was seen drinking in Club Karma earlier in the night. The female had been allowed in the bar and served alcohol. The female was charged with Drinking Underage and Disorderly Conduct.
5. On 05/20/12 officers entered the bar at 0039 hrs. Officers proceeded to the VIP section on the third floor. As soon as officers reached the third level several subjects were seen fleeing down the back stairs. Officers were able to find two 20 year old females drinking in the bar with the Club Promoter for the evening, Daniel Tiberio. Tiberio would flee the scene once outside and was later summonsed. The two 20 year olds were also summonsed. Again I spoke with



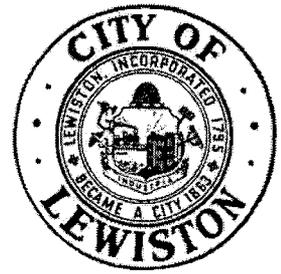
171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007
www.lewistonpd.org





POLICE DEPARTMENT

Michael J. Bussiere
Chief of Police



Wallace and Fitzherbert about all the issues with allowing underage subjects in the bar. Wallace and Fitzherbert have tried to use the excuse that their restaurant license allows them to have underage subjects in the bars.

The above items are just a few high lights of the issues at that location.



171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007
www.lewistonpd.org



Professionalism

Integrity

Compassion

Dedication

Pride

Dependability

AMUSEMENTS AND ENTERTAINMENTS

number of police officers as the chief of police feels is reasonably necessary to carry out the intent of this section.

- (2) If, in the opinion of the chief engineer of the fire department such is reasonably necessary, there shall be a fire truck and crew from the city standing by at the race track during such races. The services of such crew and use of the fire truck shall be paid for by the person in charge at a reasonable rate per day, such rate to be set by the city council and payable to the city.
- (3) All gates leading in and out of any grandstand area shall be kept open during the running of the races.
- (4) Exit lights shall be installed in conspicuous and appropriate places in any grandstand.
- (5) Fire extinguishers shall be placed in appropriate places in all grandstands and underneath such grandstands upon recommendation and under the supervision of the chief of the fire department.
- (6) The grandstands and surrounding area shall be swept clean daily.

(Code 1982, § 4-24)

Sec. 10-37. Appeals.

Appeal from any order issued under this article shall be as provided by law.

(Code 1982, § 4-25)

Secs. 10-38--10-60. Reserved.

ARTICLE III. SPECIAL AMUSEMENT PERMIT*

***Editor's note:** Ord. No. 04-05, effective April 1, 2004, amended art. III in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter as enacted by Code 1982; as amended.

DIVISION 1. GENERALLY

Sec. 10-61. Purpose.

The purpose of this article is to regulate, pursuant to 28-A M.R.S.A. § 1054 et seq., the issuance of special amusement permits for music, dancing or entertainment in facilities licensed by the state to sell alcoholic beverages, and to regulate, pursuant to the City of Lewiston's home rule authority, the issuance of special amusement permits for dance halls or nightclubs that admit patrons under the age of 21.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Sec. 10-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AMUSEMENTS AND ENTERTAINMENTS

Entertainment includes any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensee whose incidental duties include activities with an entertainment value.

Dance hall or nightclub includes any commercial premises a primary function of which is to offer patrons an opportunity to engage in social activities such as dancing, the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers, provided that it shall not include (1) events sponsored by accredited educational institutions and held under the direct supervision of school authorities, or (2) events sponsored by bona fide nonprofit organizations which limit admissions to members and guests and which use revenue accruing from admissions exclusively for the benevolent purposes of the organization.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Secs. 10-63--10-75. Reserved.

DIVISION 2. PERMIT

Sec. 10-76. Required.

- (a) A licensee for the sale of alcoholic beverages to be consumed on the licensed premises shall not permit any live music, dancing, or entertainment of any kind on the premises until he has first obtained a special amusement permit approved by the city council. A business shall not operate as a dance hall or nightclub that admits persons under the age of 21 until the business has first obtained a special amusement permit Class E or Class F approved by the city council. The categories of a special amusement permit are as follows:

Special amusement permit--Class A. Any licensee of a food service establishment Class A, B, or C, or holder of an innkeeper license, with entertainment, which does not include dancing.

Special amusement permit--Class B. Any licensee of a Class A lounge, or holder of an innkeeper license, with entertainment, which does not include dancing.

Special amusement permit--Class C. Any licensee of a Class A lounge, a food service establishment Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.

Special amusement permit--Class D. Any business that operates primarily as a function hall for the rental of space for events and holds a Class A lounge, a food service establishment Class A, B or C license, or holder of an innkeeper license, with entertainment, including dancing.

Special amusement permit – Class E. Any business operating as a dance hall or nightclub that admits persons under the age of 21.

Special amusement permit – Class F. Any business operating as a “chem-free” dance hall or nightclub that admits persons age 18 years and older, with no liquor service.

AMUSEMENTS AND ENTERTAINMENTS

- (b) Applications for all special amusement permits shall be made in writing to the city clerk and shall state the name and address of the applicant; the name, address and nature of the business; and any additional information required by the city council necessary to the processing of the application, including but not limited to a copy of the applicant's liquor license.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

Sec. 10-77. Public hearing.

Before granting a permit, the city council shall hold a public hearing to determine whether issuance of the permit would be detrimental to the public health, safety or welfare or would violate any law, ordinance or regulation. Such determination may include, but is not limited to:

- (a) The violation of any law, ordinance or regulation, either in the past or caused by the issuance of the same; or
- (b) Conditions of record such as waste disposal violations, health, or safety violations or repeated parking or traffic violations on or in the vicinity of the premises and caused by persons patronizing or employed by the premises or such conditions caused by persons patronizing or employed by the premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the premises to use their property in a reasonable manner; or
- (c) Repeated incidents of record of breaches of peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the premises and caused by persons patronizing or employed by the premises.
- (d) Any other incident, behavior or occurrence on or about the location that the city council deems to be detrimental to the public health, safety or welfare.

The city council may impose conditions for protecting the public health, safety and welfare on any special amusement permit it issues.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No. 11-04, 5-19-11)

Sec. 10-78. Denial.

If the application for a special amusement permit is denied, the city council shall give the applicant a written statement of the reasons for the denial.

(Ord. No. 04-05, 4-1-04)

Sec. 10-79. Term.

A special amusement permit Class A, B, C or D is valid only for the license year of the applicant's existing license. A special amusement permit Class E or F is valid for one year from the date of issuance of the permit.

(Ord. No. 04-05, 4-1-04; Ord. No. 11-04, 5-19-11)

AMUSEMENTS AND ENTERTAINMENTS

Sec. 10-80. Inspection.

Applicants shall be subject to the inspection provisions of section 22-34.

Whenever inspections of the premises used for or in connection with the operation of a business which has obtained a special amusement permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law, it shall be the duty of the permittee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

In addition to any other penalty which may be provided, the city clerk may suspend for a period of up to 30 days and the city council, after notice and public hearing, may revoke the special amusement permit of any permittee in the municipality who refuses to permit any such officer, official, or employee to make an inspection, or who interferes with such officer, official, or employee while in the performance of his duty, provided that no license or special amusement permit shall be suspended or revoked unless written demand for the inspection is made upon the permittee or person in charge of the premises, at the time it is sought to make the inspection.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No. 11-04, 5-19-11)

Sec. 10-81. Suspension or revocation.

The city clerk may suspend any special amusement permit for a period up to 21 days where there is an immediate risk to the public health, safety or welfare. The city council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permits which have been issued under this article on the grounds that the music, dancing, entertainment or activities so permitted constitutes a detriment to the public health, safety or welfare; violates any law, ordinance or regulation; or if any duly authorized city official has been refused admission to make an inspection of the premises after written request.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No. 11-04, 5-19-11)

Sec. 10-82. Adult-oriented live entertainment prohibited.

No entertainment regulated as adult-oriented live entertainment by the provisions of article IV shall be provided by or on behalf of, or at the licensed premises of the holder of a special amusement permit or of an FSE-Class E license.

(Ord. No. 04-05, 4-1-04)

Sec. 10-83. Regulations.

The city council is further authorized, after public notice and hearing, to establish further written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, entertainment or activities permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare whenever the need arises. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted.

Such rules and regulations shall be additional to and consistent with all sections of this article.

AMUSEMENTS AND ENTERTAINMENTS

All permittees shall comply with section V(B) of the City Policy Manual enacted by the city council pertaining to holders of special amusement permits and FSE-Class E licenses and the city council may enact such other or further regulations it deems necessary or appropriate to carry out the purpose of this article.

(Ord. No. 04-05, 4-1-04; Ord. No. 04-16, 7-15-04; Ord. No.11-04, 5-19-11)

Sec. 10-84. Previous ownership.

If the applicant has previously owned, operated or managed or been the primary ownership interest in any company, corporation or other legal entity that has previously held a special amusement permit or liquor license from this municipality, then such information may be used as a basis for determination of the issuance of the permit, consistent with section 10-77.

(Ord. No. 04-16, 7-15-04)

Sec. 10-85. Penalties.

