

**LEWISTON CITY COUNCIL AGENDA  
CITY COUNCIL CHAMBERS  
MAY 7, 2013**

**7:00 p.m. Regular Meeting**

Pledge of Allegiance to the Flag.  
Moment of Silence.

Presentation of the Alfred A. Plourde Scholarship

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 4.

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. Amendment of the City Policy Manual regarding the Excavation and Street Opening Policy.
- \* 2. Update of City Policy regarding the Street and Sidewalk Occupancy Policy.
- \* 3. Amendment to the Traffic Schedule to eliminate some fifteen (15) minute parking designations no longer needed.
- \* 4. Amendment to the Traffic Schedule to create a fifteen (15) minute parking designation on Park Street.
- \* 5. Amendment to the Traffic Schedule regarding some housekeeping corrections.
- \* 6. Amendment to the Traffic Schedule regarding parking regulations on a portion of Commercial Street.
- \* 7. Amendment to the Traffic Schedule regarding parking regulations on a portion of Elm Street.
- \* 8. Order Authorizing the City Administrator to execute a Purchase and Sale Agreement for 357 Sabattus Street.
- \* 9. Resolve Making an appropriation from the Community Forestry Fund for the purchase of two Tree City USA signs.
- \* 10. Order Approving Annual Reports for Affordable Housing Tax Increment Financing Districts within the City of Lewiston and authorizing the Director of Economic and Community Development to submit such reports annually.

**REGULAR BUSINESS:**

- 11. Order confirming the Mayor's nomination of Zam Zam Mohamud to serve on the Lewiston School Committee as the at-large representative.
- 12. Public Hearing on a new liquor license application for Orchid Restaurant, 29 Lisbon Street.
- 13. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Gridiron Restaurant, 1567 Lisbon Street.
- 14. Public Hearing & First Passage for Land Use Code Amendments concerning floodplain administration and management.

15. Public Hearing and Adoption of Order authorizing the City Administrator to execute a Development Assistance and Tax Increment Financing Agreement and a Joint Development Agreement with Argo Marketing Group, Inc.
16. Public Hearing and Adoption of the Resolve approving the FY2013 Community Development Block Grant (CDBG) Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development.
17. Final Budget Public Hearing for the Fiscal Year 2014 Municipal Budget.
18. Adoption of Budget Articles on School Funding for the period July 1, 2013 to June 30, 2014.
19. Budget Recommendations from the Finance Committee regarding the proposed Fiscal Year 2014 Budget.
20. Resolve approving the Final Adjustments to the Fiscal Year 2014 Municipal Budget.
21. Order Authorizing the City Administrator to provide city services and funding for City Non-Profit Organization Activities in accordance with the FY2014 City Council approved list.
22. Adoption of Municipal Budget Appropriation Resolve for Fiscal Year 2014.
23. Resolve Authorizing the Use of \$2,500 from the Farrar Fund for costs of basic necessary services for needy individuals.
24. Resolve authorizing the use of \$1,519,950 from the General Fund Unassigned Fund Balance for Capital Outlay purchases.
25. Resolve expressing support for the initiative to evaluate and improve the joint economic development efforts of the Cities of Lewiston and Auburn.
26. Resolve transferring unused Community Development Block Grant funds for the purpose of implementing Phase II of the Paradis Park Improvements Projects.
27. Order authorizing the City Administrator to accept property donated by Gendron & Gendron for a Canoe/Kayak Launch and Recovery location along the Androscoggin River.
28. Amendments to the Municipal Parking Fees Policy to revise the Major Employer Parking Fee Discount Program.
29. Order authorizing the City Administrator to execute an Easement Deed from the Lewiston and Auburn Railroad Company appurtenant to 46 Beech Street and 46 Beech Street Rear.
30. Reports and Updates.
31. Any other City Business Councilors or others may have relating to Lewiston City Government.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Amendment of the City Policy Manual regarding the Excavation and Street Opening Policy.

**INFORMATION:**

Recently, the City's Public Services Director reviewed the City's Excavation and Street Opening Policy, City Policy Manual 55. There are proposed fee structure changes as well as changes to clarify and update language in the policy, and other related proposed amendments.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/ikmm*

**REQUESTED ACTION:**

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To approve the proposed amendments to the Excavation and Street Opening Policy, Policy Manual Number 55, as recommended by the Director of Public Works and the City Administrator.

(Note - Full copy of the Policy is attached.)



City of Lewiston, Maine  
City Council Order  
April 16, 2013



**ORDER,** Adopting Updated Excavation & Street Opening Policy (Policy #55)

Whereas, the City's Excavation & Street Opening Policy ensures compliance with the Underground Facility Damage Prevention Requirements of the Public Utilities Commission, Chapter 895, and the State of Maine, Title 23, MRSA §3360-A; and

Whereas, the policy establishes permitting procedures and other documentation requirements for contractors and utilities to follow and with which they must comply; and

Whereas, the policy ensures the safety of motorists and pedestrians when passing through work zones within and near the City right-of-way; and

Whereas, the policy establishes repair and maintenance requirements for restoring excavations and street openings in the City's right-of-ways that are designed to protect the general public and minimize long term maintenance costs; and

Whereas, the current policy was most recently updated on July 15, 2008; and

Whereas, costs have increased since the policy was last updated; and

Whereas, the policy's current fee schedule for permits do not reflect the costs of administering the policy;

**Now, therefore, be it Ordered by the City Council of the City of Lewiston that**

the updated City of Lewiston's Excavation and Street Opening Policy (Policy #55), as reflected on the attached policy dated April 16, 2013 and which includes a fee schedule increase of approximately 10%, is hereby approved and adopted.

# Excavation and Street Opening Policy

## I. Introduction

### 1. Purpose

The purpose of this policy is to:

- A. Ensure compliance with the Underground Facility Damage Prevention Requirements of the latest revision of the Public Utilities Commission Chapter 895 and the State of Maine Title 23, MRSA §3360-A.
- B. Provide Contractors and utilities with the permitting procedures and other documentation requirements for complying with the City's Excavation and Street Opening Policy.
- C. Provide repair and maintenance requirements for restoring excavations and street openings in the City's Right of Ways, to protect the general public and minimizing long term maintenance costs.

### 2. Definitions

Unless otherwise expressly stated, the following words for the purpose of this policy shall have the meaning herein indicated:

- A. City shall mean the City of Lewiston or its designated official and /or employee.
- B. Engineer shall mean the City Engineer or a duly authorized representative.
- C. Director or Director of Public ~~Services~~ Works shall mean the Director of Public Works or an authorized representative. The Director of Public Works or Deputy Director of Public Works or the City Engineer, may exercise the authority of the Road Commissioners or Commissioners of Public Works under any applicable state laws.
- D. Excavation shall mean any operation in which earth, rock, or other material below the surface of the ground is moved or otherwise displaced, by means of power tools, power equipment, or explosives and including digging, ditching, grading, trenching, drilling, auguring, tunneling, scraping and cable or pipe driving, excluding tilling of soil and gardening or any agricultural purposes and the maintenance grading of Municipally accepted roads.
- E. Emergency excavation shall mean any situation where immediate excavation is necessary to prevent injury, death, or to restore the loss of an existing vital service.
- F. Person or Applicant shall mean any Person, business or organization of any kind.
- G. Excavation Permits are available at City Business Office at City Hall.

- H. Newly paved or constructed street shall mean any City street, which has been paved, repaved, constructed, or reconstructed within the past five (5) years.
- I. Structures shall mean culverts, catch basins, manholes, walls, sewers, sewer services, water lines and services, gas lines and services, electrical lines and services, telephone lines and services, under drains, cellar drains, hydrants, cable television conduits, traffic signal loops, street light circuits, railroad signal wires, oil lines, etc.
- J. Utility shall mean any company, corporation, quasi-municipal organization which supplies some widespread service to the public and may or may not be under the direction of the Public Utilities Commission.
- K. Vital structures shall mean fire hydrants, fire alarm box, manholes, catch basins, traffic signals and boxes, cables, etc.
- L. Infrared Process shall mean the process of reheating an existing recently paved asphalt surface, adding more Hot Mix Asphalt if needed, raking and rolling the material to remove the joint in the asphalt surface.
- M. Dig Safe™ shall mean the process of notifying Dig Safe™ prior to any excavation and all the procedures associated with the Maine State "Underground Protection of Facilities Act" found at 23 MRSA §3360-A.
- N. Hot Mix Asphalt (HMA) shall mean hot plant mixed bituminous pavement commonly used as base, surface or shim pavement on City streets as directed in standard City specifications.
- O. Aggregate Sub base and Base shall mean aggregate for sub base or base construction of streets and roads consisting of screened or crushed gravel of hard durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances. Specifications for grain size shall be specified in the most recent City Specifications.
- P. Arterial and Collector streets within the City are identified in appendix A.

## **II Excavation Policy**

### **1. Excavation Permit**

- A. The City will issue annual excavation permits to Contractors/Excavators for all work within the City limits, for one calendar year for a fee of ~~\$526.00~~ \$580.00. The Applicant shall have the option of obtaining a single occurrence, 30 day duration, excavation permit for a fee of ~~\$53.00~~ \$58.00 each.
- ~~B. A yearly permit fee of \$158.00 shall be charged for each operating borrow pit and each mobile home park unless the owner has already paid the yearly \$526.00 fee.~~

B. Prior to issuing the permit the Applicant shall provide the following information:

1. A valid Dig Safe number for the project to be started.
2. A valid certificate of insurance for the Contractor performing the work.
3. A traffic control plan for the project showing how traffic and or pedestrians will be allowed to pass through the work zone if required.
4. The Applicant shall be current on all financial obligations to the City

~~C. Permits shall be required for anyone who may be excavating in the City. All subcontractors doing excavation work shall be required to have their own excavation permit for their work. Individual homeowners working on their own property without powered equipment shall not be required to obtain an excavation permit. **Costs associated with the excavation permit program do not include street opening fees. These street opening fees are to cover the City's inspection costs.**~~

C. Excavation Permits shall be required for anyone who may be excavating anywhere within the City Limits of Lewiston Maine. All Subcontractors doing excavation work shall be required to have their own excavation permit for their work to be performed. Individual homeowners working on their own property **without powered equipment** shall not be required to obtain an excavation permit. **Costs associated with the excavation permit program do not include street opening fees. These street opening fees are to cover the City's administrative and inspection costs.**

D. Each excavation within the City limits shall be done in accordance with the Underground Facility Damage Prevention Requirements of the Public Utilities Commission Chapter 895 and State of Maine Title 23, MRSA § 3360-A, and shall be conducted in strict compliance with the latest OSHA, Federal, State and Local regulations for excavations.

E. When obtaining an excavation permit, annual or individual, the Applicant shall furnish evidence satisfactory to the Director or his Designee that he/she has in force public liability insurance with the underground (U) or collapse (C) exclusion clause in effect for each operation in amounts described below. Said insurance coverage is to be in force for the period covered by the permit.

Bodily Injury Liability	\$500,000.00 Combined Single Limit
Property Damage Liability	\$100,000.00 Combined Single Limit

Under special circumstances, higher limits may be required. Homeowners are not required to have this insurance when they are performing their own excavation on their own land with powered equipment. They must however first follow the proper Dig Safe™ procedures and obtain an excavation permit from the Business Office at Lewiston City Hall.

F. Excavation of graves in designated sites will not require a permit. All other excavation or grading in designated cemeteries shall require a single occurrence excavation permit as a minimum.

- G. In the event of an emergency, the Excavator shall first call in an Emergency Dig Safe™ and then follow the procedures on page eight (8) section four (4) of this policy.
- H. The City shall have the right to inspect all aspects of the excavation process on public or private property.
- I. The City shall have the right to revoke an excavation permit if any other necessary City, State or Federal permits have not been obtained, or if the Applicant is not in compliance with applicable City, State or Federal rules, laws or regulations, or is deemed by the Director to be a threat to public safety.
- J. Failure of an Excavator to follow the standards outlined in this policy shall result in a written warning for a first offense. If the Applicant fails to follow these standards within one (1) year of the written warning, he or she shall receive a \$500.00 fine. See section 7 of this policy for policy details.

### III Street Opening Policy

#### 1. Street Opening Permits

- A. A street opening permit shall be required for any excavation performed within a city right-of-way, and a fee will be charged for this permit. Proper performance of the work shall include, but is not limited to, the repair or replacement of any public or privately owned property damaged while performing the work.
- ~~B. Maintenance of excavations within any City right-of-way shall be the responsibility of the applicant for 36 months from the date of acceptance by the City. Any settlement or other pavement defects of the excavation surface shall be deemed as unsatisfactory work by the applicant. If the applicant neglects or refuses to repair any substandard work after notification by the City during the thirty-six (36) month period, the City may complete any necessary repairs within twenty-four (24) hours of notification. The applicant shall be liable for the cost of said repairs. No additional street opening or excavation permits will be issued to the applicant, and if the applicant has an annual excavation permit it will be revoked, until the City is reimbursed for the cost of the repair.~~
- B. Maintenance of excavations within any City right-of-way shall be the responsibility of the Applicant for 36 months from the date of inspection by the City. Any settlement or other pavement defects of the excavation surface shall be deemed as unsatisfactory work by the Applicant. If the Applicant neglects or refuses to repair any substandard work after notification by the City during the thirty-six (36) month period, he or she shall be considered in violation of the city's Excavation Policy. The City shall send the Applicant a written warning at this point. The City may complete any necessary repairs within twenty-four (24) hours of the Applicant's notification. The Applicant shall be liable for the entire cost of said repairs. No additional street opening or excavation permits will be issued to the Applicant until the City has been reimbursed for the repairs. If the Applicant has an annual excavation permit, it will be revoked until the

City is reimbursed for the cost of the repairs.

~~C. Contractors planning to occupy parts of a street or sidewalk on arterial or collector streets shall be required to follow the procedures in the City's Street and Sidewalk Occupancy Policy.~~

C. Street Opening permits will normally be issued between April 1<sup>st</sup> and December 1<sup>st</sup>. Between December 1<sup>st</sup> and April 1<sup>st</sup> Street Opening Permits shall normally be for emergencies only. If an Applicant needs to open a street during the winter months he or she shall first obtain the permission of the Director of Public Works prior to proceeding.

D. Contractors planning to occupy parts of a street or sidewalk on arterial, collector streets shall be required to follow the procedures in the City's Street and Sidewalk Occupancy Policy. Permits to Occupy City streets or sidewalks are available at the Business Office at Lewiston City Hall.

E. When working on an arterial, collector or when required by the Director the Applicant shall submit a written traffic control plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD). The traffic control plan shall specify signage that is to be used and where it is to be placed. Any barricades, cones or other devices shall be included in the drawing. Any detours for traffic or pedestrians shall be clearly laid out with appropriate detour signage. The traffic control plan, when required, shall be submitted to the Business Office at Lewiston City Hall, and approved by the Director or a Duly Authorized Representative prior to any work taking place. The Director can order that this plan be prepared by a traffic engineer and stamped by a Professional Engineer or require the presence of a Uniformed Police Officer. The Applicant shall be responsible for the cost of all traffic control.

F. All work on certain major arterials, as listed below shall be performed at night or on weekends with approval from the Director. Any minor work that the Director may approve for day work shall not be performed between the hours of 5:00 A.M. and 9:00 a.m. or 3:00 p.m. to 7:00 p.m.

Canal St.

Cedar St

Lincoln St. – Main to Cedar

Lisbon St. – Main to Westminster

Main St. – Longley Bridge to Veteran's Bridge

Sabattus St. – Main to Randall Rd.

G. Any Contractor desiring to close a street shall complete an application for road closure, and submit a traffic control/detour plan, to the Business Office at Lewiston City Hall. Road closure requests shall be submitted for approval at least **48 hours** prior to the road closure. The Business Office shall electronically send all Street Closure requests to Police Department, Fire Department and the public works department for approval.

H. Excavation and Repair Standards

1. All excavations on paved streets and sidewalks shall be pre-cut in neat straight lines with approved pavement breakers or saws. Saw cuts in streets shall be perpendicular or parallel to the flow of traffic.
2. All excavations in existing pavement within thirty-six (36) inches of the edge of pavement or curb shall require the removal and replacement of all old asphalt completely to the shoulder or curb at no cost to the City.
3. Certain types of pavement breakers may be prohibited by the City when the use endangers existing substructures or other property or does not meet the trench finish requirements.
4. Pavement edges shall be trimmed to a vertical face. The width of the trench prior to pavement replacement shall be consistent the entire length of cut. The trimmed edges shall not vary by more than three (3) inches for every ten (10) linear feet of cut. An approved bituminous tack material shall be applied to all edges of existing pavement to ensure the new patch has a water tight bond with the old pavement.
5. An additional six (6) inches of pavement shall be removed from all sides of the excavation measured from the edge of the excavated trench. Unstable or damaged pavement shall also be removed from the perimeter of the excavation.
6. When multiple patches are required in a distance of seventy-five (75) feet or less the Applicant shall be required to grind the entire area encompassing all of the multiple excavations and the area between a minimum of 1" inch in depth and overlay the entire area repaving as one trench. In cases where the existing pavement is in poor condition the Director may modify or waive this requirement.
7. The joint of an asphalt patch for a street excavation shall not fall within the wheel path of a vehicular travel lane. In such cases the excavation shall be enlarged to the center of the lane or adjacent lane.
8. Feather joints shall not normally be acceptable for overlays of old patches on arterials or collector streets. Repairs are to be made by grinding to the desired depth and then matching in with new pavement.
9. All granite pavement blocks, granite curb or cobblestones in the way of excavations shall be removed by the applicant prior to the commencement of work. The Applicant shall transport the material to a storage site to be designated by the City, except when the items are part of the surface restoration. **All excavated granite blocks, concrete pavers, granite curb and cobblestones remain the sole property of the City. The Contractor shall be responsible for any damage to the material during excavation or transportation.**
10. The Applicant shall be responsible for the cost to replace any street markings or traffic loops disturbed by the work. The repair or replacement work shall only be

done by a Contractor approved by the Director.

11. The maximum permissible length of open trench in an excavation at any time shall be two hundred feet. No greater length is to be opened for pavement removal, excavation, backfilling, repairing or any other operation without the express written permission of the Director.
12. The applicant shall not remove, even temporarily, any trees or shrubs, which exist in any street right of way without first obtaining the written consent of the City Arborist. The City Arborist shall be notified of any trees that are damaged. The contractor shall be responsible for the repair or replacement of any damaged trees.

12. After any Contractor does any test boring or other boring in any street or sidewalk He or She shall be responsible for plugging or patching the holes in a manner satisfactory to the Director or his representative. Any test holes left in the street, unrepaired for more than thirty (30) days shall be considered a violation of the City's Excavation Policy.

13. The Applicant shall not remove, even temporarily, any trees or shrubs, which exist in any street right of way without first obtaining the written consent of the City Arborist. The City Arborist shall be notified of any trees that are damaged. The Contractor shall be responsible for the repair or replacement of any damaged trees.

## 2. Fee Schedules

- A. A street opening permit fee shall be charged for all work performed within the City right-of-way. These fees are to cover the City's inspection and administrative costs associated with the street opening permit program. The fee structure is intended to reasonably reflect a permittee's proportionate share of such costs. The City will periodically review these fees and fee structure. In the event the fees assessed fail to reasonably reflect the City's inspection and administrative costs, or Applicant's share of such costs are substantially disproportionate, the City will revise the fee amounts or fee structure accordingly. The tiered fee schedule is established to reflect the complexity of projects associated with each type of street and the fee shall be based according to the following unit rates. A list of arterial and collector streets is provided in Appendix A of this policy. **In every individual case, however, a minimum fee of ~~\$50.00~~ \$58.50 shall be required, but in no case shall the amount of fee charged exceed ~~\$1,500.00~~ \$1735.**

Schedule (1) is for applicants who chose to perform the repairs and maintain the excavation for the full thirty-six (36) month duration.

### Schedule 1 INSPECTION AND MAINTENANCE FEE

Street Pavement	2 to 25 S.Y.	Prop. Rev.	Over 25 S.Y.	Prop Rev
Arterial	\$15.00	<u>\$16.50</u>	<del>\$10.00</del>	<u>\$11.00</u>
Collector	<del>\$9.25</del>	<u>\$10.20</u>	<del>\$6.25</del>	<u>\$ 6.90</u>

Residential/Rural	\$6.25	<u>\$ 6.90</u>	\$4.00	<u>\$ 4.40</u>
Gravel	\$1.50	<u>\$ 1.65</u>	\$1.00	<u>\$ 1.10</u>
<u>Sidewalk Pavement</u>	<u>2 to 25 S.Y.</u>		<u>Over 25 S.Y.</u>	
New Concrete	\$14.75	<u>\$16.25</u>	\$10.00	<u>\$11.00</u>
Brick or Pavers	\$12.00	<u>\$13.20</u>	\$8.00	<u>\$ 8.80</u>
Asphalt	\$3.50	<u>\$ 3.85</u>	\$2.50	<u>\$ 2.75</u>
Gravel	\$1.50	<u>\$ 1.65</u>	\$1.00	<u>\$ 1.10</u>
<u>Other Charges</u>		<u>Prop Rev</u>		
Esplanade	<del>\$2.25/S.Y.</del>	<u>\$2.50</u>		
Granite Curbing	<del>\$2.50/L.F.</del>	<u>\$2.75</u>		
Bituminous Curbing	<del>\$1.50/L.F.</del>	<u>\$1.65</u>		

~~C. There are times when the applicant may not be able or chooses not to provide maintenance of the street opening. The charges shown in schedule (2) are for applicants who chose not to perform the required repairs and maintain the excavation during the full thirty-six (36) month duration. In such cases, the City will assume pavement repair responsibility.~~

### 3. Special Conditions

- A. On a street or road scheduled for major reconstruction the City may waive the street opening fees for Utilities or Contractors performing work in these areas until the said base pavement has been installed.
- B. On streets where the existing pavement is in very poor condition and an applicant has completed a private utility project, the City may waive up one hundred (100) percent of the Street opening fees.
- C. There shall be no street opening fee for utility pole installation in grass or esplanade area as long as the excavated area is cleaned up and restored back to its original condition. If the area is not properly restored there shall be a minimum fee charged to the Applicant.
- D. The City shall waive street opening fees for work done under contract to the City, Maine Department of Transportation (Me DOT) or the Maine Turnpike Authority (MTA).
- ~~E. A moratorium on street opening permits, except for emergencies, will be in affect during the winter when the asphalt plants are closed unless specifically approved by the Director.~~

### 4. Emergency Permits

- A. In the event of an emergency, the Excavator shall follow Dig Safe™ emergency

procedures, outlined in the latest revision of the State of Maine Title 23, MRSA §3360-A. When Contractors are excavating in emergency circumstances they may complete the work without obtaining a street opening permit. They are however, required to obtain a City Excavation Permit and or Occupancy Permit if required after the emergency situation is corrected.

## **5. Protection of the Public**

- A. All excavations within the right of way shall have work zone traffic control as outlined in the latest version of the MUTCD. This shall include proper guards or barricades, signs, traffic cones and traffic flaggers. All excavations or other jobsites shall be maintained safe for vehicular and pedestrian traffic at all times.
- B. Work flood lights and flaggers with lighted traffic control devices may be required during periods of reduced visibility or at night to protect the public from hazard. When flaggers are used at night their stations shall be properly illuminated and they shall be supplied with the equipment required by the most recent version of the MUTCD. The lights shall be positioned to illuminate for the work zone without impeding the vision of passing motorists.
- C. If the work is to take place on major arterial streets, the work shall be done at night or during week-ends as approved by the Director to reduce conflict with traffic. The Director may wave this requirement in special circumstances.
- D. Each Applicant shall conduct and carry out the excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and residents of the neighboring property. All material excavated from trenches piled adjacent to the trench or in any street shall be piled and maintained in such manner as to minimize erosion, and not endanger those working in the trench, pedestrians or passing motorists. Any materials placed or stored within a travelway shall be barricaded in compliance with the latest MUTCD standards. Where the confines of the street being excavated are too narrow to permit piling of excavated material beside the trench, the City shall have the authority to direct the Applicant to haul the excavated material to a storage site and then haul it back to the trench site prior for backfilling. It shall be the Applicant's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites. The Contractor shall also meet BMP'S for non point source pollution control.
- E. To the fullest extent possible the Applicant shall take appropriate measures to reduce noise, dust, and unsightly debris in the performance of the work. Work shall be performed between the hours of 7 AM to 7 PM. Work scheduled outside of these hours shall have the approval of the Director.

## **6. Right to Inspect**

- A. The City shall have the right to inspect all aspects of the excavation process on public or private property including, but not limited to, the excavation of earth, backfilling,

and placement of temporary and permanent pavement. When required by the City, the Applicant shall provide the following materials testing data;

1. Samples of materials sufficient for testing that are to be used for aggregate road base or sub base construction.
  2. Results of lab grain size analysis testing for sub base/base.
  3. Results of in place density testing of any road base or sub base.
  4. Mix design and per cent asphalt content of any HMA used on the project
  5. Thickness and density testing results of pavement on the project.
  6. All pavements shall meet the latest City/Me DOT specifications for HMA.
- B. It shall be the duty of the Applicant to guarantee and maintain the site of the excavation work in the same condition as it was prior to the excavation for thirty-six (36) months after the date the work is accepted by the City
- C. The City shall have the right to revoke an Excavation, or Street Opening Permit, if any other necessary City, State or Federal permits have not been obtained, or if the Applicant is not in compliance with applicable City, State or Federal rules, laws or regulations, or is deemed by the Director to be a threat to public safety.

## **7. Penalties**

- A. Failure of an Excavator to follow the standards outlined in this Policy shall result in a written warning for a first offense. If the Applicant fails to follow these standards within one (1) year of the written warning, he or she shall receive a \$500.00 fine. No excavation or street opening permits shall be issued, and privilege to excavate shall be revoked until this fine is paid. If the Applicant fails to follow these standards within one (1) year of the second offense, He/She shall receive a second fine of \$500.00 and have all excavation and street opening privileges revoked for a six (6) month period. Potential offenses could be, but are not limited to substandard work, excavation without street opening permits, excavation without an excavation permit, and failure to make repairs in a reasonable amount of time.

## **8. Newly Constructed and Paved Streets**

- A. To maintain the best travel surface feasible, there shall be no excavation on newly paved or substantially repaired streets for a period of five (5) years except in emergency situations. If a City street absolutely must be opened to restore an existing essential utility service within the five (5) year moratorium, the City may issue a street opening permit. The following conditions for street restoration shall apply:
- B. If the repair can be performed by excavating in one lane and not excavating across, the centerline of the street or road then the patch is to be paved with binder and surface flush with the existing surface pavement for the first year. The next year the Applicant shall return and mill one (1) foot wider than the original patch in all directions approximately one (1) inch in depth. This is to be paved with surface pavement flush with the existing pavement. The Applicants 36 months of maintenance responsibility

for the patch shall begin when the City inspects and accepts the final street restoration.

- C. If the Applicant is required to excavate or trench across the centerline of the street or road, the patch is to be paved with binder and surface flush with existing surface pavement for the first year. The next year the Applicant shall return and mill the original patch curb to curb the full width of the street a distance of twenty (20) feet from the furthest outside edge of the original street opening approximately one (1) inch in depth. The cold planed area shall then be repaved with one (1) inch of surface pavement utilizing a paving machine and compaction equipment in compliance with the most recent Me DOT and City specifications.
- D. If any street opening overlaps the edge of a previous street opening, on a moratorium street, the City may require the Applicant to cold plan and repave the full width of the road to the furthest edge of that previous repair. The permit fee will be based upon the type of pavement (arterial, collector, residential, sidewalk, etc) and the total area of the opening in the street. **The Director, may require excavations that are performed during the five (5) year moratorium be treated with the infrared process or other approved method.**
- E. In all cases involving a **Moratorium Issue** the Director or his representative shall approve the repair procedure, type of HMA, and required paving equipment.
- F. To prevent unnecessary excavation after reconstruction or repaving, the City will issue a minimum 60-calendar day notice to the potentially concerned utilities, and adjacent property owners prior to the roadway being repaved.

## 9. **Backfill Methods**

- A. Backfilling material in any street opening or excavation shall be compacted to a degree equivalent but, not less than the undisturbed ground in which the trench was dug, or 95% of relative maximum compaction, whichever is greater. Compaction of the layers of fill shall be done by mechanical tampers, vibrating plate compactors, or by trench rollers as required by the soil in question and sound engineering practices. Aggregate sub base and base material shall be sand or gravel consisting of hard durable particles free of vegetable matter, lumps or balls of clay. All aggregate sub base and base material shall meet the latest MDOT and City specifications.
- B. Backfill material shall be placed in lifts eight (8) to ten (10) inches. Aggregate sub base shall be fifteen (15) inches for residential streets, twenty-one (21) inches for collector streets and twenty-seven (27) inches for arterial streets and aggregate base shall be three (3) inches for all streets.
- C. The City may require the Applicant to provide soil tests performed by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when the City deems necessary. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements prescribed by the City. All expenses of such tests shall be borne by the Applicant. The City reserves the

right to test the material, and if it does not meet specification, the cost to remove and replace the material shall also be the responsibility of the Excavation or Contractor.

When backfilling is done by controlled density backfill, also known as flow able fill, the fill shall not exceed 125 psi after 28 days and shall be capable of being excavated. The excavation shall be properly protected until the material has "set-up" any and all protection shall conform to Federal and State MUTCD standards. When backfilling, the Applicant shall consider hydrostatic pressures and brace structures accordingly. The flow able fill shall contain the water reducing and air-entraining admixture "DaraFill" as manufactured by Grace Construction Products of Cambridge, MA or approved equal. This method may be used during winter excavations, or when there are no feasible mechanical methods to backfill and compact.

## **10. Excavation Maintenance**

- A. The Applicant shall prosecute with diligence and expedite the completion of the excavation work to restore the street as specified in Section 9 of this policy. The Applicant shall perform such restoration work so as not to obstruct, impede or create a safety hazard.
- B. Unless otherwise authorized by the Director, temporary resurfacing of streets shall consist of a cold patch when HMA is not available or HMA pavement at a **minimum depth** of three (3) inches. All temporary HMA shall be compacted so that it is hard and smooth enough to be safe for pedestrian travel on sidewalks, and vehicular traffic on streets traveling at a normal rate of speed for the street or road involved. The Applicant shall maintain the temporary paving and trenches throughout the winter season as needed. Poor maintenance of any utility excavation at any time shall be considered a violation of the City's Excavation Policy. All cold patch or other temporary pavement installed during winter excavations shall be removed and replaced with permanent Hot Mix Asphalt (HMA) meeting Me DOT Specifications no later than June 15.

## **11. Surface Restoration**

- A. Permanent resurfacing of excavations in streets and sidewalks shall be the responsibility of the Applicant. When possible resurfacing shall normally be completed the same day the excavation is compacted to finish grade. The replacement of existing bituminous pavement shall be done with HMA meeting the requirements of the latest Me DOT and City specifications. When small excavations are resurfaced by hand, the compacted pavement thickness shall not exceed two (2) inches in depth for any layer of pavement. For machine paving the maximum compacted thickness for a single course of pavement shall be three (3) inches. The thickness of base pavement requirements for the types of streets listed is as follows: Arterials ~~six (6")~~ five (5") inches, Collectors ~~four (4")~~ three (3") inches and residential streets ~~three (3")~~ two and a half and a half (2.5") inches. Arterials and collectors normally require ~~two (2")~~ one and one half (1 ½) inches of surface pavement and residential streets normally require ~~one and a half (1 ½")~~ one and a quarter (1 ¼) inches of surface pavement. The surface of the replacement pavement shall match the grade and type of the surrounding pavement. All (HMA) pavement

used on City Streets shall be a Me DOT approved mix design.

- B. When an area to be repaved exceeds one hundred (100) square yards, resurfacing shall be accomplished using self-propelled paving equipment complying with the latest Me DOT and City specifications. All joints shall be cleanly saw cut with an approved mechanical pavement saw prior to removal of the old pavement. The Director may require the surface of the new pavement to be infrared treated when completing permanent repairs if necessary due to a mismatched joint or other surface defect. The infrared or other approved process if required shall be performed on arterials and collectors not less than six (6) months or more than twelve (12) months from the date of resurfacing.
- C. Replacement of Portland cement concrete pavement shall be with an approved Portland cement concrete mixture and with reinforcement, thickness and contraction joints equal to that which was removed during the excavation. The City Engineer shall provide the specific requirements for the project.
- D. The restoration of existing grass areas, shall be to backfill with clean fill in compacted 12 inch lifts with the final six (6) inches back filled with a screened loam to match existing. A grass mix approved by the City Engineer shall be used. The Applicant shall be responsible for **grass growth within two (2) months** of planting or by June 15 of the following year for replanting work done after September 15. The Director may require an erosion control mesh, sod or other restoration method to be placed under special conditions, such as steep slopes and drainage ditches. The Contractor will comply with erosion control standards required by the Maine Department of Environmental Protection and the City.
- E. Repair of existing brick or concrete paver walkways shall be made with the existing stones that have been removed prior to any excavation. All brick or concrete pavers damaged by the Contractor shall be replaced in kind at the Contractor's expense. The replacement aggregate base shall be compacted over a woven geotextile. The pavers shall be placed on a one inch thick sand layer consisting of 100% passing a 3/8 inch sieve, but not more than 3% passing a No. 200 sieve. The pavers shall be compacted into place with a vibrating plate compactor. The Contractor shall be responsible for the paver replacement for a twenty-four (24) month period for damages relating to poor compaction and paver placement. This work shall be done in accordance with the Standard City Specification for Concrete & Brick Pavers.
- ~~F. Repair of existing brick and concrete paver walkways on Lisbon Street from Chestnut Street to Main Street shall be made with the existing stones that have been removed and cleaned prior to any excavation. The specific repair procedure, methods of work and materials shall be specifically approved by the Director of Public Works or the City Engineer.~~

## Appendix A

### Federal Highway Administration Functional Classification of Lewiston Streets

#### Arterial Streets

Alfred A. Plourde Pkwy. - Webster Street to Apple Road  
Ash Street - Canal St to Sabattus St.  
Bartlett Street - Oak Street to East Avenue  
Bates Street - Main Street to Pine Street  
Canal Street\* - Main St to Lisbon St.  
Cedar Street\* - Lisbon St. to Auburn City line  
Central Avenue - Sabattus Street to Russell Street  
College Street - Bartlett Street to Montello Street  
East Avenue - Lisbon Street to Montello Street \*  
Fair St. - Mollison Way to College Street  
Farwell Street - Webster St to Connector Rd.  
Goddard Rd. - River Road to Alfred Plourde Pkwy.  
King Ave. - Main St. to Mollison Way  
Lincoln Street - Main Street to River Road \*  
Lisbon Street\* - Main St. to the Lisbon Town Line  
Main Street\* - The Auburn City Line to the Green Town Line  
Mollison Way - Main St to King Ave.  
Montello Street - Main Street to East Avenue  
Pine Street - Canal St to Sabattus St.  
Pleasant Street - East Avenue to Lisbon Street  
Pond Road - Webster Street to Sabattus Street  
Russell Street\* - Sabattus St to the Main St.  
Sabattus Street\* - Main St to the Sabattus Town Line  
Scribner Blvd. - Lisbon St to Webster St.  
South Avenue - Lincoln Street to Lisbon Street  
Vietnam Veterans Bridge, incl. ramps  
Webster Street - Sabattus Street to Pond Road

\* Major Arterial

### **Collector Streets**

Adams Ave.  
Alfred A. Plourde Pkwy. - Apple Road to River Road  
Apple Road - Alfred A. Plourde Pkwy to Ferry Rd.  
Bates Street - Pine Street to Maple Street  
Bates Street - Main Street to High Street  
Birch Street - Park St to Jefferson St.  
Blake - Main Street to Oak Street  
Central Avenue - Russell Street to Montello Street  
Chestnut Street - Lincoln Street to Park Street  
College Street - Montello Street to Town Line  
Commercial Street - Ferry Road to Pleasant Street  
Crowley Road - South Lisbon Rd to the Sabattus Town Line  
Ferry Road - Apple Road to Commercial Street  
Forrestal Street - Webster St to Westminster St.  
Grove Street - Sabattus St. to the Sabattus Town line  
High Street - Bates Street to Main Street  
Hogan Road - Montello St to Stetson Rd.  
Jefferson Street - Sabattus Street to Birch Street  
Lexington Street - Alfred A. Plourde Prkwy to Saratoga St.  
Maple Street - Bates Street to Canal Street  
Middle Street - West Bates Street to Oak Street  
Montello Street - East Avenue to Old Greene Road  
North Temple Street - Sabattus Street to Old Green Road  
Oak Street - Sabattus Street to Park Street  
Old Greene Road - Sabattus Street to Montello Street  
Old Lisbon Road - Webster St to South Lisbon Rd.  
Park Street – Main St to Adams Ave.  
Pleasant Street - Lisbon Street to Commercial Street  
Randall Road - Sabattus Street to Grove Street  
River Road - Alfred A. Plourde Pkwy to Lincoln Street  
Riverside Street - Summer Street to Main Street  
Saratoga - Forrestal St. to Enterprise St.  
South Avenue - Lisbon Street to Pleasant Street  
South Lisbon Road - Old Lisbon Road to Lisbon Street  
Stetson Road - Main St to Hogan Rd.  
Summer Street - Riverside Street to West Bates Street  
Walnut Street - Bates St to Webster St.  
Webber Avenue - Webster Street to Pleasant Street  
Webster Street - Pond Road to Old Lisbon Road  
West Bates Street - Summer Street to Middle Street  
Westminster Street - Lisbon St to Forrestal St.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Update of City Policy regarding the Street and Sidewalk Occupancy Policy.