In addition to suspending or revoking a license or permit, the city may prosecute violations in court. A violation of this division shall be punished by a fine, in accordance with the city's policy manual as approved by the city council, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this division by appropriate action. In addition to such penalty, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorneys' fees and investigative costs.

(Ord. No. 04-16, 7-15-04; Ord. No. 08-06b, 8-14-08; Ord. No.11-04, 5-19-11)

Sec. 10-86. Additional Criteria - Special amusement permit – Class E.

- (a) No one who is under the age of 14 or over the age of 20 shall be admitted as a patron of the business while the business is operating under this permit classification.
- (b) The business owner shall be responsible for posting a notice in plain view at the establishment regarding the city's curfew for minors, as outlined in Chapter 50 of this Code and shall also be responsible for the enforcement of such curfew, as outlined in Chapter 50 of this Code.

(Ord. No.11-04, 5-19-11)

Secs. 10-87--10-100. Reserved.

ARTICLE IV. ADULT-ORIENTED LIVE ENTERTAINMENT*

*Editor's note: Ord. No. 01-2, adopted March 8, 2001, amended the title of Art. IV to read as herein set out.

DIVISION 1. GENERALLY

Sec. 10-101. Purpose.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Condemnation Hearing for the building located at 122 Pierce Street.

INFORMATION:

The City has begun the process for condemnation of the property at 122 Pierce Street under the dangerous building classification. This property has been abandoned by the owner and upon inspection of city staff has been determined to be an unsafe structure.

The agenda background material pertains to the condition of this property. The City Attorney will be present on Tuesday evening to assist the City Council with the condemnation hearing and to advise accordingly.

PLEASE NOTE - The background material for this agenda item is included in a separate binder that was distributed with the meeting agenda binder.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/ikmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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1) To conduct a hearing to determine if the building located at 122 Pierce Street has meet the dangerous building statutes as defined in Title 17, sec. 2851 et all.

If it is determined that the building does meet the dangerous building criteria, then the Council is asked :

2) With regard to the property at 122 Pierce Street, to adopt the Findings of Fact, Conclusions of Law and Order of Demolition proposed by the City Planning and Code Enforcement Department, which Order establishes the corrective action to be taken by the property owner and the time frame for taking such action, and which authorizes the City Administrator to take such corrective action if the property owner fails to do so, and to recoup the City's costs through a special tax or collective action.

122 Pierce Street

Ownership Documents

Maine Short Form Warranty Deed

SULTAN CORPORATION, a Maine corporation, with a place of business in Lewiston, Androscoggin County, Maine, for consideration paid, grants to FRANK BERENYI, whose mailing address is 1578 North Main Street, Winterport, Maine, 04496, with WARRANTY COVENANTS, a certain lot or parcel of land, with any buildings thereon, situated in Lewiston, County of Androscoggin, and State of Maine, being further described in the attached Exhibit A.

The premises are conveyed subject to any easements and restrictions of record, and this deed includes all rights, easements, privileges and appurtenances belonging to the premises hereinabove described.

IN WITNESS whereof, Sultan Corporation has caused this instrument to be executed in its corporate name and on its behalf by Debra Sullivan Pres., in his/her capacity as President, thereunto duly authorized, this 20th day of June 2005.

MAINE REAL ESTATE
TRANSFER TAX PAID

[Signature]
Witness

SULTAN CORPORATION

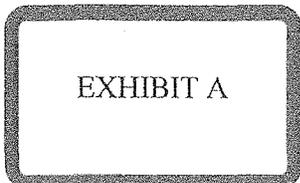
By: [Signature]
Printed Name: Debra Sullivan
Capacity: President

STATE OF MAINE
County of Androscoggin, SS.

Then personally appeared the above named Debra Sullivan, in his/her capacity as President of Sultan Corporation known to me, this 20th day of June, 2005 and acknowledged before me the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of Sultan Corporation.

[Signature]
Notary Public/Attorney at Law
Name: _____
My commission expires: _____

LIANA M. HENAUULT
Notary Public
My Commission Expires January 1 2010



Order No: 1053440 (05-1096)

EXHIBIT 'A'

A certain lot or parcel of land, with the buildings thereon, situated in said Lewiston, bounded and described as follows, to wit:

Commencing on the easterly side of Pierce Street at a point one hundred (100) feet northerly from the northeasterly corner of lot bonded to J. D. Rollins; thence running northerly on said line of Pierce Street fifty (50) feet; thence at a right angle easterly one hundred (100) feet; thence southerly at a right angle fifty (50) feet; thence at a right angle westerly one hundred (100) feet to the point of commencement. Subject to the restriction that no buildings erected thereon shall be placed nearer the line of Pierce Street than twelve (12) feet.

Being the same premises as conveyed to Sultan Corp by warranty deed from Robert W. McCarthy dated April 29, 2005 recorded in the Androscoggin County Registry of Deeds in Book 6321, Page 38.

ANDROSCOGGIN COUNTY
Tina A. Chouard
REGISTER OF DEEDS

Notice of Hearing
Certificates of Service

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Frank Berenyi
1378 N. Main Street
Winterport, Maine

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

TD Banknorth NA
c/o John Opperman
Registered Agent
175 John Roberts Road
P.O. Box 9540
Portland, ME 04112-9540

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Margaret Howard
c/o Matthew Dyer
Pine Tree Legal Assistance
P.O. Box 398
Lewiston, ME 04240

122 PIERCE STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

June 19, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 122 Pierce Street, Lewiston, Maine, identified as Lot 111 on Tax Map 196, and further described in a warranty deed recorded in the Androscoggin County Registry of Deeds at Book 6378, Page 64, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

EXHIBIT B

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: May 16, 2012

Kathleen M. Montejo
Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 16, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.

Allison R. Pease
Notary Public / Attorney at Law

ALLISON R. PEASE
Notary Public, Maine
My Commission Expires August 31, 2015

SEAL

ANDROSCOGGIN COUNTY
TINA M CHOUINARD
REGISTER OF DEEDS

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, et seq.

On May 23, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Frank Berenyi as follows:

Frank Berenyi
1378 N. Main Street
Winterport, ME 04496

*LEFT with his mother Sonya
at Frank's house*

Costs of Service:

Service:	\$ <u>26.00</u>
Travel:	\$ <u>22.20</u>
Postage:	\$ <u>.45</u>
Other:	\$ <u>10.00</u>
 TOTAL:	 \$ <u>58.65</u>

Robert Keating

Signature

WAIDO COUNTY SHERIFF'S

Agency

EXHIBIT C

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Frank Berenyi
1378 N. Main Street
Winterport, Maine

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

TD Banknorth NA
c/o John Opperman
Registered Agent
175 John Roberts Road
P.O. Box 9540
Portland, ME 04112-9540

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Margaret Howard
c/o Matthew Dyer
Pine Tree Legal Assistance
P.O. Box 398
Lewiston, ME 04240

122 PIERCE STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

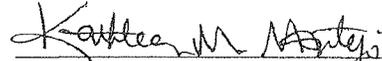
June 19, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 122 Pierce Street, Lewiston, Maine, identified as Lot 111 on Tax Map 196, and further described in a warranty deed recorded in the Androscoggin County Registry of Deeds at Book 6378, Page 64, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: May 16, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 16, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law

ALLISON R. PEASE
Notary Public, Maine
My Commission Expires August 31, 2015

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, et seq.

On May 18, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on Liquidation Properties, Inc. as follows:

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

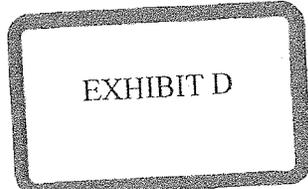
*c/o William Richardson
ADMIN. ASST*

Costs of Service:

Service:	\$	<u>16</u>	<u>00</u>
Travel:	\$	<u>8</u>	<u>40</u>
Postage:	\$	<u>6</u>	<u>60</u>
Other:	\$	<u>0</u>	<u>00</u>
 TOTAL:	\$	<u>30.00</u>	

Sammy A. ...
Signature

D/ Sheriff
Agency



NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Frank Berenyi
1378 N. Main Street
Winterport, Maine

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

TD Banknorth NA
c/o John Opperman
Registered Agent
175 John Roberts Road
P.O. Box 9540
Portland, ME 04112-9540

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Margaret Howard
c/o Matthew Dyer
Pine Tree Legal Assistance
P.O. Box 398
Lewiston, ME 04240

122 PIERCE STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

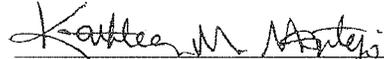
June 19, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 122 Pierce Street, Lewiston, Maine, identified as Lot 111 on Tax Map 196, and further described in a warranty deed recorded in the Androscoggin County Registry of Deeds at Book 6378, Page 64, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: May 16, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 16, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law

ALLISON R. PEASE
Notary Public, Maine
My Commission Expires August 31, 2015

Return

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On May 21, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy of which is attached hereto, on John Opperman, Registered Agent for TD Bank as follows:

TD Banknorth NA
John Opperman, Registered Agent, *VIA Kim ROWE*
75 John Roberts Road *LEGAL ASSISTANT*
South Portland, ME

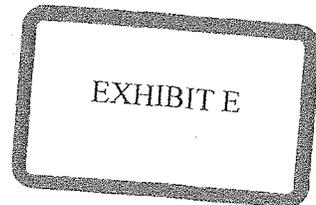
Costs of Service:

Service:	\$	<u>16.00</u>
Travel:	\$	<u>9.70</u>
Postage:	\$	<u>60</u>
Other:	\$	<u>5.00</u>
TOTAL:	\$	<u>31.30</u>

[Handwritten Signature]
Signature

CCSO

Agency



NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Frank Berenyi
1378 N. Main Street
Winterport, Maine

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

TD Banknorth NA
c/o John Opperman
Registered Agent
175 John Roberts Road
P.O. Box 9540
Portland, ME 04112-9540

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Margaret Howard
c/o Matthew Dyer
Pine Tree Legal Assistance
P.O. Box 398
Lewiston, ME 04240

122 PIERCE STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

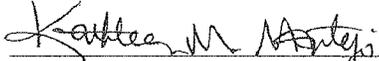
June 19, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 122 Pierce Street, Lewiston, Maine, identified as Lot 111 on Tax Map 196, and further described in a warranty deed recorded in the Androscoggin County Registry of Deeds at Book 6378, Page 64, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: May 16, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 16, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law

ALLISON R. PEASE
Notary Public, Maine
My Commission Expires August 31, 2015

CITY OF LEWISTON
CITY COUNCIL

RETURN OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

On ~~May~~ ^{June} 4th, 2012 (date), I served the above-referenced NOTICE OF HEARING, a copy

of which is attached hereto, on Dead River Company as follows:

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Costs of Service:

Service:	\$ 16.00
Travel:	\$ 9.40
Postage:	\$ 60
Other:	\$ 5.00
 TOTAL:	 \$ 30.00

Sammy Donald
Signature

D. Skeriff
Agency



NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Frank Berenyi
1378 N. Main Street
Winterport, Maine

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

TD Banknorth NA
c/o John Opperman
Registered Agent
175 John Roberts Road
P.O. Box 9540
Portland, ME 04112-9540

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Margaret Howard
c/o Matthew Dyer
Pine Tree Legal Assistance
P.O. Box 398
Lewiston, ME 04240

122 PIERCE STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

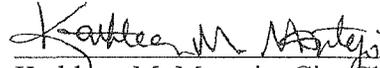
June 19, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 122 Pierce Street, Lewiston, Maine, identified as Lot 111 on Tax Map 196, and further described in a warranty deed recorded in the Androscoggin County Registry of Deeds at Book 6378, Page 64, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: May 16, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 16, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law

ALLISON R. PEASE
Notary Public, Maine
My Commission Expires August 31, 2015

3100 +
Return

CITY OF LEWISTON
CITY COUNCIL

ACKNOWLEDGMENT OF SERVICE

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851, *et seq.*

Due and sufficient service of the Notice of Hearing attached hereto is hereby
acknowledged for and on behalf of Margaret Howard by Matthew Dyer. All formal service of
process is hereby waived.

Dated: May 18, 2012.



Matthew Dyer
On behalf of Margaret Howard

EXHIBIT G

NOTICE OF HEARING
Pursuant to 17 M.R.S. §§ 2851-59
Dangerous Buildings

Frank Berenyi
1378 N. Main Street
Winterport, Maine

Liquidation Properties, Inc.
c/o CT Corporation System
One Portland Square
Portland, ME 04101

TD Banknorth NA
c/o John Opperman
Registered Agent
175 John Roberts Road
P.O. Box 9540
Portland, ME 04112-9540

Dead River Company
d/b/a Webber Energy Fuels
c/o Bruce A. Coggeshall
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Margaret Howard
c/o Matthew Dyer
Pine Tree Legal Assistance
P.O. Box 398
Lewiston, ME 04240

122 PIERCE STREET, LEWISTON, MAINE

You are hereby notified that the City Council of the City of Lewiston, Maine will hold a hearing on:

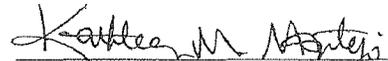
June 19, 2012
7:00 pm
Lewiston City Hall, 27 Pine Street, Lewiston, Maine

This hearing is to determine whether the residential structure at 122 Pierce Street, Lewiston, Maine, identified as Lot 111 on Tax Map 196, and further described in a warranty deed recorded in the Androscoggin County Registry of Deeds at Book 6378, Page 64, is a dangerous building or nuisance within the meaning of 17 M.R.S. § 2851, and if so, what is the appropriate remedy.

If the City Council finds that the structure is dangerous or a nuisance, it may order the appropriate corrective action, including, but not limited to, demolition and removal of the structure. If the corrective action is not taken by the deadline established by the City Council's order, and no appeal is taken, the City may take the corrective action at the City's expense. The City may then recover all of its expenses, including reasonable attorneys' fees and costs, by means of a special tax or civil action.

This hearing is your opportunity to present evidence as to why the structure is not dangerous or a nuisance and to oppose any corrective action ordered by the City Council. Failure to attend may result in the waiver of certain rights with regard to this property.

Dated: May 16, 2012


Kathleen M. Montejo, City Clerk

STATE OF MAINE
ANDROSCOGGIN, ss

May 16, 2012

Before me this day personally appeared Kathleen M. Montejo who acknowledges the foregoing instrument to be her free act and deed.


Notary Public / Attorney at Law

ALLISON R. PEASE
Notary Public, Maine
My Commission Expires August 31, 2015

City
Correspondence

CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, ME 04240-7201
(207) 784-2951, Ext. 316
TTY/TDD (207) 784-5999

NOTICE OF VIOLATION

December 21, 2006.

 **FILE**

VIA FIRST CLASS & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank Beryani
1578 North Main Street
Winterport Me 04496

Dear Property Owner(s):

On December 20, 2006, I inspected the property at 122 Pierce Street and found a violation(s) of Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52 as per the Code of Ordinances of the City of Lewiston. In accordance with Section 18-52, PM-106.1 of the aforementioned code you are hereby ordered to correct the Property Maintenance violation(s) shown on the attached sheet(s) on or before the compliance dates(s) listed.

Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. Please contact this office immediately if circumstances do not permit the timely abatement of the violations or if you have any questions regarding this matter.

In the event that you do not abate the attached violation(s) by the specified date(s) this office may issue a citation pursuant to Chapter 50, Article II, Sections 50-36 through 50-51 of the aforementioned Code of Ordinances. Said citation shall require you to pay a penalty of one hundred dollars (\$100.00) for the first citation and will order you to abate the violation(s) at issue. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred dollars (\$200.00), the third - four hundred dollars (\$400.00), the fourth and subsequent citations - eight hundred dollars (\$800.00) and penalties are cumulative. In the future, if any of the specific violations as shown on the attached sheet(s) are repeated, you are not entitled to receive any further notification and this office may serve you with a citation.

In Lieu of or in addition to the issuance of citations this office may initiate a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. §4452 et seq. as amended. A judgement from such a lawsuit in the City's favor can result in a court order that

EXHIBIT H

any violations be abated, the imposition of a fine of up to two-thousand five-hundred dollars (\$2,500.00), per violation per day, and the payment of court costs and City's legal fees.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred dollars (\$100.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the content or terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section PM-106.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,

Kim Austin
Code Enforcement Officer

c: Gildace J. Arsenault, Director of Planning and Code Enforcement

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities, and/or in the delivery of its programs, activities and services based on an individual person's ethnic origin, color, religion, gender, age, physical or mental disability, veteran status, or inability to speak English. For more information about this policy, contact or call Compliance Officer Mike Paradis at (V) 207-784-5753, (TTY) 207-784-5999, or email mparadis@ci.lewiston.me.us.

EST

6.

PM301.1	Interior	3RD LEVEL	3	GENERAL	14C- Clean
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Violation: ACCUMULATION OF TRASH/DEBRIS

Notes: please remove all trash/food debris as soon as possible

7.