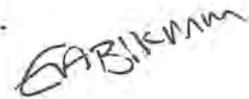
**INFORMATION:**

Recently, the City's Public Services Director reviewed the City's Street and Sidewalk Occupancy Policy, City Policy Manual 56. There are proposed fee structure changes as well as changes to clarify and update language in the policy, some sections were rearranged so the policy flows better, and some sections were eliminated if they were redundant or outdated, and other related proposed amendments.

Since there are numerous proposed amendments that the Public Services Director is recommending, the Council is asked to repeal the current Policy and to adopt a new version which will replace the current Policy.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.



**REQUESTED ACTION:**

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To repeal the current Street and Sidewalk Occupancy Policy, Policy Number 56, and to adopt and establish a new Street and Sidewalk Occupancy Policy, Policy Number 56.

(Note - Full copy of the Policy is attached.)



City of Lewiston, Maine  
City Council Order  
April 16, 2013



**ORDER,** Updating the Street & Sidewalk Occupancy Policy (Policy #56)

Whereas, the City's Street and Sidewalk Occupancy Policy establishes the policies for occupying, blocking, or otherwise impacting pedestrian, bicycle, or vehicle traffic on City streets and sidewalks; and

Whereas, the policy establishes minimum safety and signage requirements for contractors and others working with in the City's right-of-way; and

Whereas, the policy ensures the safety of motorists and pedestrians when passing through work zones within and near the City right-of-way; and

Whereas, the current policy was most recently updated on July 15, 2008; and

Whereas, costs have increased since the policy was last updated; and

Whereas, the policy's current fee schedule for permits does not reflect the costs of administering the policy;

**Now, therefore, be it Ordered by the City Council of the City of Lewiston that**

the City of Lewiston Street & Sidewalk Occupancy Policy (Policy #56) be updated as reflected on the attached revised policy dated April 16, 2013, including a fee schedule increase of approximately 10%.

Street and Sidewalk Occupancy Policy

**I. Purpose**

1. The purpose of this policy is to:
  - a. Establish the City's policies and procedures for Contractors and others to follow when occupying areas in the City's Rights of Way when performing working the street, shoulders, parking spaces or sidewalks.
  - b. Establish the minimum safety and signage requirements for Contractors and Others working with in the City's Right of Way.
  - c. To ensure the safety of motorists or pedestrians while passing through the work zone.
  - d. To provide a Fee Schedule to Contractors and Owners with a need to occupy a City Street, Sidewalk or Alleyway while performing maintenance or other work on private property.

**II. Definitions**

2. Unless otherwise expressly stated, the following words for the purpose of this policy shall have the meaning herein indicated:
  - a. City shall mean the City of Lewiston or its designated official or employee.
  - b. The Director shall mean the Director of Public Works
  - c. Engineer shall mean the City Engineer or a duly authored representative.
  - d. Applicant shall mean Contractor or Property Owner applying for the permit to occupy the City Right of Way.
  - e. City Business Office shall mean the Business Office at Lewiston City Hall located at 27 Pine St Lewiston, Maine.
  - f. MUTCD shall mean the latest version of the Manual for Uniform Traffic Control Devices

**III. Occupancy Policy**

3. The policy regarding Street and Sidewalk Occupancy Permits shall be administered by the Public Works Department as follows:
- a. The Applicant shall initiate a Street or Sidewalk Occupancy request by submitting a completed Street Occupancy form (available at City Hall) to the City Business Office located at the Lewiston City Hall.
  - b. The City Business Office will electronically forward the request along with any required traffic plans to the Public Works, Fire and Police Departments for approval.
  - c. When the work impacts a travel lane, parking area on an Arterial St or a Collector St. or a sidewalk the Applicant shall submit a written traffic plan to the City Business Office with the Occupancy Application. The Traffic Plan shall clearly show how traffic and pedestrians shall be routed through the work zone. The traffic plan shall include all signage, cones, barricades or other traffic control devices planned for use. All traffic control devices and the traffic plan used on the project shall comply with the most recent version of the MUTCD. Particular attention should be paid to the Americans with Disabilities Act
  - d. When obtaining an Occupancy Permit the Applicant shall furnish evidence of satisfactory insurance coverage prior to being issued the Occupancy Permit by the Business Office. Said insurance coverage shall be in force the entire period covered by the permit. The minimum acceptable coverage shall be as follows:

<u>Bodily Injury Liability</u>	<u>\$500,000.</u>	<u>Combined Single Limit</u>
<u>Property Damage Liability</u>	<u>\$100,000.</u>	<u>Combined Single Limit</u>
  - e. The Applicant shall take all responsibility of the work and take all precautions to prevent injuries to persons and damage to property. The Applicant shall assume the defense of and indemnify and save harmless the City and its officers, or agents from all claims relating to the work.
  - f. All Street or Sidewalk Occupancy Permits shall be submitted to the Business Office at Lewiston City Hall forty-eight (48) hours prior to the required start date of the project.
  - g. Approved Permits to Occupy the City of Lewiston Rights of Way shall be picked up in person by the Applicant prior to the start of work.
  - h. The fee schedule is located in Appendix A of this policy.

- i. The Applicant shall be current in all financial obligations to the City before any permit shall be issued.

#### **IV. Street Closures**

4. If an Occupancy Request requires the closure of a City Street or Alley the following procedure shall apply.
  - a. The Applicant shall submit the required application for approval, with a detour plan showing how traffic shall be detoured around the work zone. Detour signs shall be required at intersections informing motorists of how to travel through the detour.
  - b. All Street or Alley Closure Permits shall be submitted to the Business Office at Lewiston City Hall forty-eight (48) hours prior to the required start date of the project.
  - c. All closures shall be routed thru the Fire, Police and Public Works Departments for approval.
  - d. Applicants shall be instructed by the City Business Office to call the 911 Dispatcher on the Non Emergency number any time a street or alley is to be opened or closed.
  - e. The Applicant shall be responsible for coordinating with businesses in the vicinity of his work that may be impacted by His or Her closure or occupancy.

#### **V. Protection of the Public**

5. The Applicant shall make adequate provisions for safe passage of vehicular and pedestrian traffic through the work zone.
  - a. When the Applicant is performing work directly above a sidewalk, the sidewalk below shall be closed. The Applicant may have the option of protecting pedestrians in accordance with OSHA Standards.
  - b. When a sidewalk is to be closed the closure shall be at nearest street crosswalk with a tip down ramp at both approaches to the project. Pedestrians shall have access to buildings between the crosswalk and the work zone.
  - c. The Applicant shall provide clearly written signs to inform pedestrians of the closure and any potential hazards.

- d. When working in the street the Applicant shall provide signage in compliance with the most recent version of the MUTCD.
- e. When necessary the Applicant shall provide cones, barrels barricades or other traffic control devices in compliance with the latest version of the MUTCD.
- f. The Director may require flaggers, or a Uniformed Police Officer if deemed necessary. Additionally the Director may require night work, or the work may have to be completed on the weekend.
- g. Day work shall be performed between 7AM and 7PM unless prior approval has been obtained from the Director.

**VI. Right to Revoke**

- 6. The City shall have the right to revoke any Occupancy, or Street Closure Permit for any of the following reasons:
  - a. If the Applicant is not in compliance with any Federal, State or city permit requirement.
  - b. If the Applicant is performing his or her work in an unsafe manner causing unnecessary danger to vehicles or pedestrians or if the Applicant is not following the procedures and or conditions approved by the City in his or her Application.
  - c. If the Applicant has not paid for or picked up his or her permit prior to the start of the project

**~~STREET AND SIDEWALK OCCUPANCY POLICY~~**

- 1. ~~The issuance of a street and sidewalk occupancy permit shall be administered through the Public Works Department. A contractor owner shall initiate a request by completing a permit application at the Public Works office. If the occupancy impacts a travel lane, parking lane, or sidewalk, the contractor shall submit a sketch showing the area to be occupied and the safety precautions to be taken, including the location of warning signs, barricades, etc~~
- 2. ~~Approval from the Police chief, or his designee and the Public Works Director, shall be required for any permit request which involves occupancy of any portion of travel lanes or parking lanes on a City street. The Police Chief shall authorize the temporary removal of parking meters and/or regulatory signs.~~

3. ~~If the occupancy request involves the temporary closing of a City street for a period exceeding forty-eight (48) hours (excluding emergency work) the request, along with the recommendation of the Public Works Director and Police Chief, shall be referred to the Lewiston City Council for their approval, except for work being done for the Public Works Department and then it shall be governed by the contract specifications for that work.~~
4. ~~Upon the granting of a permit to occupy any portion of sidewalk and/or street during the construction, repair, alteration or demolition of a building, the applicant agrees to save the City of Lewiston harmless and indemnified from and against all liability by reason of injury or damage to person or property in consequence of any obstruction of street or sidewalk, or of any materials or other things being therein or thereon, or from any excavation or want of light or other proper guard or warnings.~~
5. ~~The contractor agrees to furnish the City of Lewiston a bond or indemnity insurance in a sufficient amount to protect the said City of Lewiston against all claims for damages or injuries to property or persons, whenever requested.~~
6. ~~The contractor shall be responsible for erecting all necessary signage and barricades and shall provide traffic direction personnel if determined necessary by the Police Chief.~~
7. ~~Whenever deemed necessary by the Police Chief and Public Works Director for the protection of pedestrians, the contractor shall erect and maintain an approved substantial pedestrian shed or enclosure for the full street frontage of the building or work area. The street side shall be kept open for a height of not less than seven feet six inches above the curb, and the shed shall be kept properly lighted at night. No more than one half the width of the sidewalk may be enclosed to be used as work area. If there is less than four feet left on the sidewalk for pedestrian traffic, a plank walk shall be built by the contractor in order to have the minimum width of four feet. The Plank walk shall be even with the top of the curb and shall have a suitable railing for the entire length of the occupied area.~~

Appendix A

Street Occupancy Fee Schedule

Type of Permit	Permit Fee Current	Proposed new Fee
Sidewalk Occupancy Only	<del>\$27.00</del> <del>\$1.25/day</del>	<u>\$30.00</u> <u>\$ 1.40 Per day</u>
Road Shoulder (no sidewalk or Street)		<u>\$30.00</u> <u>\$ 1.40 Per Day</u>
Sidewalk & Non Metered Spaces	<del>\$27.00</del> <del>\$2.25/day</del>	<u>\$30.00</u> <u>\$ 2.50 Per Day per Space</u>
Alleyway Occupancy		<u>\$45.00</u> <u>\$ 5.00 Per Day</u>
Sidewalk & Metered Parking	<del>\$27.00</del> <del>\$6.50/day</del>	<u>\$30.00</u> <u>\$ 7.15 Per Day Per Space</u>
Street Occupancy includes shoulder	<del>\$53.00</del> <del>\$ 5.50/day</del>	<u>\$58.00</u> <u>\$ 6.00 Per Day Per Space</u>
Street Occupancy non metered parking	<del>\$53.00</del> <del>\$ 5.50/day</del>	<u>\$58.00</u> <u>\$ 6.00</u>
Street Occupancy Metered Parking	<del>\$53.00</del> <del>\$ 6.50/day</del>	<u>\$58.00</u> <u>\$ 7.15 Per Day Per Space</u>
The maximum Street opening fee shall be	<del>\$211.00</del>	<u>\$232.00</u>

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 3**

**SUBJECT:**

Amendment to the Traffic Schedule to eliminate some fifteen (15) minute parking designations no longer needed.

**INFORMATION:**

The Police Department and Public Works Department have been reviewing the Traffic Schedule in comparison with the current street conditions and have determined that a few entries are no longer existing or viable. They are recommending the removal of a few designations in the Traffic Schedule regarding some 15 minute parking spaces.

Other recommended changes include the removal of a 15 minute parking space no longer needed due to a change in business type in front of this location.

**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 approve amendments to the Traffic Schedule regarding the elimination of some fifteen (15) minute parking spaces no longer in use, as proposed on the attached vote sheet.



# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police




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**DATE:** May 1, 2013  
**TO:** Traffic Schedule Review  
**FROM:** Sgt. David Chick, Inspector of Police  
**Subject:** Elimination of 15 Minute Parking entries no longer supported by need

**Traffic Schedule Amendment – Chapter 70 Section 158**  
~~Fifteen (15) Minute Parking – 7:00 A.M. to 11:00 P.M. (Section 20)~~  
~~Fifteen (15) Minute Parking – 8:00 A.M. to 6:00 P.M. (Section 21)~~  
~~Fifteen (15) Minute Parking – 9:00 A.M. to 6:00 P.M. (Section 22)~~  
~~Fifteen (15) Minute Parking – 9:00 A.M. to 9:00 P.M. (Section 23)~~

A review of the Traffic Schedule in comparison with current street conditions has determined that these entries are no longer existing or viable. (Section 20) can be designated as “Reserved” for future needs of creating a new heading...

NOTE: (Additions are double underlined; deletions are ~~struck out in red~~).

~~Section 20 – Parking Time Regulated – 15 Minutes – 07:00 AM to 11:00 PM~~

~~MAIN STREET – Odd numbered side east side beginning 25' south of the southeast corner of Main St & Union St and extending southerly on Main St a distance of 16'~~

~~Odd numbered side east side of Main St beginning 60' south of the southeast corner of Main St & Union St and extending southerly on Main St a distance of 38'~~

+

~~Section 21 – Parking Time Regulated – 15 Minutes – 08:00 AM to 06:00 PM~~

~~BIRCH STREET – South side beginning at a point 100' west of the southwest corner of Birch St & Bartlett St and extending westerly on the south side of Birch St a distance of 60'~~

~~LISBON STREET – East side beginning at a point 157' south of the southeast corner of Lisbon St & Birch St and extending southerly on Lisbon St a distance of 15'~~



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**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



+

**Section 22 – Parking Time Regulated – 15 Minutes-09:00 AM to 06:00 PM**

**BATES STREET**

~~West side odd numbered side beginning at a point 100' from the northwesterly corner of Middle St & Main St and extending northerly on Middle St a distance of 40'~~  
ADDED by City Council—5/18/1999, Vote # 16

*(CORRECTION OF FOUND ERRANT ENTRY: This entry should have been listed for MIDDLE STREET, and was coinciding with what was once Mary's Candy Shop and the former Bus Station and/or DHHS office having competing interest for the spaces; that business conflict no longer exists.)*

+

**Section 23 – Parking Time Regulated – 15 Minutes-09:00 AM to 09:00 PM**

**ASH STREET**

~~South side beginning at a point 25' from the southwest corner of Ash St & Pierce St and extending in a westerly direction on Ash St a distance of 40' (2 spaces)~~  
ADDED by City Council—8/16/1994, Vote # 10

*(Established previously for former ice cream stand and catering business; no longer existing. The current resident business is St. Vincent de Paul Thrift Store, and they would prefer the time restriction to be removed and parking restored to default allowances.)*

NOTE: (Additions are double underlined; deletions are ~~struck out in red~~).

If these amendments are approved, this would require Public Works department to remove any remaining sign(s) and marking(s) which might pertain to the archaic designations no longer supported by merit of need.

**David Chick**  
**Inspector of Police**

cc: **Michael Bussiere**  
**Ed Barrett – City Hall; Phil Nadeau – City Hall; Lincoln Jeffers – City Hall;**  
**Kathy Montejo – City Clerk; Steve Murch – Public Works; Paul Ouellette – Fire**



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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 4**

**SUBJECT:**

Amendment to the Traffic Schedule to create a fifteen (15) minute parking designation on Park Street.

**INFORMATION:**

Victor News, a business located on Park Street, has requested the designation of an on-street, 15 minute parking space near their store to better accommodate the customer turnover given the nature of their business. The Department of Economic & Community Development and the Police Department support this requested action.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/KMM*

**REQUESTED ACTION:**

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To approve amendments to the Traffic Schedule regarding creation of a fifteen (15) minute parking space on Park Street, as proposed on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



**DATE:** April 26, 2013

**TO:** Traffic Schedule Review

**FROM:** Sgt. David Chick, Inspector of Police

**Subject:** Creation of 15 Minute Parking spaces to better serve business needs

**Traffic Schedule Amendment – Chapter 70 Section 158**  
**Fifteen (15) Minute Parking – 8:00 A.M. to 6:00 P.M. (Section 21)**

*(New entry based on recommendations submitted by the Director of Economic & Community Development Department to support the needs of Victor News catered for very short-term and rapid exchange of patron uses. With the fairly recent reduction of pass-by traffic flow now brought down to a single lane, it will allow for additional spaces being made here.)*

NOTE: (Additions are double underlined; deletions are ~~struck-out in red~~).

**Section 21 – Parking Time Regulated – 15 Minutes-08:00 AM to 06:00 PM**

**PARK STREET**                    **Even numbered side, beginning at a point 165' south of the southeast corner of Park St & Oak St and proceeding southerly on Park St for a distance of approximately 60' for 3 delineated parallel parking spaces**

NOTE: (Additions are double underlined; deletions are ~~struck-out in red~~).