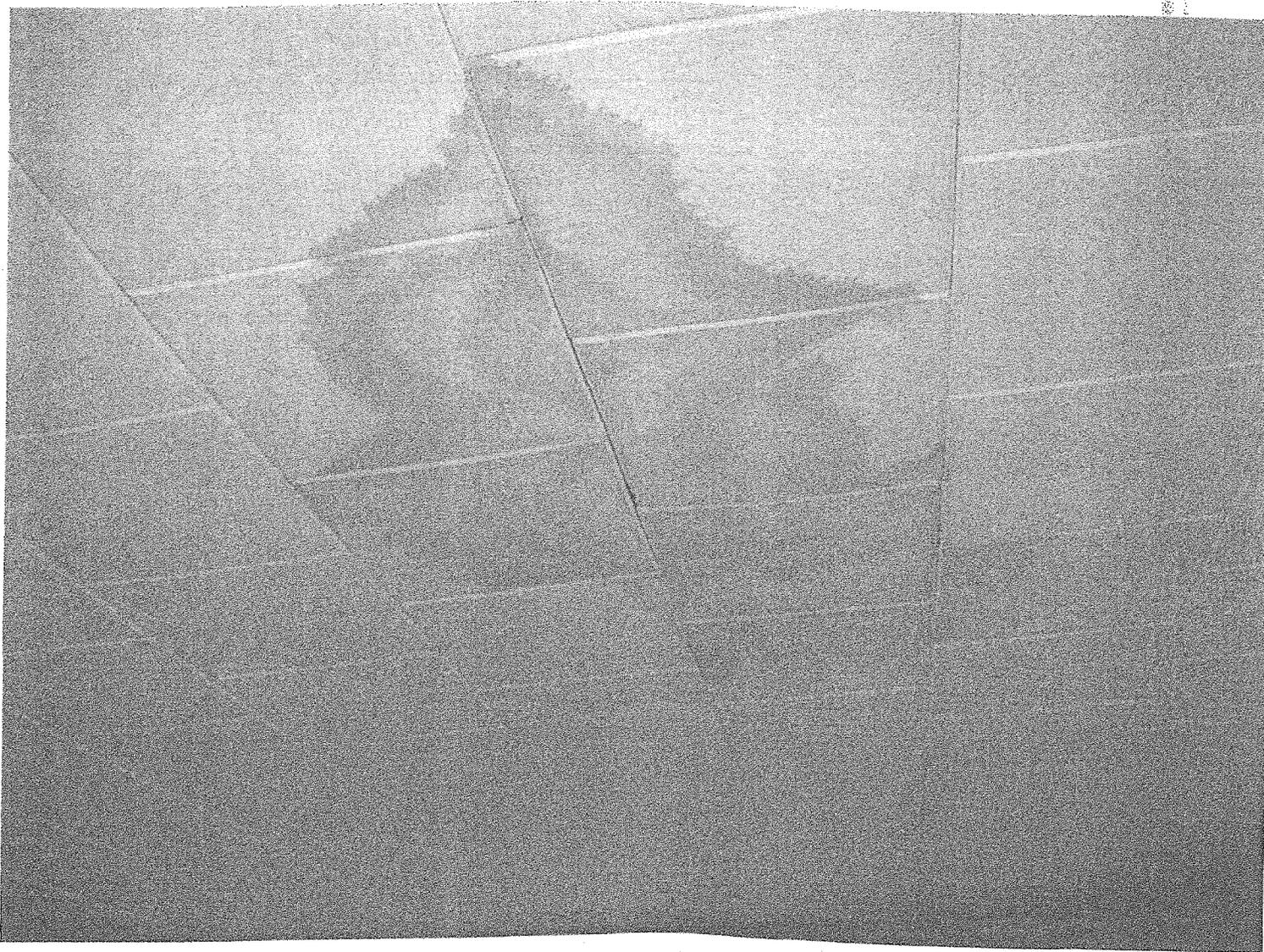
PM-303.3	Interior	3RD LEVEL	3	BEDROOM	30RL-REPLACE	1/19
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Violation: CEILING DAMAGED OR DETERIORATED

Notes: replace stained ceiling tiles in master bedroom

Roof leak

122 Pierce 000022



CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, ME 04240
(207) 513-3125 Ext. 3228
TTY/TDD (207) 784-5999

NOTICE OF VIOLATION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 1, 2010

Frank Berenyi
PO Box 141
Frankfort ME 04438

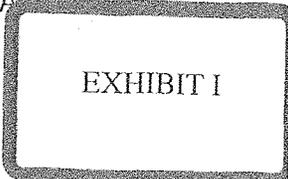
Dear Property Owner(s):

On September 1, 2010, I inspected the property at 122 Pierce Street and found a violation(s) of Chapter 18, Article III, Property Maintenance Code, Sections 1851 and 1852 as per the Code of Ordinances of the City of Lewiston. In accordance with Section 1852, PM106.1 of the aforementioned code you are hereby ordered to correct the Property Maintenance violation(s) shown on the attached sheet(s) on or before the compliance dates(s) listed.

Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. Please contact this office immediately if circumstances do not permit the timely abatement of the violations or if you have any questions regarding this matter.

In the event that you do not abate the attached violation(s) by the specified date(s) this office may issue a citation pursuant to Chapter 50, Article II, Sections 5036 through 5051 of the aforementioned Code of Ordinances. Said citation shall require you to pay a penalty of one hundred and ten dollars (\$110.00) for the first citation and will order you to abate the violation(s) at issue. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred and twenty-five dollars (\$225.00), the third - four hundred and twenty-five dollars (\$425.00), the fourth and subsequent citations - eight hundred and fifty dollars (\$850.00) and penalties are cumulative. In the future, if any of the specific violations as shown on the attached sheet(s) are repeated, you are not entitled to receive any further notification and this office may serve you with a citation.

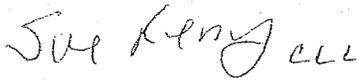
In Lieu of or in addition to the issuance of citations this office may initiate a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure and 30-A



M.R.S.A. '4452 et seq. as amended. A judgment from such a lawsuit in the City's favor can result in a court order that any violations be abated, the imposition of a fine of up to two-thousand five-hundred dollars (\$2,500.00), per violation per day, and the payment of court costs and the City's legal fees. You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Planning/Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and five dollars (\$105.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the content or terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section PM-106.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,

A handwritten signature in cursive script that reads "Sue Reny" followed by three small vertical lines.

Sue Reny
Code Enforcement Officer

The City of Lewiston is an EOE. For more information please visit our website @ www.ci.lewiston.me.us and click on the Non-Discrimination Policy

122 PIERCE ST



City of Lewiston Housing - Inspection

Owner / Manager: Frank Berenyi	
Parcel Id:	# of Units:
Inspector: Sue Reny	
Status:	2.
In Violation	
Date & Time Requested: Sep 1, 2010 at	
Date of Inspection: Wednesday, September 01, 20	
Reinspect By: Saturday, September 11, 2010	
Reason For Inspection: COMPLAINT	

Compliance ?	Code	Int/Ext	Floor	Unit No	Area	Repair Code	Repair By
1.	<input type="checkbox"/> PM-302.1, 3 & PM-701.1	Exterior	1ST, 2ND & 3RD LEVELS		PORCH	10RP-REPAIR	10/1/2010
Violation: PORCH/FIRE ESCAPE SEVERELY DETERIORATED							
Notes: Repair stairs, decking and support beams that are deteriorating							
2.	<input type="checkbox"/> PM-303.3		1st & 2nd LEVELS		BATH & Laundry Room	10RP-REPAIR	9/11/2010
Violation: CEILING DAMAGED OR DETERIORATED							
Notes: Unit # 1 bathroom & unit # 2 Laundry room ceilings need repair							
GENERAL COMMENT: Porches are in need of repair. Unit # 1 has water stain bathroom ceiling and unit # 2 has water stains laundry room.							

122 Pierce 000026

**CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, ME 04240
(207) 513-3125 Ext. 3228
TTY/TDD (207) 784-5999**

NOTICE OF VIOLATION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

October 6, 2010

Frank Berenyi
PO Box 141
Frankfort ME 04438

Dear Property Owner(s):

On October 5, 2010, I inspected the property at 122 Pierce Street and found a violation(s) of Chapter 18, Article III, Property Maintenance Code, Sections 1851 and 1852 as per the Code of Ordinances of the City of Lewiston. In accordance with Section 1852, PM106.1 of the aforementioned code you are hereby ordered to correct the Property Maintenance violation(s) shown on the attached sheet(s) on or before the compliance date(s) listed.

Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. Please contact this office immediately if circumstances do not permit the timely abatement of the violations or if you have any questions regarding this matter.

In the event that you do not abate the attached violation(s) by the specified date(s) this office may issue a citation pursuant to Chapter 50, Article II, Sections 5036 through 5051 of the aforementioned Code of Ordinances. Said citation shall require you to pay a penalty of one hundred and five dollars (\$105.00) for the first citation and will order you to abate the violation(s) at issue. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred and ten dollars (\$210.00), the third - four hundred and twenty dollars (\$420.00), the fourth and subsequent citations - eight hundred and forty dollars (\$840.00) and penalties are cumulative. In the future, if any of the specific violations as shown on the attached sheet(s) are repeated, you are not entitled to receive any further notification and this office may serve you with a citation.

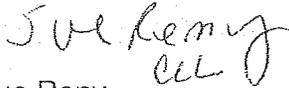
In Lieu of or in addition to the issuance of citations this office may initiate a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. '4452 et seq. as amended. A judgment from such a lawsuit in the City's favor can result in a court order that any violations be abated, the imposition of a fine of up to

EXHIBIT J

two-thousand five-hundred dollars (\$2,500.00), per violation per day, and the payment of court costs and the City's legal fees. You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Planning/Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and fifty dollars (\$150.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the content or terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section PM-106.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,

A handwritten signature in cursive script that reads "Sue Reny".

Sue Reny
Code Enforcement Officer

The City of Lewiston is an EOE. For more information please visit our website @ www.ci.lewiston.me.us and click on the Non-Discrimination Policy

122 PIERCE ST



City of Lewiston Complaint-Housing - Inspection

Owner / Manager: Frank Berenyi	
Parcel Id:	# of Units:
Inspector: Sue Reny	
Status: In Violation	
Date & Time Requested: Oct 5, 2010 at	
Date of Inspection: Tuesday, October 05, 2010	
Reinspect By: Saturday, October 09, 2010	
Reason For Inspection: COMPLAINT	

Compliance ?	Code	Int/Ext	Floor	Unit No	Area	Repair Code	Repair By
1. <input type="checkbox"/>	PM-601.4	Interior	1ST LEVEL		ALL ROOMS	10RP-REPAIR	10/9/2010
Violation: HEATING SYSTEM INADEQUATE/NOT FUNCTIONING PROPERLY							
Notes: Must maintain heat to 66 degrees							

GENERAL COMMENT: No heat

122 Pierce 000029

HEAT 8

CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
37 PINE STREET
LEWISTON, ME 04240
(207) 513-3125, ext. 3228

FIRST CITATION
NOTICE OF CIVIL PENALTY

October 12, 2010

Frank Berenyi
PO Box 141
Frankfort ME 04438

Dear Property Owner(s):

This office sent you a Notice of Violation regarding 122 Pierce Street dated October 6, 2010 ordering you to correct violations of the Property Maintenance Code of the City of Lewiston. An inspection on this date revealed that some of these violations still exist. Therefore, in accordance with Chapter 50, Article II, Sections 50-36 thru 50-51 of the aforementioned Code of Ordinances you are hereby ordered to pay a civil penalty in the amount of one hundred and five dollars (\$105.00) to the City of Lewiston. **This penalty amount must be received by this office by not later than October 19, 2010.**

You are further ordered to correct the attached violations as noted on the Notice of Violation issued on October 6, 2010 by no later than 4:30 p.m. on October 14, 2010. Failure to correct the violations by the compliance date may result in the issuance of a second citation with a civil penalty in the amount of two hundred and ten dollars (\$210.00). If necessary a third and fourth citation may be issued carrying civil penalties in the amount of four and twenty dollars (\$420.00) for the third and eight hundred and forty dollars (\$840.00) for the fourth and subsequent citations. In addition, failure to abate the violation and/or to pay the required penalties when due may result in the initiation of a law suit.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and fifty dollar (\$150.00) appeal fee.

Sincerely,

Susan Reny
Susan Reny
Code Enforcement Officer

The City of Lewiston is an EOE. For more information please visit our website @ ci.lewiston.me.us and click on the Non-Discrimination Policy.

EXHIBIT K

HEAT

9

CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
37 PINE STREET
LEWISTON, ME 04240
(207) 513-3125, ext. 3228

SECOND CITATION
NOTICE OF CIVIL PENALTY

OCTOBER 15,
~~September 10,~~ 2010

Frank Berenyi
PO Box 141
Frankfort Maine 04438

Dear Property Owner(s):

This office sent you a Notice of Violation regarding 122 Pierce Street dated October 6, 2010 ordering you to correct violations of the Property Maintenance Code of the City of Lewiston. An inspection on this date revealed that some of these violations still exist. Therefore, in accordance with Chapter 50, Article II, Sections 50-36 thru 50-51 of the aforementioned Code of Ordinances you are hereby ordered to pay a civil penalty in the amount of two hundred and ten dollars (\$210.00) to the City of Lewiston. **This penalty amount must be received by this office by not later than October 25, 2010**

You are further ordered to correct the attached violations as noted on the Notice of Violation issued on October 6, 2010 by no later than 8:00 a.m. October 18, 2010. Failure to correct the violations by the compliance date may result in the issuance of a third citation with a civil penalty in the amount of four hundred twenty dollars (\$420.00). If necessary a fourth citation may be issued carrying civil penalties in the amount of eight hundred forty dollars (\$840.00) for the fourth and subsequent citations. In addition, failure to abate the violation and/or to pay the required penalties when due may result in the initiation of a law suit.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and fifty dollar (\$150.00) appeal fee.

Sincerely,

Susan Reny
Code Enforcement Officer

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EXHIBIT L

HEAT 10

CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
37 PINE STREET
LEWISTON, ME 04240
(207) 513-3125, ext. 3228

THIRD CITATION
NOTICE OF CIVIL PENALTY

October 18, 2010

Frank Berenyi
PO Box 141
Frankfort Maine 04438

Dear Property Owner(s):

This office sent you a Notice of Violation regarding 122 Pierce Street dated October 6, 2010 ordering you to correct violations of the Property Maintenance Code of the City of Lewiston. An inspection on this date revealed that some of these violations still exist. Therefore, in accordance with Chapter 50, Article II, Sections 50-36 thru 50-51 of the aforementioned Code of Ordinances you are hereby ordered to pay a civil penalty in the amount of four hundred and twenty dollars (\$420.00) to the City of Lewiston. **This penalty amount must be received by this office by not later than October 28, 2010.**

You are further ordered to correct the attached violations as noted on the Notice of Violation issued on October 6, 2010 by no later than 4:30 a.m. October 20, 2010. Failure to correct the violations by the compliance date may result in the issuance of a fourth citation with a civil penalty in the amount of eight hundred and forty dollars (\$840.00). If necessary, any further citation may be issued carrying civil penalties in the amount of eight hundred forty dollars (\$840.00). In addition, failure to abate the violation and/or to pay the required penalties when due may result in the initiation of a law suit.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred and fifty dollar (\$150.00) appeal fee.

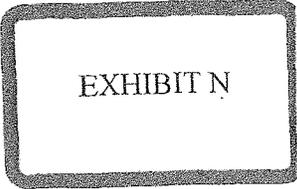
Sincerely,

Susan Reny
Susan Reny
Code Enforcement Officer

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EXHIBIT M

CITY OF LEWISTON
CODE ENFORCEMENT
CITY BUILDING
27 PINE STREET
LEWISTON, MAINE 04240
(207) 513-3125 EXT. 3224
TTY/TDD (207) 513-3007



NOTICE OF VIOLATION
NOTICE OF CONDEMNATION/PLACARDING
VIA FIRST CLASS & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

POSTED AT SITE

January 20,2011

Frank Berenyi
P.O. Box 141
Frankfort, ME 04438

RE: 122 Pierce Street, 1st, 2nd and 3rd floor units(entire building) Lewiston, Maine

Dear Mr. Berenyi:

On January 20,2011, I inspected the building at 122 Pierce Street, Lewiston, Maine and have found that the heating system is not operational , there is no running water, hot or cold and the porches are unsafe on all levels of this buildings which includes units on the 1st, 2nd, and 3rd floor and is subsequently unfit for human habitation or occupancy due to violations of the following provisions of Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52 as per The Code of Ordinances of the City of Lewiston hereafter referred to as the (Code):

- PM-601.1 requires every dwelling shall be provided with heating facilities capable of maintaining a room temperature of 66 degrees Fahrenheit (19 degrees Celsius) at a level of three (914MM) above the floor and a distance of three feet (914M) from the exterior walls in all habitable rooms, bathrooms and toilet rooms.
- PM-302.1&PM-701.1 The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to public health, safety or welfare. A safe, continous and unobstructed means of egress shall be provided from an interior of a structure to a public way.
- PM-504.1 Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water.

Per the above mentioned violations I hereby condemn and placard the building located at 122 Pierce Street (1st,2nd and 3rd floor units) Lewiston, Maine being unfit for human habitation and occupancy pursuant to and in accordance with Chapter 18, Article III, Property Maintenance Code, Sections 18-51 and 18-52, PM 105.1, PM-105.2, PM 105.3, PM 105.4, PM-105.6, PM 107.1, PM 107.2, PM-

Handwritten initials in a cursive style, possibly "DB", located at the bottom right of the page.

107.3, of the Code of Ordinances of the City of Lewiston. In accordance with PM-105.6, the City of Lewiston cause this apartment to be secured, if found open, by public agency, contract, or by private persons and the cost shall be charged to the owner.

The above-mentioned property will be placarded and may not be re-occupied until proper abatement of all applicable violations have been completed. An inspection shall be conducted to confirm compliance. At such time the condemnation order and placarding shall be discontinued pursuant to the above referenced Code Section PM 107.3 stating "the code official shall remove the condemnation and placarding whenever the defect or defects upon which the Condemnation and Placarding were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code."

Your prompt attention to this matter is advised to avoid legal action. It is our sincere desire to work with you in devising an implementation schedule for the correction of these conditions. Please contact this office immediately if circumstances do not permit the timely compliance with this order and abatement of the violations or if you have any questions regarding this matter.

In the event that you do not comply with this order, this office may issue a citation pursuant to Chapter 50, Article II, and Section 50-36 thru 50-51 of the aforementioned Code. Said citation shall require you to pay a penalty of one hundred dollars (\$110.00) for the first citation and you will be reordered to abate the outstanding violations in the previous Notices and Orders. In the event that you do not comply with the first citation, additional citations may be issued. The second citation imposes a civil penalty of two hundred dollars (\$225.00), the third is four hundred dollars (\$425.00), the fourth and subsequent citations are eight hundred dollars (\$850.00), and penalties are cumulative. In the future, if any of the above violations are repeated, you are not entitled to receive any further notification, and this office may serve you with a citation.