If this amendment is approved, this would require Public Works department to install new sign(s) and marking(s) on Park St as designated.

**David Chick**  
**Inspector of Police**

**cc: Michael Bussiere**  
**Ed Barrett – City Hall; Phil Nadeau – City Hall; Lincoln Jeffers – City Hall;**  
**Kathy Montejo – City Clerk; Steve Murch – Public Works; Paul Ouellette – Fire**



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## ***POLICE DEPARTMENT***

Sgt. David K. Chick  
Inspector of Police



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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 5**

**SUBJECT:**

Amendment to the Traffic Schedule regarding some housekeeping corrections.

**INFORMATION:**

The Police Department and Public Works Department have been reviewing the Traffic Schedule in comparison with the current street conditions and have found a few entries that need to be corrected or adjusted mostly due to some typographical errors made in the past.

The proposed amendments reflect the current street conditions existing with signs and/or markings posted on the street.

Passage is requested.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/amm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve amendments to the Traffic Schedule regarding some housekeeping corrections, as proposed on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



**DATE:** May 1, 2013  
**TO:** Traffic Schedule Review  
**FROM:** Sgt. David Chick, Inspector of Police  
**Subject:** Corrections of errant entries found in 15 Minute Parking

**Traffic Schedule Amendment – Chapter 70 Section 158  
Fifteen (15) Minute Parking – 8:00 A.M. to 6:00 P.M. (Section 21)**

A review of the Traffic Schedule in comparison with current street conditions has determined that these entries are not accurately depicting to support what is actually occurring in practice on the street. Proposed language to clarify future use of reference...

NOTE: (Additions are double underlined; deletions are ~~struck-out in red~~).

**Section 21 – Parking Time Regulated – 15 Minutes-08:00 AM to 06:00 PM**

**PARK STREET**                    Even numbered side, 3 parking spaces easterly side from the northeasterly corner of Park St & Pine St proceeding northerly on Park St  
ADDED by City Council – 7/18/1995, Vote # 16

**PARK STREET**                    Odd numbered side, beginning at a point 50' northerly of the northeast northwest corner of Pine St & Park St and extending northerly on Pine Park St a distance of 50'  
ADDED by City Council - 9/1/1987, Vote # 13

*(CORRECTIONS OF FOUND ERRANT ENTRIES: The language before seemed to be alluding to the same spaces due to typo errors; this redacted language matches what currently exists being posted on the street.)*

These amendments represent current conditions existing with sign(s) and/or marking(s) posted on the streets. No further actions are required in the field with these corrections being made.

**David Chick**  
**Inspector of Police**



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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 6**

**SUBJECT:**

Amendment to the Traffic Schedule regarding parking regulations on a portion of Commercial Street.

**INFORMATION:**

The Police Department is recommending that parking be prohibited on a portion of Commercial Street. The request is submitted by a local business which is experiencing difficulties with truck deliveries due to on street parking by other vehicles for other businesses in the area. The delivery trucks are having difficulty maneuvering around the parked vehicles due to the congested area and this is creating a hazardous situation, therefore the Police Department is requesting this amendment. Passage is recommended.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*GAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To adopt the proposed amendment to the Traffic Schedule to prohibit parking on a portion of Commercial Street, as outlined on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



**DATE:** May 1, 2013  
**TO:** Traffic Schedule Review  
**FROM:** Sgt. David Chick, Inspector of Police  
**Subject:** Commercial Street

**Traffic Schedule Amendment – Chapter 70 Section 150  
Parking Restricted  
Hazardous or Congested Places (Section 44)**

*Based on a request made by Hoya Vision Care 1567 Lisbon St (accessed from a side alley service way): Truck deliveries/pick-ups utilize the service alley entering off Lisbon St and exiting onto Commercial St. Patrons of nearby restaurant (Grid Iron) often elect to park off-site on the street opposite the alley opening even with a parking lot made available, and this situation creates difficulty with trucks making the turning maneuver...*

**Section 44 – Parking Restricted – No Parking Anytime – Hazardous or Congested Places**

**COMMERCIAL STREET Odd numbered side, southerly side, beginning at a point 220' from the southeasterly corner of Ferry Rd & Commercial St and extending easterly/southeasterly on Commercial St a distance of 50' to provide vehicle turning radius from opposite alleyway opening**

NOTE: (Additions are double underlined; deletions are ~~struck-out~~).

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended designation instructing “No Parking Anytime”.

**David Chick  
Inspector of Police**

**cc: Michael Bussiere  
Ed Barrett – City Hall; Phil Nadeau – City Hall; Lincoln Jeffers – City Hall;  
Kathy Montejo – City Clerk; Steve Murch – Public Works; Paul Ouellette – Fire**



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## ***POLICE DEPARTMENT***

Sgt. David K. Chick  
Inspector of Police



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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 7**

**SUBJECT:**

Amendment to the Traffic Schedule regarding parking regulations on a portion of Elm Street.

**INFORMATION:**

The Police Department is recommending that parking be prohibited on a portion of Elm Street. The request is submitted in response to complaints by local residents regarding the condition of the narrow street and the congested area of this portion of the street. The Police Department conducted an evaluation of the area and concur a portion of the on-street parking needs to be limited and therefore the Police Department is requesting this amendment. Passage is recommended.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*SAJ/B/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To adopt the proposed amendment to the Traffic Schedule to prohibit parking on a portion of Elm Street, as outlined on the attached vote sheet.



**POLICE DEPARTMENT**

Sgt. David K. Chick  
Inspector of Police



**DATE:** April 26, 2013  
**TO:** Traffic Schedule Review  
**FROM:** Sgt. David Chick, Inspector of Police  
**Subject:** Elm Street

**Traffic Schedule Amendment – Chapter 70 Section 150  
Parking Restricted  
Hazardous or Congested Places (Section 44)**

In response to local resident complaints and a conducted field evaluation of this condition involving a narrowed street and congested to impose risk at the intersection, the following amendments are being forwarded for Council review...

NOTE: (Additions are double underlined; deletions are ~~struck out in red~~).

**Section 44 – Parking Restricted – No Parking Anytime – Hazardous or Congested Places**

**ELM STREET**                      **Odd numbered side, westerly side, beginning at the southwest corner of Elm Street and Main Street and extending northwesterly on Elm St a distance of 50’.**

If this amendment is approved, this would require Public Works department to install sign(s) and marking(s) pertaining to the intended designations.

**David Chick  
Inspector of Police**

**cc: Michael Bussiere  
Ed Barrett – City Hall; Phil Nadeau – City Hall; Lincoln Jeffers – City Hall;  
Kathy Montejo – City Clerk; Steve Murch – Public Works; Paul Ouellette – Fire**



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# POLICE DEPARTMENT

Sgt. David K. Chick  
Inspector of Police



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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 8**

**SUBJECT:**

Order Authorizing the City Administrator to execute a Purchase and Sale Agreement for 357 Sabattus Street.

**INFORMATION:**

The City condemned and demolished the building at 357 Sabattus Street and one of the abutters is interested in purchasing the remaining land. The abutter has offered to reimburse the city the cost of the demolition expenses in return for the City transferring the title to the property to them if the City gains ownership through the matured tax lien.

Please see the attached material 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 approve the Order authorizing the City Administrator to execute a Purchase and Sale Agreement for 357 Sabattus Street.



**City of Lewiston Maine  
City Council Order  
May 7, 2013**



**Order**, Authorizing the City Administrator to Execute a Purchase and Sale Agreement for 357 Sabattus Street.

Whereas, the City condemned and subsequently demolished the structure located at 357 Sabattus Street; and

Whereas, the Papailias, owners of an adjacent property, have reached an agreement with the record holder to title to 357 Sabattus to convey the property to them; and

Whereas, the holder of the mortgage on 357 Sabattus Street has initiated foreclosure procedures against the property; and

Whereas, the amount owed on the property far exceeds the amount of the City's special tax for demolition of the building; and

Whereas, the Papailia's have offered to fully reimburse the City for its demolition expenses in return for the City transferring title to the property to them should the City gain ownership of the property through a matured tax lien; and

Whereas, under this agreement, the City will be guaranteed recovery of our demolition costs, either by the Papailias if our tax lien automatically forecloses or by the mortgage holder paying to avoid foreclosure;

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

The City Administrator is hereby authorized to execute the attached Purchase and Sale Agreement with Kristo and Merita Papailia for the property located at 357 Sabattus Street.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



---

May 1, 2013

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: 357 Sabattus Street

Last year, the City condemned and subsequently demolished the property located at 357 Sabattus Street. This property is immediately adjacent to the former Old Orchard Pizza restaurant on the corner of Sabattus and Campus.

Subsequent to the demolition of the building, we were contacted by Kristo and Merita Papailia who indicated an interest in reopening the restaurant and using the now vacant lot at 357 Sabattus for parking. At that time, we explained to them that, although the City had demolished the structure on that lot, we did not own the property and could not give them permission to use the property. Since then, they have been attempting to purchase the adjacent lot to create off-street parking. The Papailias have reached an agreement with 134 Main Street, LLC, the record holder to title on the property, to convey the property to them.

The mortgage holder, First National Mortgage Association (FNMA), is in the process of foreclosing on the property. We understand that the Papailias have had difficulty working with the mortgage holder, which has been unwilling to negotiate with them regarding the property.

Daniel D'Auteuil, the Papailias' attorney, has contacted us and is requesting that:

1. The City agree to sell the property to his clients for the amount of the City's lien (\$26,508) if the lien for demolition costs matures; and
2. The City agree not to collect from the Papailias personally for our demolition lien if it matures and their title interest is foreclosed by FNMA.

Under this agreement, the City will be guaranteed recovery of our demolition costs, either by the Papailias if our tax lien automatically forecloses or by the mortgage holder who will have paid to avoid foreclosure.

This request has been reviewed by City staff, and we believe it is in the City's best interest to enter into the attached agreement with the Papailias. This will ensure that our demolition costs are paid promptly should our demolition lien mature and create off-street parking for their business.

## PURCHASE AND SALE AGREEMENT

This Agreement is made this \_\_\_\_ day of April, 2013,

BETWEEN

**Kristo and Merita Papailia**, with an address at 48 Waters Edge Drive, Lewiston, County of Androscoggin, and State of Maine, hereinafter referred to as the "Papailias", and

AND

**The City of Lewiston**, a Maine municipality with an address at 27 Pine Street, Lewiston, County of Androscoggin, and State of Maine, hereinafter referred to as "Lewiston."

### Recitals

1. The Papailias own certain real property located at 365 Sabattus Street, Lewiston, Maine.
2. 134 Main Street, LLC is the record owner of certain real property located at 357 Sabattus Street, Lewiston, Maine, identified as Lot 147 on Tax Map 174 on the City of Lewiston tax maps, and more fully described in a deed from Travis Soule and Richard Herman dated January 30, 2009, and recorded in the Androscoggin County Registry of Deeds in Book 7668, Page 46 (hereinafter the "Property").
2. Pursuant to an Order of Demolition dated June 15, 2012, and recorded in the Androscoggin County Registry of Deeds in Book 8422, Page 230, Lewiston demolished and removed the building from the Property.
3. Pursuant to said Order of Demolition, Lewiston expended \$26,697.33 in demolishing the building on the Property and in related expenses. Pursuant to 17 M.R.S. § 2853, Lewiston may issue a special tax assessment to recover said demolition costs, which may result in a lien against the Property in accordance with Maine Revised Statutes (hereinafter the "Lien").
4. The Papailias desire to purchase the Property from 134 Main Street, LLC, rehabilitate the Property, and establish off-street parking for their business located at 365 Sabattus Street.
5. Federal National Mortgage Association (hereinafter "FNMA") is the current holder of a mortgage on the Property, which mortgage is recorded in the Androscoggin County Registry of Deeds in Book 6990, Page 246 (the "Mortgage"). On or about October 1, 2012, FNMA commenced foreclosure of said mortgage.
6. Prior to the Papailias purchasing the Property from 134 Main Street, LLC, the parties hereto desire to establish certain rights and obligations relating to and arising from the Property and the Lien.

**NOW, THEREFORE**, in consideration of the agreements herein contained, the parties do hereby agree as follows:

### **Agreement**

**Section 1: Recitals.** The recital clauses set forth above are true and correct and are incorporated herein by reference as though set forth verbatim herein.

**Section 2: Payment of the Lien.**

**Section 2.1:** Lewiston agrees that if the Papailias acquire ownership of the Property and subsequently the Lien matures and automatically forecloses pursuant to 36 M.R.S. § 943, Lewiston shall convey the Property by quitclaim deed to the Papailias in exchange for payment of the amount of the Lien, any accrued interest, and any additional attorneys' fees incurred by the City in connection with the Property up to the date of closing.

**Section 2.2:** Notwithstanding the Papailias' ownership of the Property at any time subsequent to the date of this Agreement, Lewiston covenants and agrees that if the Mortgage on the Property is foreclosed by FNMA or its successor or assign, Lewiston will neither pursue collection against nor collect from the Papailias personally, individually or collectively, for the cost of the demolition, or any portion thereof, as secured by the Lien.

**Section 3: Headings.** Section headings are for convenience only. They are not intended to expand or restrict the scope or the substance of the provisions of this Agreement.

**Section 4: Transfer Tax.** The parties agree that any State of Maine Transfer Taxes due upon the purchase and sale of the Property as set forth in Section 2.1, above, shall be paid entirely by the Papailias.

**Section 5: Gender, Etc.** Wherever used in this Agreement, the singular shall include the plural, the plural shall include the singular, and pronouns shall be read as masculine, feminine or neuter as the context requires.

**Section 6: Governing Law.** This Agreement shall be governed by the laws of the State of Maine.

**Section 7: Entire Agreement.** This is the entire agreement among the parties. There is no other agreement, oral or written, relating to this Agreement.

**Section 8: Attorneys' Fees.** The prevailing party in any litigation to collect and

enforce this Agreement shall be entitled to collect all of their expenses incurred, including, but not limited to, attorneys' fees, paralegal and abstractor fees, and costs of suit.

**Section 9: Successors and Assigns.** This Agreement and the provisions herein shall benefit and be binding on the parties' respective heirs, personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties have signed, sealed and acknowledged this instrument on the date above written.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Kristo Papailia

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Merita Papailia

City of Lewiston

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By:  
Its:

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 9**

**SUBJECT:**

Resolve Making an appropriation from the Community Forestry Fund for the purchase of two Tree City USA signs.

**INFORMATION:**

Bruce Damon, as the treasurer of the Lewiston Auburn Community Forestry Board (LAFCB), has requested, at the direction of the Board to see approval to spend \$135 from the Community Forestry Fund for the purchase of two Tree City USA signs, one to be erected on the Longley Bridge and a second at the City's tree nursery at Geiger School, in celebration of Arbor Week. The LAFCB is working with the Maine Department of Conservation to hold the official state celebration of Arbor Day here in L/A this year. Erecting the signs would be part of that event.

The signs are only available from the Arbor Day Foundation and only to recognized Tree City USA communities. As you may know, Lewiston and Auburn will be receiving this designation for the tenth year in a row.

Our Vegetation ordinance provides that 20% of net harvesting revenues from our community forests be placed in a dedicated fund for the purpose of protecting and enhancing the community forest. The Community Forest Fund has a current balance of \$8,963.

**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 approve the Resolve making an appropriation from the Community Forest Fund for the purchase of two Tree City USA signs.



City of Lewiston, Maine  
City Council Order  
May 7, 2013



**RESOLVE,** Making an Appropriation from the Community Forest Fund for the Purchase of Two Tree City USA Signs.

Whereas, the City of Lewiston and the City of Auburn have once again been recognized by the Arbor Day Foundation as Tree City USA; and

Whereas, signs recognizing Tree City USA communities are available only from the Arbor Day Foundation; and

Whereas, the Lewiston Auburn Community Forest Board wishes to erect one such sign on the Longley Bridge and a second at the City's tree nursery at Geiger school; and

Whereas, the cost for two signs will be approximately \$135 including shipping and handling; and

Whereas, the Vegetation Ordinance, Sec. 78-45, provides that 20% of net harvesting revenue go to a dedicated fund for the purpose of protecting and enhancing the community forest; and

Whereas, the balance of the Community Forest Fund is currently \$8,963; and

Whereas, the Lewiston Auburn Community Forest Board requests that \$135 be appropriated from this fund to purchase these signs;

**Now, therefore, be it Ordered by the City Council of the City of Lewiston that**

There is hereby appropriated \$135 from the Community Forest Fund for the purchase of two Tree City USA Signs.

**From:** Bruce Damon [<mailto:BDamon@damonmechanical.com>]

**Sent:** Wednesday, April 17, 2013 9:40 AM

**To:** Heather Hunter

**Subject:** LACFB Funds?

Good Morning Heather. As the treasurer of the LACFB I have been authorized by the board to request a minor release of funds from our forestry account for the purchase of (2) Tree City USA signs to be erected on the Longley Bridge in celebration of Arbor Week. The LACFB is working with the Me Dept of Conservation to hold the official state celebration here in L/A this year; the erecting of the signs would be part of that event.

The signs are only available from the Arbor Day Foundation and only to recognized Tree City USA communities. As you may know Lewiston and Auburn will be receiving this designation for the tenth year in a row.

The request for the signs is: (2) @ \$64.95 each plus \$4.95 S/H for a total of \$134.85

Please let me know if there is other info you may need or some other internal request form that needs to be signed. Thank You

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 10**

**SUBJECT:**

Order – Approving Annual Reports for Affordable Housing Tax Increment Financing Districts within the City of Lewiston and authorizing the Director of Economic and Community Development to submit such reports annually.

**INFORMATION:**

Each year, the City is required to file Annual Reports with the Maine State Housing Authority regarding the Affordable Housing Tax Increment Financing Districts within the City. Currently, there are four such Districts in Lewiston: Community Concepts, Inc., Birch Hill Senior Housing Associates, 81 Ash Street Affordable Housing Development and Lofts at Bates Mill. State procedures require the legislative body (City Council) of the community to certify that the public purpose of affordable housing districts is being met and maintained.

**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 Annual Reports for Affordable Housing Tax Increment Financing Districts within the City of Lewiston and authorizing the Director of Economic and Community Development to submit such reports annually.