In lieu of or in addition to the issuance of citations, this office may initiate a land use complaint pursuant to Rule 80-K of the Maine Rules of Civil Procedure and 30-A M.R.S.A. § 4452 et seq. and § 3758-A et seq. as amended. A judgment from such a lawsuit in the City's favor will result in a court order that any violations be abated, the imposition of a fine of up to two thousand, five hundred dollars (\$2,500.00) per violation, per day, the payment of court costs and the City's legal fees.

You may appeal this order and request a hearing before the Lewiston Board of Appeals by filing a written petition at the office of the Director of Planning and Code Enforcement within ten (10) days of receipt of this notice. This petition shall be submitted on a form provided by this office along with the one hundred dollar (\$105.00) appeal fee. Should you fail to appeal you will be barred from any opportunity to contest or challenge the terms of this Notice and Order in any further legal proceedings.

If you sell, transfer or lease this property, you must notify the grantee, mortgagee, transferee, or lessee of any outstanding code violations pursuant to Section PM-106.6 of the Property Maintenance Code. You must also furnish this office with a signed notarized statement from the grantee, mortgagee, transferee or lessee acknowledging receipt of any orders or notices and fully accepting responsibility for the abatement of said violations.

Sincerely,



Susan R. Reny
Code Enforcement Officer

c: Occupants
Gildace J. Arsenault, Director of Planning & Code Enforcement

Photographs

122 PIERCE JR.
4-18-2012 3:30 PM
Chris E. Maynard

1



2



EXHIBIT O

1



3



122 Pierce Cir.
 4-18-2012 3:30 PM

W. E. Hayward



5



6

Low view
4-18-2012 3:30 PM E. M. [unclear]



7



8



10



9



12

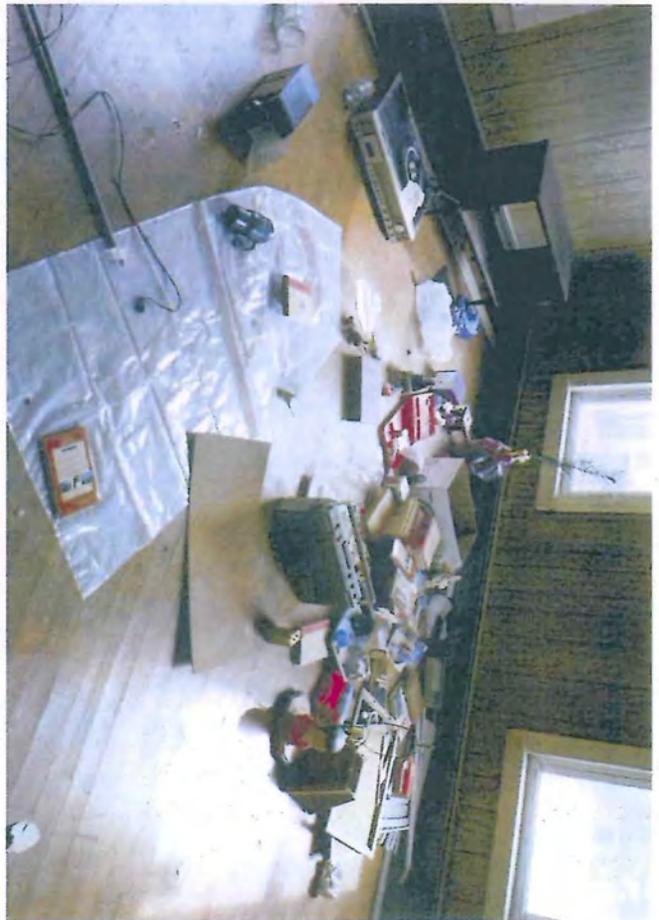


11

4-15-2012 3:30PM (11/16/12)

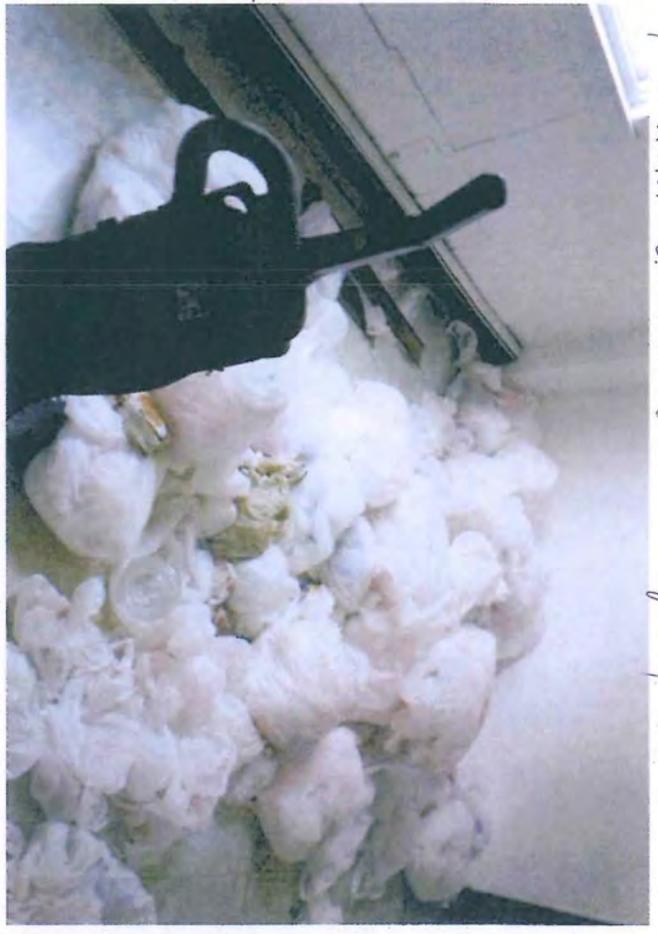


13



14

4-18-2012 3:30 PM
E. McQuinn



5



16



18



17

4-18-2012 3:30 PM

K. E. Myer



9



20



22



21

122 Pierce
4-18-2012 3:30 PM

Eric E. [Signature]



1
3



4
c



210



25

4-18-12 3:30 PM K. E. Myrdal



17



18



19

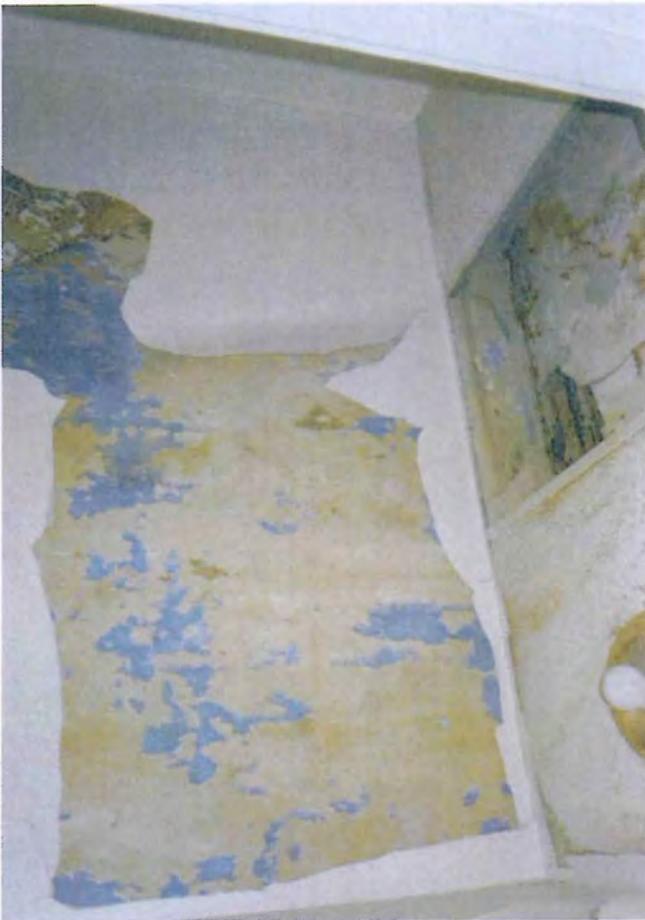


20

2



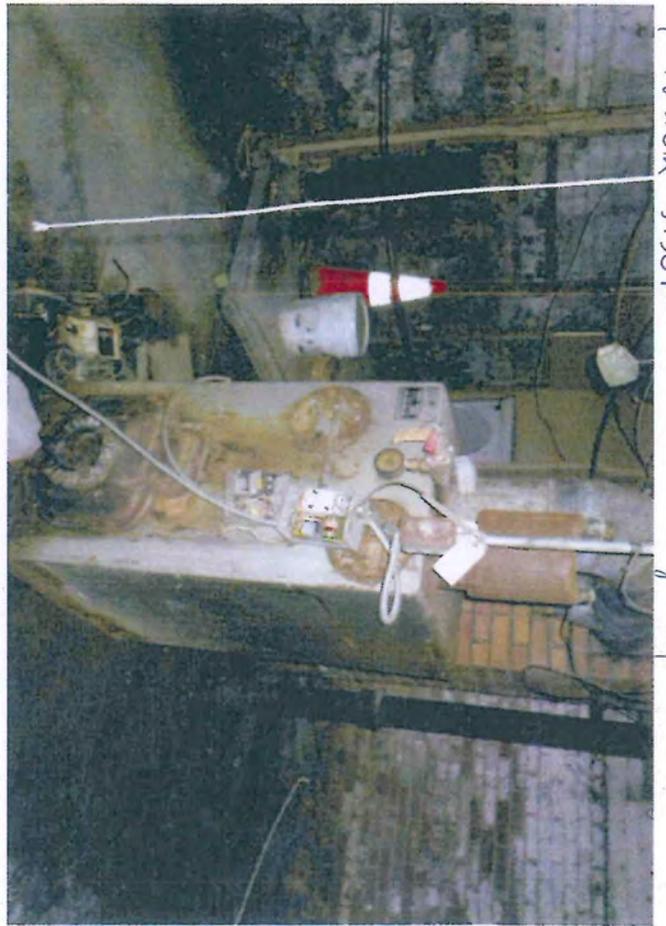
31



2



35



34

4-18-2012 3:30 pm

E. McQuinn



36

4-18-2012 3:30 PM E & W



37



38

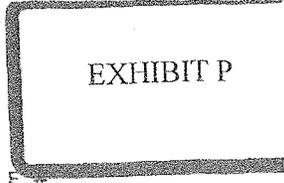


39

Other Documentary Evidence

7/21 10 - 1000
Pool
763-9132

COMPLAINT REPORT
MADE TO
INSPECTION DEPARTMENT
City of Lewiston, Maine



C.T. # 2010-00065

FILE

Complainant's Name & Address <i>Where here since 94</i> Bernard Sirote	Time: A.M. P.M.	Date: 4/27/10	Complaint Made by: Phone: 7863860 Person: Mail:
Address at Issue: 122 Pierce ST,	Owner's Name and Address: FRANK Berenyi 632-7501		
Complaint Made To: me	Investigation: me	Location of Unit:	

Details of Complaint:

NO HEAT SINCE EASTER
NO HOT WATER SINCE FRIDAY

Porches Look Boards

Third Floor

OK 9/11/10

Investigation Report: FRANK Berenyi

PO Box 141

FRANK PORT ME 04438

TEL# 632-7501

Called Left message to

4/26/10 call me

4/26 Owner call me

will talk care of HEAT + HOT

water issues today

will go over to work + repair

Porch Boards + PICK UP TRASH

18



COMPLAINT REPORT
MADE TO
INSPECTION DEPARTMENT
City of Lewiston, Maine

C.T. # _____

FILE # _____

Complainant's Name & Address Jerry Sirois - 786-3860	Time: 8:02 A.M. P.M.	Date: 8/30/10	Complaint Made by: Phone: _____ Person: <input checked="" type="checkbox"/> _____ Mail: _____
Address at Issue: 122 Pierce	Owner's Name and Address: Frank Bereni (cell phone) (632-7501)		
Complaint Made To:	Investigator:	Location of Unit: 2nd floor	

Details of Complaint: 3 apts + house in back -

1) No hot water for 1 week - doesn't answer phone or call back + has not been at the building for over month - starting calling last Monday. Does not respond. Oil came Monday or Thursday. Finally had hot water 1st time Saturday but hot water gone again Sunday am. now to

2) ~~Glass & weeds growing on yard~~

3) Porches need repair. (holes in floor on porches)

4) 3rd floor vacant - fairly spring windows broken

5) Washer dryer ^{located} on floor (2nd floor) apt. unit above (and now mold is present on ceiling)

Investigation Report: _____

Bereni Properties
PO Box 561
AUBURN, ME 04212

ROLAND CHABOT

941 MINOT AVENUE
AUBURN, MAINE 04210

Bid

Number: E134

Date: February 22, 2012

Bill To:

CODE
JEFFREY BARIL
CITY OF LEWISTON
27 PINE STREET
LEWISTON

PO Number
122 PIERCE STREET

Description	Amount
TIME AND MATERIAL TO BOARD UP APARTMENT HOUSE	
LABOR	150.00
1 SHEET OF PLYWOOD x \$15.00=	15.00
NOTE: STILL HAVE 2 SHEETS RECOVERED WHEN WE DEMOLISHED BLAKE STREET	
THANK YOU ROLAND CHABOT D/B/A ROLANDS DEMOLITION 941-949 MINOT AVENUE AUBURN, MAINE 04210 782-6042 FAX 753-1365	
Total	\$165.00

EXHIBIT R

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Resolution terminating the City's agreement with the Lewiston Auburn Economic Growth Council to manage and operate the Lewiston Economic Stimulus Loan Pool.

INFORMATION:

The City entered into an agreement with LAEGC in 2004 under which that organization managed the City's Economic Stimulus Loan Pool. Funded through the Community Development Block Grant Program, these funds were targeted toward job creation. The pool currently has approximately \$377,456 available and five outstanding loans. Due to reductions in the federal CDBG program, the City has been unable to adequately fund its own loan and grant programs with requests far exceeding available funds. The return of the available loan pool funds to the City will restore the City's ability to meet at least a portion of the demand. Once the funds are returned to the City, we will return to the Council with a recommendation on their allocation to our residential and commercial loan and grant programs.

Please note that LAEGC will continue to manage the five open loans under this program. As loan payments are received, they will be forwarded to the City and treated as program income.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAIS/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolution terminating the City's agreement with the Lewiston/Auburn Economic Growth Council to manage and operate the Lewiston Economic Stimulus Loan Pool.

RESOLUTION, Terminating Agreement with the Lewiston/Auburn Economic Growth Council to Manage and Operate the Lewiston Economic Stimulus Loan Pool.

WHEREAS, the City of Lewiston [City] received Grant Funds under Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, pursuant to said Grants, the City has undertaken certain activities; and

WHEREAS, the City entered into an Agreement on July 1st, 2004 with the Lewiston-Auburn Economic Growth Council [LAEGC] to manage and operate the Lewiston Economic Stimulus Loan Pool [ESLP]; and

WHEREAS, the Agreement shall remain in effect during any period that the LAEGC has control over CDBG funds, including program income; and

WHEREAS, the City may TERMINATE THE CONTRACTUAL AGREEMENT with the LAEGC at any time for any reason in accordance with 24 CFR 85.44; and

WHEREAS, the City and LAEGC have mutually agreed to terminate the contract in order to allow the City to replenish its various loan and grant programs;

NOW, THEREFORE, be it resolved by the City Council of the City of Lewiston that

As of June 30th, 2012, the City, for its convenience, TERMINATES the Contractual Agreement with LAEGC to manage and operate the Lewiston ESLP in order to permit the City Council, at its sole discretion, to reallocate funds hereunder to other uses in compliance with Title I of the Housing and Community Development Act of 1974, as amended; and

Be It Further Resolved, that, upon its TERMINATION, the LAEGC shall transfer to the City any CDBG funds on hand as of the TERMINATION date; and

Be It Further Resolved, that the LAEGC will continue to service any active, outstanding loans and manage documents and accounts receivable under its care and attributable to the use of CDBG funds and will promptly remit all loan principal and interest payments and any late fees and charges to the City; and

Be It Further Resolved, that the LAEGC will provide to the City's CDBG Office all original documentation on closed and active loans funded with the ESLP funds, including job creation agreements, environmental reviews, Davis Bacon Wage Rate records, and all other documentation required under the terms of the ESLP funds. The LAEGC may make copies of the documentation it needs from these files for proper servicing and maintenance of the active loans; and

Be It Further Resolved, that, upon TERMINATION, the City Director of Finance will coordinate with LAEGC Staff to establish a schedule for updating and completing an independent audit the ESLP as of June 30th, 2012 with the cost thereof charged to the ESLP funds.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

Order approving the addition of two employees to the MainePERS Retirement plan (2C) for Firefighters.

INFORMATION:

The City has traditionally viewed the position of Fire Inspectors as regular employees who were not eligible for inclusion in the retirement plan available to firefighting personnel. A grievance was filed and an arbitrator has ruled this position is eligible to participate in the firefighter's retirement program, known as Maine PERS Retirement Plan (2C) for Firefighters.

This agenda item formally adds the two Fire Inspectors to the retirement plan. Please see the attached memorandum from the Fire Chief for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To adopt the Order approving the addition of two employees to the MainePERS Retirement Plan (2C) for Firefighters.



City of Lewiston Maine

June 19, 2012

ORDER, Approving the Addition of Two Employees to the MainePERS Retirement plan (2C) for Firefighters.

Whereas, the City has traditionally treated Fire Inspectors as regular employees who were not eligible for inclusion in the special retirement plan available to firefighting personnel; and

Whereas, as a result of a grievance filed by the bargaining unit representing these employees, an arbitrator has ruled that they are so eligible under the applicable bargaining agreement; and

Whereas, MainePers has agreed to allow these employees to enter the special retirement plan retroactive to their dates of hire ; and

Whereas, this has been reviewed by the City's Finance Director who has determined that this is the most cost effective approach to resolving the issue and meeting the requirements of the arbitration award;

Now, Therefore, Be it Ordered By the City Council of the City of Lewiston that

the Addition of Two Employees to the MainePERS Retirement plan (2C) for firefighters is hereby approved and the City Administrator is authorized to execute the necessary agreements to implement this action.