**City of Lewiston Maine  
City Council Order  
May 7, 2013**



**Order,** Approving Annual Reports for Affordable Housing Tax Increment Financing Districts within the City of Lewiston and Authorizing the Director of Economic and Community Development to Submit Such Reports Annually

WHEREAS, MaineHousing requests the legislative body of the municipality to certify that the public purpose of affordable housing districts are being met; and

WHEREAS, the municipality is requested to further certify that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the Districts and the related Affordable Housing Development Programs are being maintained; and

WHEREAS, state statute allows the legislative body of a municipality to designate an authorized representative to submit the annual reports certifying that the public purposes and approved project costs of the Affordable Housing Tax Increment Financing Districts are being met; and

WHEREAS, Lewiston wishes to designate and authorize the Economic and Community Development Director to file such reports annually,

**Now, therefore, be it Ordered by the City Council of the City of Lewiston that**

The annual reports for Tax Year April 1, 2012 to March 31, 2013 for the Affordable Housing Tax Increment Financing Districts known as Community Concepts Affordable Housing Development, Birch Hill Elderly Housing Associates, 81 Ash Street Affordable Housing, and The Lofts at Bates Mill are hereby approved and the Director of Economic and Community Development is hereby authorized to submit these reports, updated annually, to MaineHousing.



Executive Department  
Lincoln Jeffers  
Assistant to the Administrator



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE:** Annual Affordable Housing TIF Reports  
**Date:** April 29, 2013

Lewiston has four Affordable Housing Tax Increment Financing Districts,

- 1) Community Concepts Affordable Housing (Bates Street)
- 2) Birch Hill Elderly Housing
- 3) 81 Ash Street Affordable Housing (Healey Terrace)
- 4) The Lofts at Bates Mill (Canal Street)

Under Maine's affordable housing tax increment financing legislation, annual reports are required for each Affordable Housing TIF district within a municipality. The purpose of the reports is to certify that the public purpose of the districts, creating affordable housing, is being met; and that the funds are being used for approved project costs.

Attached are four reports, summarizing the number of affordable and market rate units in each project. The second page of each document reports the TIF revenues that have been reimbursed to the project and what the funds are being used for. Generally speaking, TIF revenues in Lewiston's districts are being used to help offset operational expenses in each of the projects.

The City Council is being asked to approve the reports and authorize the Director of Economic and Community Development to submit them to MaineHousing. The Council is also being asked to designate the Director of Economic and Community Development to be its authorized representative for submittal of the *Affordable Housing Tax Increment Financing District Annual Reports* going forward.

Annual Report for Tax Year April 1, 2012 – March 31, 2013  
 Affordable Housing Tax Increment Financing District  
 Submission Deadline of April 30, 2013

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers  
 Printed name

Signature \_\_\_\_\_ Date May 8, 2013

Title: Director of Economic and Community Development  
 Mailing address: City Building; 27 Pine St.; Lewiston, ME 04240  
 Phone number: 207-513-3014  
 Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

Community Concepts Inc. Affordable Housing Development District

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

May 7, 2013

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	0	0
Rental (senior)	30	0	0	0
Owned home/condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

Rental project, no sales

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

No changes from approved Development Program. TIF revenues of \$29,153 were reimbursed to the developer during the period. TIF revenues are used to offset operational expenses and to fund capital reserves as indicated in the original program.

Annual Report for Tax Year April 1, 2012 – March 31, 2013  
 Affordable Housing Tax Increment Financing District  
 Submission Deadline of April 30, 2013

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers  
 Printed name

Signature \_\_\_\_\_ Date May 8, 2013

Title: Director of Economic and Community Development  
 Mailing address: City Building; 27 Pine St.; Lewiston, ME 04240  
 Phone number: 207-513-3014  
 Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

Birch Hill Elderly Housing Associates District

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

May 7, 2013

Status of affordable housing within the District: *"Affordable" means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	0	0
Rental (senior)	20	0	0	0
Owned home/condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

Rental project, no sales

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

During the reporting period \$10,588 were disbursed in TIF Revenues. The revenues are being used to offset property taxes, as specified in the Development Program.

Annual Report for Tax Year April 1, 2012 – March 31, 2013  
 Affordable Housing Tax Increment Financing District  
 Submission Deadline of April 30, 2013

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers  
 Printed name

Signature \_\_\_\_\_ Date May 8, 2013

Title: Director of Economic and Community Development  
 Mailing address: City Building; 27 Pine St.; Lewiston, ME 04240  
 Phone number: 207-513-3014  
 Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

81 Ash Street Affordable Housing Development District (Healey Terrace)

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

May 7, 2013

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	0	0	0	0
Rental (senior)	32	0	0	0
Owned home/condo				

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

Rental project, no sales

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

Tenants began occupying Healey Terrace in February 2012. During the reporting period \$16,484 were disbursed in TIF Revenues. The revenues are being used to help fund project operating expenses, as specified in Development Program

Annual Report for Tax Year April 1, 2012 – March 31, 2013  
 Affordable Housing Tax Increment Financing District  
 Submission Deadline of April 30, 2013

Municipality: City of Lewiston

Municipal official submitting this report:

Lincoln Jeffers  
 Printed name

Signature \_\_\_\_\_ Date May 8, 2013

Title: Director of Economic and Community Development  
 Mailing address: City Building; 27 Pine St.; Lewiston, ME 04240  
 Phone number: 207-513-3014  
 Email address: ljeffers@lewistonmaine.gov

Name of Affordable Housing Development District:

The Lofts at Bates Mill

Date that the municipal legislative body approved this report: *In submitting this report, the legislative body of the municipality or its authorized representative certifies that the public purpose of the affordable housing district is being met and that the required housing affordability and other conditions of approval, including limitations on uses of tax increment revenues for approved development project costs, set forth in the Certificate of Approval issued by Maine State Housing Authority for the District and the related Affordable Housing Development Program are being maintained.*

May 7, 2013

Status of affordable housing within the District: *“Affordable” means for households earning no more than 120% area median income. If affordable housing development is in process or complete, we would very much appreciate a photo of the housing, supplied electronically to mmartin@mainehousing.org.*

Type of housing unit	# of Existing affordable units	# of Existing market units	# of Planned affordable units	# of Planned market units
Rental (family)	33	15	0	0
Rental (senior)	0	0	0	0
Owned home/condo	0	0	0	0

Please list property sales within the District. [NOTE: Impact on affordability is not required by the statute for this item and in any event would be captured in the chart above.]

Rental project, no sales

Please describe any changes from what was described in the approved Development Program for the District, such as changes to the type, scope or timing of development within the District. If the Development Program and Certificate of Approval for the District allow alternative uses of funds, please list how funds are being used in practice.

When the TIF Program was written and approved, tenancy was expected to begin in April 2012 and to be leased up by October 2012. The project was delayed by legal issues during the development phase. As a result tenancy did not begin until November 2012.

The Assessment Date that sets the value upon which TIF reimbursements will be made is April 1, 2013. Accordingly, \$0 was disbursed in TIF Revenuesn during the reporting period.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 11**

**SUBJECT:**

Order confirming the Mayor's nomination of Zam Zam Mohamud to serve on the Lewiston School Committee as the at-large representative.

**INFORMATION:**

Robert Connors, the at-large representative on the Lewiston School Committee, has submitted his resignation from the Committee. Therefore, a vacancy exists in this seat for the current term scheduled to expire January 7, 2014.

Under the Charter, the Mayor shall nominate a replacement from the same ward and the Council shall vote to confirm the appointment. Since this is the at-large seat, the Mayor is free to nominate any resident of the city regardless of ward residency. The Mayor has nominated Zam Zam Mohamud of 66 Tall Pines Drive to this position.

**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 confirm the Mayor's nomination of Zam Zam Mohamud to serve as the at-large representative to the Lewiston School Committee, said term to expire January 7, 2014.

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 12**

**SUBJECT:**

Public Hearing on a new liquor license application for Orchid Restaurant, 29 Lisbon Street.

**INFORMATION:**

We have received an application for a liquor license for Orchid Restaurant, 29 Lisbon Street. The liquor license application is for spirituous, malt & vinous. This is the former location of Nicky's Greek Restaurant.

The police department has reviewed and approved the application.

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.

*ERB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
---	---	---	---	---	---	---	---

To authorize the City Clerk's Office to approve a new liquor license application for Orchid Restaurant, 29 Lisbon Street.

**Department of Public Safety  
Division**



**Liquor Licensing & Inspection**

**BUREAU USE ONLY**

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

**PRESENT LICENSE EXPIRES** \_\_\_\_\_

**INDICATE TYPE OF PRIVILEGE:**  MALT  SPIRITUOUS  VINOUS

**INDICATE TYPE OF LICENSE:**

RESTAURANT (Class I,II,III,IV)

HOTEL-OPTIONAL FOOD (Class I-A)

CLASS A LOUNGE (Class X)

CLUB (Class V)

TAVERN (Class IV)

RESTAURANT/LOUNGE (Class XI)

HOTEL (Class I,II,III,IV)

CLUB-ON PREMISE CATERING (Class I)

GOLF CLUB (Class I,II,III,IV)

OTHER: \_\_\_\_\_

**REFER TO PAGE 3 FOR FEE SCHEDULE**

**ALL QUESTIONS MUST BE ANSWERED IN FULL**

<b>1. APPLICANT(S)</b> –(Sole Proprietor, Corporation, Limited Liability Co., etc.) MINH NGUYEN DOB: 05-13-77 NUNTAKAMON DOB: 11-18-78 BORAN RAT DOB: _____	<b>2. Business Name (D/B/A)</b> ORCHID RESTAURANT
<b>Address</b> 22 PARK ST APT 6	<b>Location (Street Address)</b> 29 LISBON ST
<b>City/Town</b> LEWISTON <b>State</b> ME <b>Zip Code</b> 04240	<b>City/Town</b> LEWISTON <b>State</b> ME <b>Zip Code</b> 04240
<b>Telephone Number</b> 408 929-0542 <b>Fax Number</b> _____	<b>Mailing Address</b> SAME AS ABOVE
<b>Federal I.D. #</b> 040 78 0970	<b>City/Town</b> _____ <b>State</b> _____ <b>Zip Code</b> _____
	<b>Business Telephone Number</b> 408 799-5547 <b>Fax Number</b> _____
	<b>Seller Certificate #</b> _____

3. If premises are a hotel, indicate number of rooms available for transient guests: \_\_\_\_\_
4. State amount of gross income from period of last license: ROOMS \$ \_\_\_\_\_ FOOD \$ \_\_\_\_\_ LIQUOR \$ \_\_\_\_\_
5. Is applicant a corporation, limited liability company or limited partnership? YES  NO

complete Supplementary Questionnaire, if YES

6. Do you permit dancing or entertainment on the licensed premises? YES  NO
7. If manager is to be employed, give name: MINH NGUYEN
8. If business is NEW or under new ownership, indicate starting date: JUNE 1st 2013  
Requested inspection date: MAY 29 Business hours: 11-9pm
9. Business records are located at: \_\_\_\_\_
10. Is/are applicants(s) citizens of the United States? YES  NO

11. Is/are applicant(s) residents of the State of Maine? YES  NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
MINH NGUYEN	051377	VIETNAM
NUNTAKAMON BURANRAT	111878	THAILAND

Residence address on all of the above for previous 5 years (Limit answer to city & state)

22 PARK ST APT 6 LEWISTON ME 3065 MELCHESTER  
 721 N 7th ST SAN JOSE, CA SAN JOSE, CA

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES  NO

Name: \_\_\_\_\_ Date of Conviction: \_\_\_\_\_  
 Offense: \_\_\_\_\_ Location: \_\_\_\_\_  
 Disposition: \_\_\_\_\_

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes  No  If Yes, give name: \_\_\_\_\_

15. Has/have applicant(s) formerly held a Maine liquor license? YES  NO

16. Does/do applicant(s) own the premises? Yes  No  If No give name and address of owner: THAI SUSHI & VIETNAMESE RESTAURANT

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) THAI, SUSHI & VIETNAMESE RESTAURANT

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES  NO  Applied for: HEALTH INSPECTION PROGRAM LICENSE

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 50ft Which of the above is nearest? MOSQUE

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES  NO

If YES, give details: \_\_\_\_\_

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

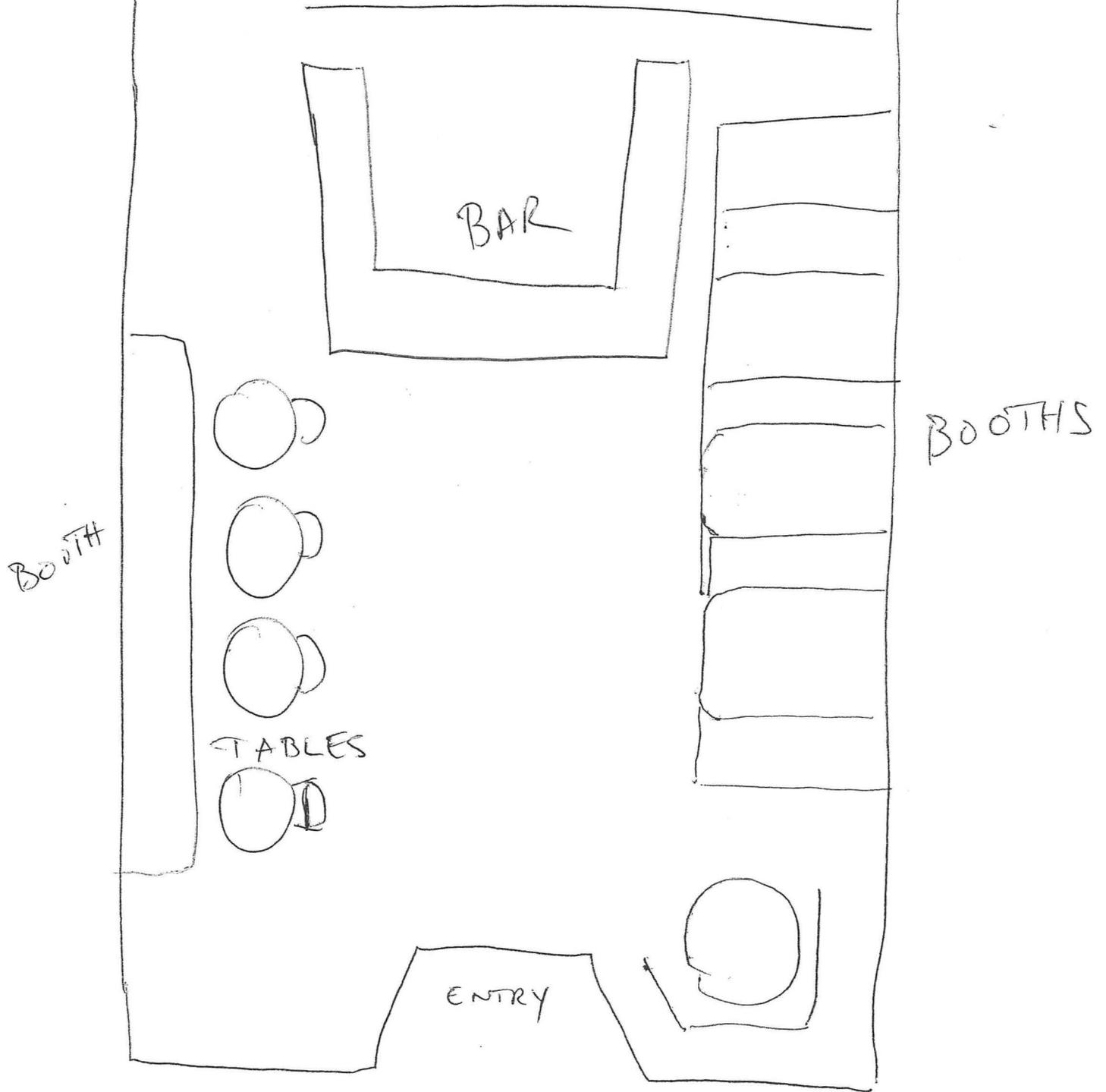
Dated at: LEWISTON, ME on APRIL 16, 2013

[Signature]  
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink Nuntakamon Buranrat  
Signature of Applicant or Corporate Officer(s)

# KITCHEN

## PREMISE DIAGRAM





## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: April 19, 2013

RE: Liquor License/Special Amusement Permit – **Orchid Restaurant**

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

**Orchid Restaurant**  
**29 Lisbon St.**



171 Park St • Lewiston, Maine • 04240 • Phone 207-513-3137 • Fax 207-795-9007  
[www.lewistonpd.org](http://www.lewistonpd.org)



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*Dedication*

*Pride*

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**CITY OF LEWISTON**  
**PUBLIC NOTICE**

A hearing on the following liquor license application will be held by the Lewiston City Council in the Council Chambers, City Hall on *Tuesday, May 7, 2013, at 7:00 p.m.*, or as soon thereafter as they may be heard. Any interested person may appear and will be given the opportunity to be heard before final action on said application.

Orchid Restaurant  
29 Lisbon Street  
Minh Nguyen & Nuntakamon Boranrat, owners

The City of Lewiston is an EOE. For more information, please visit our website @ [www.lewistonmaine.gov](http://www.lewistonmaine.gov) and click on the Non-Discrimination Policy.

Kathleen Montejo, MMC  
City Clerk  
Lewiston, Maine

***PUBLISH ON: May 1, 2 & 3, 2013***

Please bill the City Clerk's Dept. account. Thank you.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 13**

**SUBJECT:**

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Gridiron Restaurant, 1567 Lisbon Street.

**INFORMATION:**

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Gridiron Restaurant, 1567 Lisbon Street.

The Police Department has reviewed and approved the application.

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

The business owners have 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.

*EAB/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 the Gridiron Restaurant, 1567 Lisbon Street.