Lewiston Fire Department

Central Fire Station

2 College Street • Lewiston, ME 04240

Memo

To: Ed Barrett, City Administrator
From: Chief Paul M. LeClair
Date: June 14, 2012
Re: MainePERS Plan (2C) for Firefighters

Historically, the City treated Fire Inspectors as Non-Firefighter Positions. As a result of the 2010 layoffs that impacted the fire department, the Firefighters Union filed a grievance on the basis the City violated employee seniority rights as they related to layoffs. The City denied the grievance and the Union filed for Arbitration. The Union prevailed in that grievance and the City was forced by the Arbitrators decision to return the laid off Employee to a firefighter position. This led to a subsequent claim that the City also violated the Collective Bargaining Agreement when it did not provide Fire Inspectors with a twenty-five year no age limit special retirement plan as it had for firefighters. Again the City denied said grievance, and the Union filed for Arbitration. On August 25, 2011, Arbitrator Henry Stewart ruled the City violated the Collective Bargaining Agreement.

As you know, City Attorney Dan Stockford has been working towards resolution of the Firefighter Pension Plan grievance award. As part of that resolution, MainePERS recently approved the inclusion of two employees in the 25 year no age special plan (2C). In order to place the two employees on the Special Plan (2C) on July 1, 2012, Council action is required at the June 19th Meeting. In consultation with Finance Director Heather Hunter, the resolution recommended by Attorney Dan Stockford to include the two employees in the retirement plan 2C is in the best interest of the City of Lewiston.

LEWISTON CITY COUNCIL

MEETING OF JUNE 19, 2012

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 12

SUBJECT:

Resolve accepting the donation of an Automated External Defibrillator from the Lewiston Firefighters Association's Community Benefit Fund.

INFORMATION:

The Lewiston Firefighters Association has offered to donate to the City an Automated External Defibrillator to be placed in a City building. The Association is also looking to provide four \$700 grants toward the cost of AED packages for willing Lewiston partners who would then place these units in their own buildings or gift them to a municipal building. Please see the attached letter from Rick Cailler, President of the Association, detailing this offer.

Staff would recommend your approval and further recommends that this unit be placed on the Second Floor of City Hall. This is the most heavily trafficked area of the building. Our safety officer will determine the best location and will take the necessary steps to ensure staff is trained in the operation of this equipment.

Should the need ever arise, the availability of this unit could be essential to emergency life saving efforts.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To accept the donation of an automated external defibrillator from the Lewiston Firefighters Association's Community Benefit Fund and to designate that it be located in Lewiston City Hall.



LEWISTON FIREFIGHTERS ASSOCIATION

International Association of Firefighters

Central Fire Station - 2 College Street - Lewiston, Maine 04240-7101

May 30, 2012

Mayor Robert Macdonald
City of Lewiston
27 Pine St
Lewiston, Me 04240

Re: Community Benefit Fund
Cooperative Partnership Request

Dear Mayor Macdonald and City Council:

The Lewiston Firefighters Association's Community Benefit Fund was developed in the mid 1990's as an avenue for the Firefighters Association to give back to our community. Over the years we are proud to have accomplished nearly \$50,000 of financial aid being returned to area communities through our sponsorships. Our efforts have been wide ranging from sponsorships of sports teams, project graduations, the annual Christmas giving programs in cooperation with Hope Haven Gospel Mission and the Salvation Army. We have partnered with the Youth Advisory Council, Androscoggin Hospice House and the list goes on.

In recognition of the difficult economy, it was decided that the Fund needed this year to focus on our core mission as firefighters, that is protecting the citizens of Lewiston.

We are proud to announce that we are prepared to donate to the Lewiston City Council an Automated External Defibrillator package. In return we are asking for two things, that you say yes and collectively as a council decide which municipal building would best served with this life saving tool. Secondly, as Mayor and Council we ask that you assist us in spreading the word on the second part of the venture. As firefighters we serve the citizens of Lewiston and recognize that a speedy response to both fire and emergency medical calls are greatly impacted on how quickly we arrive on scene. The outcomes from a quick response in both fire and medical emergencies are vital and often make that life saving difference. In an effort to increase the survivability of a sudden heart related conditions, communities nationwide recognize the need of quick emergency medical assistance.

In an effort to make best use of our limited funds, we are looking to provide four \$700 grants towards the cost of an AED package to willing Lewiston partners. They would join us in an effort to place these defibrillators in the City of Lewiston, either in their own building and business, or join us in gifting to a municipal building. Each grant would cover more than 50% of the purchase price of an AED package.

Emergency Response Background:

It is hoped that the use of these AED's will not be necessary, but if they become necessary that your decision to accept and participate in this program could be proven to have been a lifesaver.

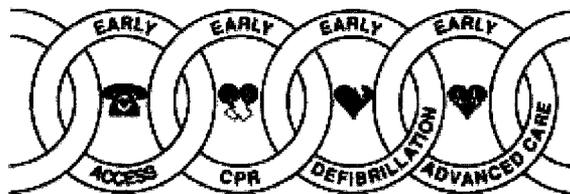
Critically ill and injured patients benefit most from the timely delivery of appropriate medical care. If lives are to be saved or impairment prevented, individuals with serious injuries or acute cardiac problems must receive appropriate medical treatment as quickly as possible. The "Golden Hour" describes the precious time period in which to locate and treat a critically injured trauma patient to minimize death and permanent disability. The American Heart Association, in its response time guidelines for victims of cardiac arrest, notes that the highest hospital discharge rates have been achieved in patients in whom CPR was initiated within four minutes of arrest and advanced cardiac life support administered within eight minutes.

THE "CHAIN OF SURVIVAL"

The American Heart Association uses the term "chain of survival" to describe four elements critical to the survival of cardiac arrest victims.

1. Early access to the EMS system, facilitated by the availability of a 9-1-1 system that allows callers to obtain police, fire, or EMS assistance by calling a single telephone number
2. Early CPR by either bystanders or fire-responder rescuers
3. Early defibrillation by first responders, emergency medical technicians (EMT's), paramedics, or other on-scene trained personnel
4. Early ALS

CHAIN *of* SURVIVAL



Reprinted with permission from the American Heart Association

Each link in the chain must be strong to ensure optimal survival rates for those who experience out of hospital cardiac arrest. These four elements can be generalized to other acute medical emergencies that today's emergency responders commonly treat. These emergencies include, but are not limited to: trauma, myocardial infarction (heart attack) and cerebral vascular events (strokes).

Survival from out-of-hospital cardiac arrest can be improved significantly when fire fighter first responders respond quickly to the scene and provide defibrillation using automatic external defibrillators (AED's).

Once we hear back on hopefully your willingness to participate we can collectively decide on the best criteria and guidelines on awarding the grants.

We truly feel that if this first attempt of providing grants were to be successful, that this would become one of our fund's primary goals. Our current fundraiser comedy show is scheduled for September 28th at the Ramada Inn; it would be fitting if the grant recipients could be recognized for their partnership at this event.

I look forward to your reply.

Sincerely

Rick Cailler
President
Lewiston Firefighters Association
IAFF Local 785
prayfoursnow@juno.com

PACKAGE AND DETAILS ON NEXT PAGE

Philips HeartStart OnSite AED School & Community Value Package

Part #:
SVP-ONSITE-B

Our Price:
\$1,330.00

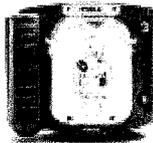
Choose Type of Cabinet:

Basic Cabinet

Quantity

Alternate Part Number(s): SVP-ONSITE-B, SVP-ONSITE-A, SVP-ONSITE-S, AMP8128

This package includes:



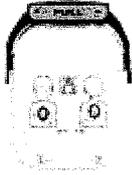
Philips HeartStart OnSite AED - includes 8 year warranty, adult electrode pad cartridge, long-life battery and quick reference card.



Compact Size AED Wall Cabinet - Ruggedly constructed metal surface mount cabinet, optional alarm or alarm & strobe available. Made in the USA!



Semi-Rigid Carry Case - This premium case has storage space for spare electrode pads and a battery. It protects your investment.



Infant/Child Cartridge Electrode Pads - Electrode pads for patients under 8 years of age or under 55 lbs. in body weight.



Premium AED/CPR Responder Pack - Premium kit includes a full-size CPR Mask in nylon heavy duty pouch. The best kit available!



AED Wall Sign - Three-dimensional, projection-style AED wall sign to identify the location of your AED.



Overview & Demo CD - Includes video presentation, literature and demonstrations of your Philips HeartStart AED.



AED Check Tag - Use this quality AED Check™ Tag as a record of your AED inspections.



AED Window/Wall Decal - 4" Diameter. Let others know there is an Automated External Defibrillator on the premises.