**CITY OF LEWISTON**  
**APPLICATION FOR SPECIAL AMUSEMENT PERMIT**

Date of Application: 4-16-13 Expiration Date: 5-15-2014 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: GRIDIRON RESTAURANT Business Phone: 777 6353

Location Address: 1567 LISBON ST LEWISTON ME

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

Mailing Address: 1567 LISBON ST LEWISTON ME

Contact Person: SCHAN MARTIN Home Phone: 345 9213

Owner of Business: SCHAN MARTIN Date of Birth: 7-31-72

Address of Owner: 45 WEST MINNET OVERLOOK DR MINNET ME

Manager of Establishment: SCHAN MARTIN Date of Birth: 7-31-72

Owner of Premises (landlord): KEY BANK

Address of Premises Owner: ONE CITY CENTER LEWISTON ME

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): GRIDIRON RESTAURANT  
LEWISTON ME 04240

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: Garden Restaurants

Corporation Mailing Address: 45 WEST MOUNT OVERLOOK DR MOUNT MEADOWS

Contact Person: SCHAN MARTIN Phone: 212 9327

Do you permit dancing on premises? \_\_\_ Yes  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? 200 YARDS

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: Schan Martin Title: Mgr Date 4-15-13

Printed Name: SCHAN MARTIN

\*\*\*\*\*

Sent to Code Enforcement: \_\_\_\_\_ Need reply by: \_\_\_\_\_ Approved: \_\_\_\_\_

Sent to Police & Fire: \_\_\_\_\_

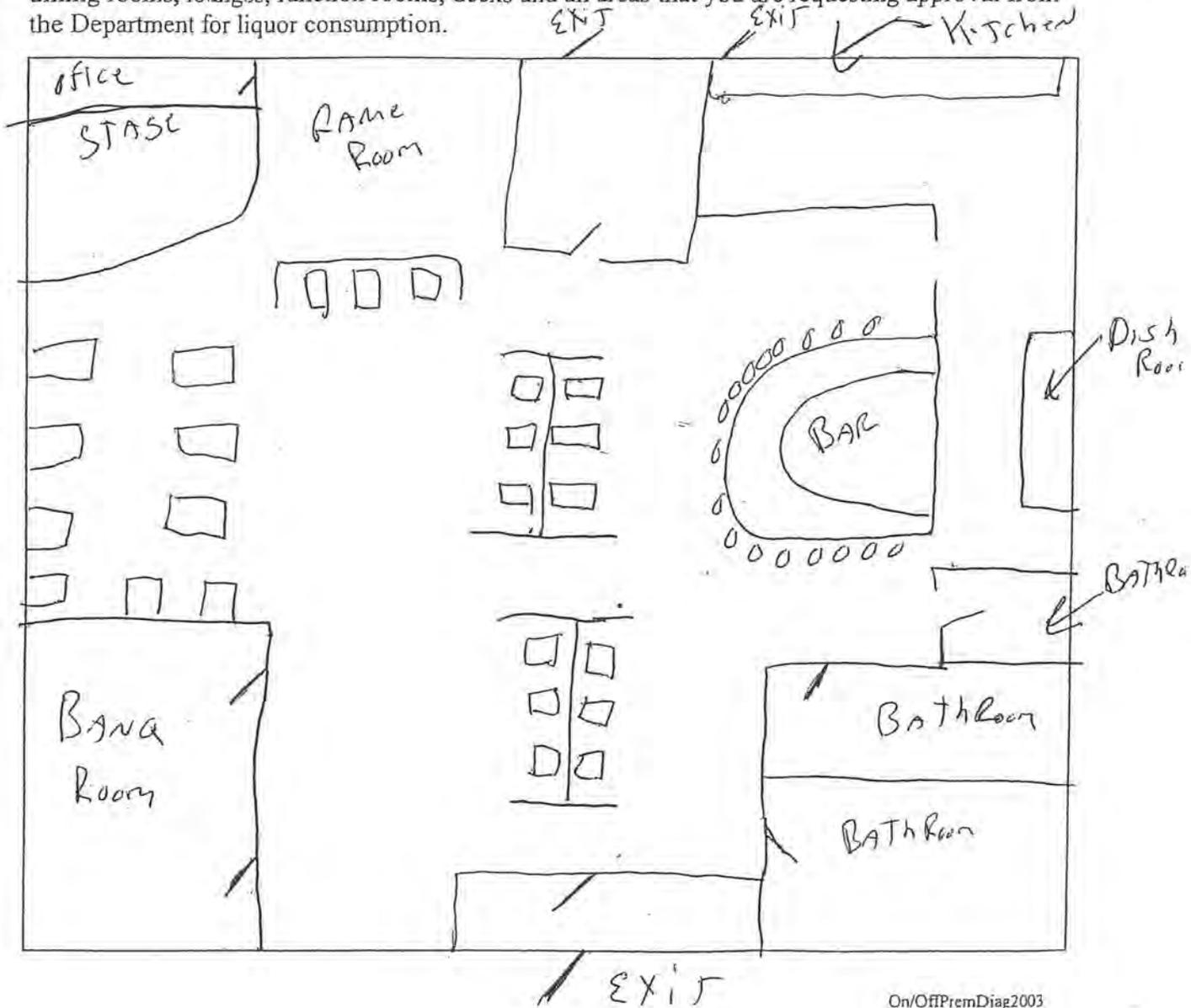
\*\*\*\*\*

Hearing Date: \_\_\_\_\_ Approved by Council: \_\_\_\_\_ Vote No: \_\_\_\_\_

# SUPPLEMENTAL APPLICATION FORM ON-PREMISE DIAGRAM

In an effort to clearly define your license premise and the areas that consumption and storage of liquor is allowed, The Liquor Licensing & Inspection Division 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 including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Department for liquor consumption.





## ***POLICE DEPARTMENT***

Michael J. Bussiere  
Chief of Police



TO: Kelly Mercier, Deputy City Clerk

FR: Lt. Adam D. Higgins, Support Services

DT: March 21, 2013

RE: Liquor License/Special Amusement Permit – **Grid Iron Restaurant & Sports Bar**

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

**Grid Iron Restaurant & Sports Bar**  
**1567 Lisbon Street**



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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 14**

**SUBJECT:**

Public Hearing & First Passage for Land Use Code Amendments concerning floodplain administration and management.

**INFORMATION:**

The proposed amendments are to make the City Code consistent with State and FEMA guidelines regarding floodplain administration and management. Lewiston is required to maintain a modern floodplain ordinance so that residents can purchase flood insurance. On April 22, 2013, the Planning Board voted unanimously (6-0) to send a favorable recommendation to the City Council for the adoption of the proposed amendment.

Please see the attached memorandum from City Planner David Hediger for additional information.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/cmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the proposed amendments to Appendix A, Article II "Definitions", Article V "Administration and Enforcement", Article IX "Appeals", Article XIV "Floodplain Administration and Management", of the City Zoning and Land Use Code, 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.



## CITY OF LEWISTON

### Department of Planning & Code Enforcement



**TO: City Council  
Mayor**

**FROM: David Hediger, City Planner**

**DATE: April 29, 2013**

**RE: Amendment to the Floodplain Administration and Management Ordinance,  
of the Zoning and Land Use Code to remain compliant with the National  
Flood Insurance Program.**

Pursuant to Article VII, Section 4(c) and Article XVII, Section 5(b)(1)(c) of the Zoning and Land Use Code, staff has prepared an amendment to update Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code.

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation of flood hazards in Lewiston. This has resulted in revised Flood Insurance Rate Maps (FIRM), Base Flood Elevations (BFE), and a new Flood Insurance Study (FIS). The new FIS has established revised BFE's for Lewiston.

The National Flood Insurance Act of 1968 requires Lewiston to update its Flood Management Ordinances prior to July 8, 2013 to reference the newest FIRM's and FIS. Communities that fail to revise their ordinances will be suspended from participating in the National Flood Insurance Program (NFIP). Participation in the NFIP provides Lewiston a number of benefits including eligibility for disaster funding when the community is declared a disaster area and the availability of flood insurance to those who have federally backed mortgages in the floodplain. In addition, since 1993 Lewiston has participated in the NFIP's Community Rating System (CRS), providing flood insurance holders a 10% discount on flood insurance policies.

Updating the Floodplain Ordinance will ensure Lewiston remains in good standing with FEMA as a community participating in the NFIP and the CRS. The proposed amendment has been reviewed by the States' Floodplain Management Program, which is satisfied with the proposed changes. The proposed amendment includes a number of housekeeping changes to Article II, Section 2, Definitions; Article V, Section 4, Administration and Enforcement; and, Article IX, Appeals. None of the changes are substantive in nature other than to provide additional clarification in administering the ordinance and to reference the most recent FIS.

On April 22, 2013, the Planning Board voted unanimously (6-0) to send a favorable recommendation for the City Council's consideration to adopt the proposed amendments to Article II, Section 2 Definitions; Article V, Section 4, Administration and Enforcement; Article IX, Appeals; and Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code to remain compliant with the National Flood Insurance.

**AN ORDINANCE PERTAINING TO ZONING AND LAND USE:  
FLOODPLAIN ADMINISTRATION AND  
MANAGEMENT**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

**APPENDIX A – ZONING AND LAND USE CODE  
ARTICLE II. DEFINITIONS**

**Sec. 2. Definitions.**

Unless otherwise expressly stated, the following words shall, for the purpose of this Code, have the meaning herein indicated:

~~Area of shallow flooding means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels. For floodplain purposes, see Structure.

Code enforcement officer means a person certified under Title 30-A MRSA, Section 4451 (including exception in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances, including Lewiston's Zoning and Land Use Code.

Elevated building means a nonbasement building (a) built, in the case of a building in Zones ~~A1-30 or A~~ or AE, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one (1) foot above the magnitude of the base flood. In the case of Zones ~~A1-30 or A~~ or AE, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls ~~less than three (3) feet in height~~ with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article XIV, Section 6(l).

Elevation certificate means an official form (FEMA Form 81-31, ~~07/00, as amended~~) that (a) is used to verify compliance with the flood plain management regulations of the national flood insurance program; and, (b) is required as a condition for purchasing flood insurance.

~~Flood boundary and floodway map means the official map delineating floodway and flood hazard boundaries as determined by the Federal Insurance Administration.~~

Historic structure means any structure that is:

(1) Designated as historic and on the local register as provided under article XV;

(2) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;

(3) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the interior to qualify as a registered historic district.

(4) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(5) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. Directly by the Secretary of the Interior in states without approved programs.

Locally established datum means for purposes of this Code, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Minor development/improvement means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article XIV, Section 6(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

North American Vertical Datum (NAVD) means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use

of satellite technology.

Regulatory floodway means (1) the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot, and (2) ~~in Zone A riverine areas when not designated on the community's Flood Insurance Rate Map~~ is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the flood plain as measured from the normal high water mark to the upland limit of the flood plain.

Variance means a relaxation of the terms of this Code where such variance will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship. As used in this Code, a variance is authorized only for the space and bulk requirements of Article XI, ~~and the performance standards of Article XII, and the floodplain management ordinance of Article XIV.~~

Violation means the failure to comply with applicable provisions of the Zoning and Land Use Code.

**APPENDIX A – ZONING AND LAND USE CODE  
ARTICLE V. ADMINISTRATION AND ENFORCEMENT**

**Sec. 4. Administrative official.**

Unless otherwise specifically stated, the director of code enforcement and the code enforcement officers and inspectors under his supervision (hereinafter code enforcement official) shall administer and enforce this Code and shall have all the powers and duties provided for in ~~30 M.R.S.A. Section 4966~~ Title 30-A MRSA, Section 4451, as amended.

**APPENDIX A – ZONING AND LAND USE CODE  
ARTICLE IX. APPEALS**

**Sec. 3. Standards for the granting of appeals.**

The Board of appeals shall grant an appeal only when it finds that the following standards have been met:

- (1) Administrative appeals. That the code enforcement official erred in either his interpretation of the Code or in the application of the Code to the particular circumstances of the application. If the board of appeals finds that the code enforcement official correctly interpreted and applied the provisions of this Code, the board shall affirm his decision. If the board finds that the code enforcement official erred in the interpretation or application of the Code, the decision of the code enforcement official shall be reversed and the board shall make an

official interpretation of the Code to be used by the code enforcement official.

(2) Variances.

c. Variance from the floodplain management standards of article XIV.

1. The board of appeals shall grant a variance from the floodplain management standards of article XIV only when it finds that the granting of the variance:

- a. Within any designated regulatory floodway will not result in an increase in flood levels during the base flood discharge;
- b. Is supported by good and sufficient cause;
- c. Will not result, should a flood comparable to the base flood occur, in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances;
- d. Will not cause a conflict with other state, federal or local laws or ordinances;~~and~~
- e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the board of appeals may impose such conditions to a variance as it deems necessary;~~and,~~
- f. Would result in "undue hardship," which in this subsection means:
  - i. a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
  - ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
  - iii. that the granting of a variance will not alter the essential character of the locality; and,
  - iv. that the hardship is not the result of action taken by the applicant or a prior owner.

2. The board of appeals shall grant a variance for new construction, substantial improvements, or other development for the conduct of a functionally dependent use only when it finds that:

- a. Other criteria of article IX and article XIV, subsection 6(k) are met; and
- b. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

3. The board of appeals may grant a variance for the

reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places. upon the determination that:

- a. The development meets the criteria of subsections 3(2)(a) through(d) above; and
  - b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
4. Any applicant who meets the criteria of article IX, subsections (a) through (e) shall be notified by the board of appeals in writing over the signature of the chairman of the board of appeals that:
  - a. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage;
  - b. Such construction below the base flood level increases risks to life and property; and,
  - c. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain; and,
5. The board of appeals shall submit to the code enforcement official a report of all variance actions, including justification for the granting of the variance and an authorization for the code enforcement official to issue a flood hazard development permit, which includes any conditions to be attached to said permit.
6. Any aggrieved party who participated as a party during the proceeding before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

**APPENDIX A – ZONING AND LAND USE CODE**  
**ARTICLE XIV. FLOODPLAIN ADMINISTRATION AND MANAGEMENT\***

\*Editor's note: Retitled

**Sec. 1. Applicability.**

Certain areas of the City of Lewiston, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

The City of Lewiston, Maine is a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance. It is the intent of the City of Lewiston, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Lewiston has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., §§ 3001--3007, 4352 and 4401—4407, and Title 38 MRSA, Section 440. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Lewiston having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the City of Lewiston, Maine.

~~The areas of special flood hazard, Zones A and A1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study—City of Lewiston, Maine, Androscoggin County," dated March 1979 with accompanying "Flood Insurance Rate Map" dated September 28, 1979 and "Flood Boundary and Floodway Map" dated September 28, 1979, which are hereby adopted by reference and declared to be a part of this Article.~~

The areas of special flood hazard, Zones A and AE for the City of Lewiston, Androscoggin County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Androscoggin County" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 212D, 214D, 216D, 218D, 219D, 238D, 326D, 327D, 328D, 329D, 331D, 332D, 333D, 334D, 337D, 341D, 342D, 343D, 344D, 351D, 353D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County," are hereby adopted by reference and declared to be a part of this Ordinance.

(Ord. No. 06-05, 4-20-06)

**Sec. 2. Permit required.**

Before any construction or other development, including the placement of manufactured homes, begins within any areas of special flood hazard established in Article XIV, Section 1, a flood hazard development permit shall be obtained from the code enforcement official. This permit shall be in addition to any other permits which may be required pursuant to the Code of Ordinances of the City of Lewiston, Maine.  
(Ord. No. 06-05, 4-20-06)

### Sec. 3. Application for permit.

The application for a flood hazard development permit shall be submitted to the planning and code enforcement office and shall include:

- (1) The name, address and phone number of the applicant, owner, and contractor;
- (2) An address and a map indicating the location of the construction site;
- (3) A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- (4) A statement of the intended use of the structure and/or development;
- (5) A statement of the cost of the development including all materials and labor;
- (6) A statement as to the type of sewage system proposed;
- (7) Specification of dimensions of the proposed structure and/or development; [Items (8)--(11)b. apply only to new construction and substantial improvements.]
- (8) The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
  - a. Base flood at the proposed site of all new or substantially improved structures, which is determined:
    1. In ~~Zones A1-30~~ Zone AE, from data contained in the "Flood Insurance Study--~~City of Lewiston~~ Androscoggin County, Maine," as identified in Section 1; or
    2. In Zone A:
      - (a) From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 6(k). and Section 8(d);
      - (b) From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS quadrangle map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (c) To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - b. Highest and lowest grades at the site adjacent to the walls of the proposed building;
  - c. Lowest floor, including basement; and whether or not such

- d. structures contain a basement; and Level, in the case of non-residential structures only, to which the structure will be floodproofed;
  - (9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6;
  - (10) A written certification by a professional land surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
  - (11) The following certifications as required in Section 6 by a registered professional engineer or architect:
    - a. A floodproofing certificate (FEMA Form 81-65, ~~08/99, as amended~~), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3(8)d; Section 6(g); and other applicable standards in Section 6;
    - b. A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6(l)2;
    - c. A certified statement that bridges will meet the standards of Section 6(m);
    - d. A certified statement that containment walls will meet the standards of Section 6(n);
  - (12) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
  - (13) A statement of construction plans describing in detail how each applicable development standard in Section 6 will be met.
- (Ord. No. 06-05, 4-20-06)

**Sec. 4. Application fee and experts fees.**

A fee may be charged if the code enforcement official and/or reviewing board needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten (10) days after the City of Lewiston submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the city at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the board of appeals.

(Ord. No. 06-05, 4-20-06)

**Sec. 5. Review standards for flood hazard development permit applications.**

The code enforcement official shall:

- (1) Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine

- that all pertinent requirements of Article XIV, Section 6, have been, or will be met;
- (2) Utilize, in the review of all flood hazard development permit applications:
    - a. The base flood data contained in the "Flood Insurance Study--~~City of Lewiston~~ Androscoggin County, Maine," as described in Article XIV, Section 1;
    - b. In special flood hazard areas where base flood elevation and floodway data are not provided, the code enforcement official shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3(8)a.2.; Section 6(k); and Section 8(d), in order to administer Section 6 of this Article; and
    - c. When the community establishes a base flood elevation in a Zone A by methods outlined in Section 3(8)a.2, the community shall submit that data to the Maine Floodplain Management Program. ~~in the state planning office.~~
  - (3) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1 of this Article;
  - (4) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - (5) Notify adjacent municipalities, the department of environmental protection, and the Maine Floodplain Management Program ~~in the state planning office~~ prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - (6) If the application satisfies the requirements of this Article, approve the issuance of one (1) of the following flood hazard development permits based on the type of development:
    - a. A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the code enforcement official with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 6(f), (g), or (h). Following review of the elevation certificate data, which shall take place within seven (7) days of receipt of the application, the code enforcement official shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or
    - b. A flood hazard development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6(g)l.a., b. and c. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or
    - c. A flood hazard development permit for minor improvement for all

development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. Minor improvement also includes, but is not limited to: accessory structures as provided for in Section 6(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non- structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

- (7) Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the board of appeals on variances granted under the provisions of Article IX, Section 3 of this Article, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of Section 3, 6 and 7 of this Article.

(Ord. No. 06-05, 4-20-06)

#### **Sec. 6. Development standards.**

All developments in areas of special flood hazard shall meet the following applicable standards:

- (a) All development--All development shall:
  - (1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) Use construction materials that are resistant to flood damage;
  - (3) Use construction methods and practices that will minimize flood damage; and
  - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (b) Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (c) Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) On-site waste disposal systems. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- (e) Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- (f) Residential. New construction or substantial improvement of any

residential structure located within:

- (1) Zone ~~AE1-30~~ shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation.
- (2) Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(8)a.2; Section 5.2; or Section 8(d).

(g) Non-residential. New construction or substantial improvement of any non-residential structure located within:

- (1) Zone ~~AE1-30~~ shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. Be floodproofed to at least one (1) foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
  - c. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Section 3(11) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- (2) Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(8)a.2; Section 5.2; or Section 8(d)., or
  - a. Together with attendant utility and sanitary facilities meet the floodproofing standards of Section 6(g)1.

(h) Manufactured homes. New or substantially improved manufactured homes located within:

- (1) Zone ~~A1-30~~ AE shall:
  - a. Be elevated such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation;
  - b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and
  - c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    1. Over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long

2. require one (1) additional tie per side); or by
  2. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four (4) additional ties per side.
  3. All components of the anchoring system described in Section 6(h)1.c.(1) and (2) shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (2) Zone A shall:
- a. Be elevated on a permanent foundation, as described in Section 6(h).1.b., such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(h).1.b; Section 5-2; or Section 8.d; and
  - b. Meet the anchoring requirements of Section 6(h)1.c.
- (i) Recreational vehicles. Recreational vehicles located within:
- (1) Zones ~~A1-30~~ A and AE shall either:
    - a. Be on the site for fewer than one hundred eighty (180) consecutive days,
    - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
    - c. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6(h)1.
- (j) Accessory structures. Accessory structures, as defined in Article II, Section 2 of this Article, located within Zones ~~A1-30~~ and A and AE, shall be exempt from the elevation criteria required in Section 6(f) and (g). above, if all other requirements of Section 6 and all the following requirements are met. Accessory structures shall:
- (1) Be five hundred (500) square feet or less and have a value less than three thousand dollars (\$3,000.00);
  - (2) Have unfinished interiors and not be used for human habitation;
  - (3) Have hydraulic openings, as specified in Section 6(l)2., in at least two (2) different walls of the accessory structure;
  - (4) Be located outside the floodway;
  - (5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
  - (6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.
- (k) Floodways.
- (1) In Zones ~~AE1-30~~ riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not

- be permitted within a regulatory floodway which is designated on the community's "~~Flood Boundary and Floodway Map,~~" Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) In Zones ~~A1-30 and A~~ and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6(k)3, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - a. Will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community; and
    - b. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study--Guidelines and Specifications for Study Contractors, (FEMA 37, ~~January 1995, as amended~~).
  - (3) In Zones ~~A1-30 and A~~ and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half ( 1/2) the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- (1) Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones ~~A1-30 and A~~ and AE that meets the development standards of Section 6, including the elevation requirements of Section 6(f), (g), or (h) and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
- (1) Enclosed areas are not "basements" as defined in Section 8;
  - (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. Be engineered and certified by a registered professional engineer or architect; or
    - b. Meet or exceed the following minimum criteria:
      1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area;
      2. The bottom of all openings shall be below the base flood elevation and no higher than one (1) foot above the lowest grade; and
      3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

- (3) The enclosed area shall not be used for human habitation; and
  - (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- (m) Bridges. New construction or substantial improvement of any bridge in Zones ~~A1-30~~ and AE shall be designed such that:
- (1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one (1) foot above the base flood elevation; and
  - (2) A registered professional engineer shall certify that:
    - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6(k); and
    - b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- (n) Containment walls. New construction or substantial improvement of any containment wall located within:
- (1) Zones ~~A1-30~~ and A and AE shall:
    - a. Have the containment wall elevated to at least one (1) foot above the base flood elevation;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Section 3(8).
- (o) Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in zones ~~A1-30~~ and A and AE, in and over water and seaward of the mean high tide if the following requirements are met:
- (1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  - (2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

(Ord. No. 06-05, 4-20-06)

### **Sec. 7. Certificate of compliance.**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the code enforcement official subject to the following provisions:

- a. For New construction or substantial improvement of any elevated structure

the applicant shall submit to the code enforcement official, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with Section 6(f), (g), or (h).

- b. The applicant shall submit written notification to the code enforcement official that the development is complete and complies with the provisions of this ordinance.
- c. Within ten (10) working days, the code enforcement official shall:
  - 1. Review the elevation certificate and the applicant's written notification; and
  - 2. Upon determination that the development conforms with the provisions of this ordinance, shall issue a certificate of compliance.

(Ord. No. 06-05, 4-20-06)

### **Sec. 8. Review of subdivisions and development proposals**

The planning board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five (5) or more disturbed acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:

- (a) All such proposals are consistent with the need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with Section 6 of this Article. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the planning board or local reviewing authority as part of the approval process.

(Ord. No. 06-05, 4-20-06)

### **Sec. 9. Enforcement and penalties**

- (a) It shall be the duty of the code enforcement official to enforce the provisions of this Article pursuant to Title 30-A M.R.S.A. § 4452.
- (b) The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this Article.

- (c) In addition to any other actions, the code enforcement official, upon determination that a violation exists, ~~shall~~may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
- (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
  - (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
  - (5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- (Ord. No. 06-05, 4-20-06)

**Sec. 10. Validity and severability.**

If any section or provision of this Article is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Article.  
(Ord. No. 06-05, 4-20-06)

**Sec. 11. Conflict with other ordinances.**

This Article shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Article shall control.  
(Ord. No. 06-05, 4-20-06)

**Sec. 12. Abrogation.**

This Article repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).  
(Ord. No. 06-05, 4-20-06)

**Reason For Proposed Amendment**

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation of flood hazards in Lewiston. Said re-evaluation has resulted in revised Flood Insurance Rate Maps (FIRM), Base Flood Elevations (BFE), and a new Flood Insurance Study (FIS). Because the FIS establishing revised BFE's for Lewiston has been completed, the National Flood Insurance Act of 1968 requires Lewiston to update their Flood Management Ordinances prior to July 8, 2013 to reference the newest FIRM's and FIS. Communities that fail to revise their ordinances will be suspended from participating in the National Flood Insurance Program (NFIP). Participation in the NFIP provides Lewiston a number of benefits including eligibility for disaster funding when the community is declared a disaster area and the availability of flood insurance to those who have federally backed mortgages in the floodplain. In addition, since 1993 Lewiston has participated in the NFIP's Community Rating System (CRS) providing flood insurance holders a 10% discount on flood insurance policies.

Updating the Floodplain Ordinance will ensure Lewiston remains in good standing with FEMA as a community participating in the NFIP and the CRS.

### **Conformance with the Comprehensive Plan**

- Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community. . . (see Economy, Policy 1, Strategy C, p 39).
- Avoid the problems associated with floodplain development and use by continuing to regulate land use through provision of the City's floodplain management standards including restrictive rezoning and continuing to work with FEMA's CRS program.



City of Lewiston  
Planning & Code Enforcement  
Gil Arsenault, Director  
**MEMORANDUM**



---

**To:** City Council Members  
**From:** David Hediger  
**Date:** April 22, 2013  
**Subject:** Planning Board Action

---

The Planning Board took the following actions at their meeting held on April 22, 2013 regarding a proposed amendment impacting Lewiston's Floodplain Administration and Management Ordinance.

The following motion was made:

**MOTION:** by **Walter Hill** pursuant to Article VII, Section 4(c) and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration to adopt the proposed amendments to Article II, Section 2 Definitions; Article V, Section 4, Administration and Enforcement; Article IX, Appeals; and Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code to remain compliant with the National Flood Insurance. Second by **Sandra Marquis**.

**VOTED:** 6-0 (Passed)

c: Ed Barrett, City Administrator  
Planning Board Members



PAUL R. LePAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

93 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0093

WALTER E. WHITCOMB  
COMMISSIONER

DAVID H.

January 10, 2013

Mr. Edward Barrett, City Administrator  
City of Lewiston  
27 Pine Street  
Lewiston, Maine 04240-7298

[Certified Mail]

RE: Updated ordinance requirement for compliance with the National Flood Insurance Program (NFIP)

Dear Mr. Barrett:

Your community should have recently received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new digital flood maps for all of Androscoggin County for July 8, 2013. This letter marks the beginning of a six month time period for communities to update their Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before July 8, 2013 in order to avoid being immediately suspended from the NFIP.**

Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. Participation in the NFIP provides protection to those members of your community who may be affected by flooding. One of the most important benefits is your town's eligibility for disaster funding to repair roads damaged by flooding when your county is in a declared disaster area. In addition, flood insurance is available to those who have federally backed mortgages in the floodplain. This is all possible by way of your community's commitment to adopt, administer and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Also enclosed is an instruction sheet that explains the ordinance adoption process. Since FEMA has very specific requirements regarding ordinance language we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. This is to ensure that the ordinance remains compliant.

**Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.**

We filled in the application fee (in Article III) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

PHONE: (207) 287-2801

17 ELKINS LANE, WILLIAMS PAVILION  
www.maine.gov/acf

FAX: (207) 287-2353

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. Please note that is acceptable for the community to set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted, and certified by the Town Clerk, please send this office an electronic copy (if possible) and two (2) certified printed copies. We will forward one copy each to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

**Please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for all of Androscoggin County.** Please contact Janet Parker at 287-9981 or [janet.parker@maine.gov](mailto:janet.parker@maine.gov) as soon as this information is available.

Over the next few months we expect to host at least two outreach meetings in Androscoggin County. Usually one is scheduled for the afternoon and one in the early evening. These will be public informational sessions so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll spread the word so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or [sue.baker@maine.gov](mailto:sue.baker@maine.gov)), Joe (287-8051 or [joseph.young@maine.gov](mailto:joseph.young@maine.gov)), or Janet (298-9981 or [janet.parker@maine.gov](mailto:janet.parker@maine.gov)) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM  
State NFIP Coordinator

Enclosures: Customized 2013 Model Ordinance  
Adoption Instructions

Cc: Gil Arsenault, Code Enforcement Officer  
David Hediger, City Planner



David H

Federal Emergency Management Agency  
Washington, D.C. 20472

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:  
19P

January 8, 2013

The Honorable Robert E. Macdonald  
Mayor, City of Lewiston  
City Hall  
27 Pine Street  
Lewiston, Maine 04240

Community: City of Lewiston,  
Androscoggin County, Maine  
Community No.: 230004  
Map Panels Affected: See FIRM Index

Dear Mayor Macdonald:

This is to formally notify you of the final flood elevation determination for the City of Lewiston, Androscoggin County, Maine (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood elevations shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

On September 28, 1979, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood, in your community. Recently, FEMA completed a re-evaluation of flood hazards in your community. On May 2, 2011, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community, including Base Flood Elevations (BFEs). The proposed BFEs for your community were published in the *Sun Journal* on May 31, 2012, and June 7, 2012 and in the *Federal Register*, at Part 67, Volume 75, Pages 25495 and 25496, on April 30, 2012.

The statutory 90-day appeal period, which was initiated on the second newspaper publication date cited above, has ended. FEMA did not receive any appeals of the proposed BFEs during that time. Accordingly, the BFEs for your community are considered final. The final rule for BFEs will be published in the *Federal Register* as soon as possible. The FIRM for your community will become effective on July 8, 2013. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS report establishing the BFEs for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to July 8, 2013, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report and FIRM to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the BFEs established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based are being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIS report and FIRM for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions has been combined into one FIS report and FIRM. When the FIS report and FIRM are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA MAP (1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures required to continue participation in the NFIP, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA Region I, in Boston, Massachusetts, at (617) 956-7506 for assistance. If you have any questions concerning mapping issues in general, or the enclosed Summary of Map Actions, please call FMIX at the telephone number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the NFIP*, *Frequently Asked Questions Regarding the Effect that Revised Flood Hazards have on Existing Structures*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling FMIX.

Sincerely,



Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation Administration

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository  
Gildace J. Arsenault, Planning and Code Enforcement Director, City of Lewiston

## FINAL SUMMARY OF MAP ACTIONS

Community: LEWISTON, CITY OF

Community No: 230004

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 8, 2013.

**1. LOMCs Incorporated**

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

**2. LOMCs Not Incorporated**

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	02-01-1048A	06/12/2002	332 RUSSELL STREET EXT.	2300040010B	23001C0331E
LOMA	04-01-0446A	02/26/2004	1222 SABATTUS STREET	2300040010B	23001C0332E
LOMA	08-01-1025A	07/24/2008	COLLEGE GREEN, LOT 4 - 9 BOWDOIN DRIVE	2300040005B	23001C0218E
LOMA	10-01-0806A	03/04/2010	10 Tall Pines Road	2300040005B	23001C0214E

**3. LOMCs Superseded**

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

## FINAL SUMMARY OF MAP ACTIONS

Community: LEWISTON, CITY OF

Community No: 230004

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	199500243R01	03/29/1995	UNAVAIABLE	1
LMMP-L	95-01-075P	08/30/1995	JEPSON BROOK	4
LOMA	00-01-0406A	03/03/2000	10 FALCON ROAD	2
LOMA	12-01-1159A	03/15/2012	TAX MAP 190, LOT 5 -- 20 TALL PINES DRIVE	2

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

#### 4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 15**

**SUBJECT:**

Public Hearing and Adoption of Order authorizing the City Administrator to execute a Development Assistance and Tax Increment Financing Agreement and a Joint Development Agreement with Argo Marketing Group, Inc.

**INFORMATION:**

The Council is asked to approve a TIF agreement and approval of a development assistance agreement with Argo Marketing Group, Inc. for their investment in the redevelopment of the McCroy building.

Please refer to the enclosed memorandum from Lincoln Jeffers, Assistant to the City Administrator, for an overview of this project.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*ERB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
---	---	---	---	---	---	---	---

To approve the Order authorizing the City Administrator to execute a Development Assistance and Tax Increment Financing Agreement and a Joint Development Agreement with Argo Marketing Group, Inc.



**City of Lewiston Maine  
City Council Order  
May 7, 2013**



**Order,** Authorizing the City Administrator to Execute a Development Assistance and Tax Increment Financing Agreement and a Joint Development Agreement with Argo Marketing Group, Inc.

Whereas, Argo Marketing has expressed an interest in expanding its presence in downtown Lewiston by purchasing and rehabilitating 64 Lincoln Street at an estimated overall project cost of at least \$2.2 million; and

Whereas, Argo has agreed to employ at least 150 people at this location within twelve months of its tenancy of the building; and

Whereas, this project will both renovate a long vacant building in the heart of downtown and provide significant employment opportunities for area residents; and

Whereas, this project would not be economically viable without financial assistance from the City; and

Whereas, this assistance will take a number of forms including façade and life safety loans and grants and a Tax Increment Financing program;

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

The City Administrator is hereby authorized to execute a Development Assistance and Tax Increment Financing Agreement and a Joint Development Agreement with Argo Marketing Group, Inc. in a form substantially as attached hereto.

# Economic and Community Development

Lincoln Jeffers

Director



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE:** McCrory Redevelopment TIF and Development Program  
**Date:** May 1, 2013

Several months ago, the mayor initiated conversations with Jason Levesque, the founder and CEO of Argo Marketing Group, regarding the expansion of Argo and siting its expansion in downtown Lewiston. City staff has worked with Argo since then as they explored site options and sought support from state, local, and federal sources to help make the project viable. The City Council has been kept abreast of local negotiations in Executive Sessions. I am pleased to submit, for your approval, an *Agreement for Development Assistance and Tax Increment Financing*; and a *Joint Development Agreement*. These agreements are contractual obligations between the City and Argo that reflect the outcome of negotiations.

## **Background**

Argo Marketing Group was founded in 2003. They are a multi-division marketing, consulting, and management company specializing in direct response advertising. Their breadth of services has expanded from an inbound call center to include customer care support, social media management, and back end operational support. In 2008 they had 20 employees. In 2010 they moved to 415 Lisbon Street (Business Service Center Building) where they have grown to 80 employees. In 2011 they opened a call center in Pittsfield, ME where they employ 120 people. Argo's growth continues; they expect to add 150 employees to the Lewiston work force over the next several years.

Argo has a purchase and sale agreement for 64 Lisbon Street, the former McCrory's Department Store.

Argo is seeking municipal support for the project, utilizing existing loan and grant programs as well as the creation of a Tax Increment Financing District and Program. A summary of the details of these requests follow.

## **Joint Development Agreement**

This document outlines the obligations of each party.

Argo agrees to the following:

- 1) Close on the 64 Lisbon St. purchase by August 1, 2013.
- 2) Invest an estimated \$2.2 million in redeveloping the building. Work will include building a new façade at street level on the Lisbon Street side of the building and repairing brick and masonry elsewhere on the building. Construction will be complete by April 1, 2014.
- 3) Use 16,000 s.f. of the building for its own use as Argo's corporate headquarters and as a call center. Although not committed to be completed with the Argo space, 4,900 s.f. on the Lisbon Street side of the building will be made ready for tenant fit out for use as retail and/or café space.
- 4) Within 12 months of Argo's tenancy in the building, they agree to employ at least 150 people at 64 Lisbon Street with an annual payroll, including benefits, of at least \$3.8 million.

The City agrees to:

- 1) Provide a Façade Grant/Loan of up to \$150,000. The city investment must be matched on a 1:1 basis with non-city funds. Of the funds invested by the city, 50% will be a grant, 50% a loan at 0% interest for a 10 year term
- 2) Provide a Life Safety Grant/Loan of up to \$100,000 which must be matched on a 1:1 basis with non-city funds. The terms of the grant/loan will be the same as for the façade grant.
- 3) Provide assistance and support efforts to secure other financing sources, including state and federal sources, as well as to designate the project as the beneficiary of a TIF agreement.
- 4) Allow Argo to purchase parking passes in the Oak Street parking facility at the rate of \$35 per month for a period of 6 months, regardless of the number of passes purchased. After six months, the prevailing city Parking Fee Policy rates will apply.
- 5) Encourage South Park Development Corporation to make a \$200,000 loan in support of the project.

## **Agreement for Development Assistance and Tax Increment Financing**

This document commits the City to designating a TIF District and approving a Development Program that supports the redevelopment of 64 Lisbon Street, as well as designating other eligible project costs.

The TIF District will encompass 64 Lisbon Street. A map is attached. The TIF term will be for a period of 10 years. During the first five years, 50% of the new tax revenues generated within the district will be reimbursed to Argo as a Credit Enhancement TIF to help finance and offset the development costs of the expansion, improvement, and redevelopment of the commercial facilities within

*City Hall • 27 Pine Street • Lewiston, Maine • 04240 • Voice Tel. 207-513-3014 • Fax 207-795-5071*

*TTY/TDD 207-513-3009 • Email: [ljeffers@ci.lewiston.me.us](mailto:ljeffers@ci.lewiston.me.us)*

*City Web Page: [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us)*

the District. If 50% or more of the 4,900 s.f. of space available for rent is leased by an entity other than Argo, the TIF reimbursement to Argo will drop to 40%, beginning the tax year following the lease and tenancy. For years 6 through 10 of the TIF term, 40% of TIF revenues will be reimbursed to Argo.

The TIF Program will begin in FY 2015. The Original Assessed Value (prior to redevelopment) is \$268,750. In the agreement, Argo agrees to have an Optimal Assessed Value of \$1.39 million prior to fit out of the lease space; and of \$1.7 million after the lease space is developed. This is the guaranteed minimum assessment Argo agrees to pay taxes on. The TIF revenue reimbursement paid to Argo will be based on the taxes paid on the difference between the Original Assessed Value and Optimal Assessed Value (or Actual Assessed Value if higher). A proforma is attached that projects these values.

Over the entire term of the TIF District, that portion of the TIF revenues not reimbursed to Argo will be retained by the City and used to help fund city economic development programs, marketing of Lewiston as a business or arts location, to capitalize City managed commercial loan and grant programs, and to help fund other downtown infrastructure projects, including, but not limited to, Riverfront Island projects.

One hundred percent of the TIF Revenues and the associated increase in Assessed Value for the District will be used to fund project costs and will be sheltered from being included in the City's Total Assessed Valuation (TAV). The TAV is a measure utilized by the state to determine how much State Aid for Education and State Revenue sharing communities receive; the higher a communities' TAV, the greater its ability to pay for services. It is also used to determine how much each community must pay toward County Taxes. Under current funding formulas, the higher a communities' TAV, the less education and revenue sharing it receives from the state and the more it will pay in County Taxes.

This project will be of great benefit to Lewiston, creating 150 additional jobs, expanding the tax base, and fully renovating a derelict building in the heart of the downtown. Building renovations will expand opportunities for quality downtown retail and restaurant space, and the large influx of employees to the area will support other downtown businesses.

I look forward to discussing this project with you at the May 7<sup>th</sup> meeting. Please be in touch if you have questions or need clarification on any of the contractual documents.

### McCrary Redevelopment TIF Program

Year	OAV	Proforma				New taxes	50%/40% to Argo (3)	City TIF Revenues (4)
		New AV (1)	Captured AV	Mil rate(2)				
1	\$ 268,750	\$ 1,390,000	\$ 1,121,250	\$ 0.02579	\$ 28,917	\$ 14,459	\$ 14,459	
2		\$ 1,390,000	\$ 1,121,250	\$ 0.02579	\$ 28,917	\$ 14,459	\$ 14,459	
3		\$ 1,390,000	\$ 1,121,250	\$ 0.02579	\$ 28,917	\$ 14,459	\$ 14,459	
4		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
5		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
6		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
7		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
8		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
9		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
10		\$ 1,700,000	\$ 1,431,250	\$ 0.02579	\$ 36,912	\$ 14,765	\$ 22,147	
<b>Total</b>						<b>\$ 146,729</b>	<b>\$ 198,406</b>	

(1) In this proforma the lease space is tenanted in the third year after Argo occupies 64 Lisbon Street.

(2) For profoma purposes the mil rae and Assessed Valuation remain steady. In reality, both our likely to change.

(3) The TIF reimbursement to Argo is at 50% for the first 3 years of the TIF, then drops to 40% for the remainder of the term.

(4)Revenues retained for eligible project costs, including economic development and marketing programs, captialization of loan and grant programs, and downtown infrastructure projects.

4/30/2013

### Tax Shifts

Year	County Tax	Education	Revenue Sharing	Total
1	\$240	\$8,622	\$4,436	\$13,298
2	\$240	\$8,622	\$4,436	\$13,298
3	\$240	\$8,622	\$4,436	\$13,298
4	\$307	\$11,006	\$5,015	\$16,328
5	\$307	\$11,006	\$5,015	\$16,328
6	\$307	\$11,006	\$5,015	\$16,328
7	\$307	\$11,006	\$5,015	\$16,328
8	\$307	\$11,006	\$5,015	\$16,328
9	\$307	\$11,006	\$5,015	\$16,328
10	\$307	\$11,006	\$5,015	\$16,328
				\$154,190

## JOINT DEVELOPMENT AGREEMENT

This Joint Development Agreement ("Agreement") dated as of May \_\_, 2013, among ARGO MARKETING GROUP, INC., a Maine corporation ("Argo"), and the CITY OF LEWISTON, MAINE (the "City"). Argo and the City are referred to individually as a "Party" and collectively as the "Parties."

### RECITALS

WHEREAS, the Parties have determined that it is mutually advantageous and desirable to enter into this Agreement in order to set forth the terms, conditions, and respective responsibilities of the Parties in connection with the redevelopment of certain real property located within the City;

WHEREAS, subject to the terms and conditions hereof, Argo is willing to relocate its general offices to property located at 64 Lisbon Street within the City (the "Building"), and shall make a major investment of resources and employees in that property on the real property described on Exhibit A;

WHEREAS, the location of Argo's headquarters and telemarketing call center to the Building will provide a significant stimulus for commercial redevelopment in the City and is a key step toward the City's implementation of its broader goal of commercial redevelopment within the City;

WHEREAS, the City is willing to assist Argo in making certain investments in the acquisition and redevelopment of the Building;

WHEREAS, the undertakings set forth herein are interrelated and mutually dependent on one another; and

WHEREAS, the Parties wish to identify their mutual understandings and commitments in this Agreement,

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge the parties agree to the following:

ARTICLE I  
DEFINITIONS

The following terms shall have the following meanings.

“Agreement” shall have the meaning as set forth in the preamble and recitals.

“City” shall have the meaning as set forth in the preamble.

“Argo” shall have the meaning set forth in the preamble.

“Building” shall refer to that real estate located at 64 Lisbon Street in the City.

ARTICLE II  
RESPONSIBILITIES OF THE PARTIES

2.1 Joint Obligations of the Parties.

2.1.1 The City and Argo shall use their respective best efforts to keep the other Party and its respective agents/professionals informed on all aspects of the projects described in this document. The City and Argo shall each designate a primary contact person for management of these projects. The Argo and City contact persons shall hold regular meetings, not less than monthly, to exchange information and report on the progress of the various tasks described in this Agreement.

2.1.2 Except as otherwise provided herein, each party shall bear its own costs in connection with the various tasks described herein.

2.1.3 Neither Argo nor the City shall issue any press releases to the media concerning the subject matter hereof without first notifying the other party. This provision shall not prohibit either party from responding to inquiries from the press.

2.2 Obligations of Argo. Subject to the satisfaction or waiver of the conditions set forth herein, and as conditions of the City's obligations set forth below, Argo shall have the obligation to undertake reasonable commercial efforts to perform the following:

2.2.1 Argo shall purchase the Building by August 1, 2013.

2.2.2 Argo agrees to redevelop the Building, at an initial estimated cost of \$2,200,000.00. Except for those funds provided under the Life Safety Grant/Loan Program and the Façade Improvement Program as set for the below, Argo shall be responsible for obtaining financing without assistance from the City.

2.2.3. Not later than April 1, 2014, Argo will redevelop at least 16,000 square feet of the Building for its own use and occupancy as a telemarketing call center and corporate headquarters. By this date, Argo will also repair the Building's external masonry work to the City's satisfaction, and will construct to the City's satisfaction a new street level façade on the side of the building facing Lisbon Street. All external work shall be completed before Argo occupies the Building.

2.2.4 Within 12 months of Argo's completion of the work described above, Argo shall demonstrate to the City's reasonable satisfaction that Argo employs at least 150 people at the Building, with a minimum pre-tax annual payroll and pre-tax employee compensation (which line items currently include wages, Anthem health insurance, AFLAC insurance, Assurant Employee Benefits for life and dental insurance, SPIFF bonuses, and an Employee Benefits Account) of \$3,800,000.00.

2.3. Obligations of the City. Subject to Argo's satisfaction of its obligations under this Agreement, the City shall have the obligation to undertake commercially reasonable efforts to perform the following:

2.3.1 To assist Argo in financing the total estimated project cost of \$2,200,000.00, the City agrees to provide up to \$150,000.00 in funding to Argo, to be used exclusively for rehabilitating the façade of the Building (the "Façade Funds") in accordance with the requirements of the City's Façade Improvement Program; which include the requirement that the Façade Funds be matched on a 1:1 basis with funding from sources separate from the City. The Façade Funds shall be provided as follows: 50% of the Façade Funds shall be in the form of a grant to Argo (the "Façade Grant"), and 50% of the Façade Funds shall be in the form of a loan from the City, which loan shall be repayable by Argo at the rate of 0 % per annum, pursuant to a 10-year term note (the "Façade Loan"). The Façade Loan shall be secured by a mortgage on the Building with the City in third position, which position shall only be subordinate to Argo's loan from a commercial lender and federal governmental loans or federal government guarantees. The City's obligations under this section are further conditioned on Argo's continuing compliance with all other requirements of the Façade Improvement Program.

2.3.2 In addition to the funds provided to Argo under paragraph 2.3.1, the City will provide up to \$100,000.00 in additional funding to Argo under the City's Life Safety Grant/Loan Program (the "Life Safety Funds"); which include the requirement that the Life Safety Funds be matched on a 1:1 basis with funding from sources separate from the City. One half of the Life Safety Funds disbursed shall be in the form of a grant, and the remaining half of the Life Safety Funds shall be disbursed in the form of a 10 year term loan at 0% interest (the "Life Safety Loan"). The Life Safety Loan shall be secured by a mortgage on the Building with the City in third position, which position shall only be subordinate to Argo's loan from a commercial lender and federal governmental loans or federal government guarantees. The City's obligations under this section are further conditioned on Argo's compliance with all other requirements of the Life Safety Grant/Loan Program.

2.3.3 Members of the staffs of the various departments of the City shall render assistance to Argo with all aspects of completing its obligations hereunder, including without limitation, assisting with obtaining all necessary permits and approvals for construction of the Office Building, provided that this provision shall not relieve Argo of any of its obligations to comply with the City's land use and planning ordinances or regulations.

2.3.4 The City shall assist and support efforts by Argo to obtain state or federal financing, including grants, loans or appropriations to be used in connection with Argo's obligations under this Agreement.

2.3.5 The parties acknowledge that City will cooperate with Argo, as applicable, to identify financing sources, including the designation of the Building as the beneficiary of a tax increment financing agreement.

2.3.6 The City shall negotiate in good faith in order to provide Argo with parking spaces located in the Oak Street Parking Garage on terms and conditions mutually agreeable to the parties. This shall include permitting Argo to purchase employee parking passes at the rate of \$35 per month per space during the initial 6 months after Argo has moved its call center and headquarters to the Building. Thereafter, Argo will be permitted to purchase parking passes for employees at the rates then applicable to other businesses with a comparable number of employees, in accordance with the Major Employer Parking Fee Discount Program as set forth in the City's Municipal Parking Facilities fee structure. Presently, that rate is \$35 per month per space for a business with a minimum of 150 spaces, which rate is to be paid on an annual basis in three installments, as described in the Major Employer Parking Fee Discount Program. Argo acknowledges that the terms of the Major Employer Parking Fee Discount Program may be subject to change by the City, and that Argo is not entitled to any further discounts after the initial 6 months after Argo has moved its call center and headquarters to the Building.

2.3.7 The City shall cooperate and encourage the South Park Development Corporation to loan Argo an additional \$200,000.00 for renovations to the Building under such terms as Argo and the South Park Development Corporation may separately negotiate, which terms may include a 10 year term with no payments required for the initial 5 years (the "South Park Loan"). By entering this Agreement, Argo recognizes that the City's role will be limited to encouraging the South Park Loan, and that the City makes no other promises, representations, warranties, or guarantees in connection with the South Park Loan.

### ARTICLE III LIMITATION OF LIABILITY

Notwithstanding any other provision of this Agreement, in no event shall the Parties, by reason of any of their respective acts or omissions relating to any of their obligations under this Agreement, be liable whether in contract, tort, warranty, negligence, strict liability or otherwise for any special, indirect, incidental or consequential damages arising out of or in connection with this Agreement, or the performance, non-performance or breach thereof; provided, however, that nothing in this Article III shall be deemed a waiver of claims for injunctive relief, specific performance and direct damages.

### ARTICLE IV INDEMNIFICATION

Each Party shall indemnify, defend and hold harmless the other Party and its agents, servants, officers, directors, employees and affiliates from and against any loss, cost, liability, claim, damage, expense (including, without limitation, all out-of-pocket expenses, reasonable attorneys' fees, disbursements and costs), penalty or fine incurred in connection with any claim or cause of action arising from or in connection with this Agreement to the extent caused by the negligence, misrepresentation, fraud, fault or misconduct of the indemnifying Party.

### ARTICLE V MISCELLANEOUS

5.1. Representations and Warranties. Each Party represents and warrants that (a) it is an entity or municipality, as the case may be, duly organized, validly existing and in good standing under the laws of the State of Maine (b) it has the necessary power and authority to enter into and perform its obligations under this Agreement; (c) it has duly authorized the persons(s) signing this Agreement to execute this Agreement on its behalf; (d) upon execution, this Agreement will be a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (e) the execution and delivery of this Agreement and its performance by such Party will not violate, result in a breach of or conflict with any law, rule, regulation, order or decree applicable to such

Party, its organizational documents or the terms of any other agreement binding on such Party, except that to the extent that any obligations of the City hereunder require approvals by municipal zoning officials or bodies, including without limitation, the Planning Board and Zoning Board of Appeals, or require approvals of State agencies, or judgments of state courts, such as in the case of eminent domain proceedings, such obligations are contingent upon obtaining the necessary approvals.

5.2. Governing Law. This Agreement shall be interpreted in accordance with and governed by the laws of the State of Maine, without regard to the conflicts of law principles thereof.

5.3. Relationship of Parties. The Parties understand and agree that no Party is an agent, employee, contractor, vendor, representative or partner of any other Party, that (except as expressly set forth in writing) no Party shall owe a fiduciary duty to any other Party, that no Party shall hold itself out as such to third parties and that no Party is capable of binding any other Party to any obligation or liability without the prior written consent of the other Party. Neither the execution and delivery of this Agreement, nor consummation of the transactions contemplated hereby, shall create or constitute a partnership, joint venture or any other form of business organization or arrangement between or among the Parties.

5.4. Remedies. In the event of any breach or threatened breach of this Agreement by any Party hereto, the other Party shall be entitled to such equitable relief as is determined to be appropriate by a court of competent jurisdiction, through an injunction in addition to any other rights and remedies available to it.

5.5. Integration. The terms and provisions contained in this Agreement constitute the entire agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes and terminates all previous undertakings, representations and agreements, both oral and written, between the Parties with respect to their activities and obligations with regard to the subject matter covered by this Agreement.

5.6. No Oral Modifications. This Agreement may not be amended or modified except by written agreement executed by each of the Parties hereto.

5.7. Arbitration. Except for claims for equitable relief, including claims for specific performance, all disputes arising in connection with or under this Agreement shall be finally settled by arbitration. The parties shall first confer in good faith on the selection of an arbitrator. If the parties are unable to agree on the selection of an arbitrator and the rules of the arbitration with thirty (30) days of notice by one party to the other party, then an arbitrator shall be selected by JAMS and the arbitration shall be administered under the then prevailing JAMS Streamlined Arbitration Rules and Procedures. The proceedings shall be held in Lewiston, Maine. The prevailing party in any such arbitration proceeding shall be awarded its costs, including reasonable attorney fees.

5.8. No Third Party Beneficiary. This Agreement is exclusively for the benefit of the Parties hereto. It may not be enforced by any party other than the Parties to this Agreement, and shall not give rise to liability to any third party. Notwithstanding and without waiving this provision, Argo may assign its rights under this agreement to its affiliate, parent, or wholly owned subsidiary, including a limited liability company formed to hold title to the Building.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

\_\_\_\_\_  
Witness

ARGO MARKETING, INC.

\_\_\_\_\_  
By: Jason Levesque  
Its: President

\_\_\_\_\_  
Witness

CITY OF LEWISTON, MAINE

By: \_\_\_\_\_  
Its

## List of Exhibits

## **Agreement for Development Assistance and Tax Increment Financing**

THIS AGREEMENT made as of this \_\_\_\_ day of May 2013 by and between **THE CITY OF LEWISTON**, a body politic and corporate situated in Androscoggin County, Maine (hereinafter sometimes referred to as “City,” which expression shall include its successors and assigns), and **ARGO MARKETING GROUP, INC.**, a Maine business corporation with a place of business in Lewiston, Maine (hereinafter sometimes referred to as “ARGO,” which expression shall include its successors and assigns).

I. WHEREAS,

A. ARGO is in the business of providing telemarketing call center services;

B. The City and ARGO have identified a need for rehabilitation and redevelopment of a district consisting of the real estate located at 64 Lisbon Street (the “Building”), and its redevelopment for commercial use by ARGO as a telemarketing call center and business headquarters, within the City of Lewiston;

C. Rehabilitation of the Building will improve the well-being of City residents and better the health, safety and welfare of City residents;

D. ARGO has requested the City’s assistance in connection with the development of the Building consisting of the City’s contribution of funds under the City’s Façade Improvement Program and Life Safety Grant/Loan Program. In addition, ARGO has requested that the City establish a Municipal Development District and provide assistance with operating costs utilizing Tax Increment Financing, as permitted by 30-A M.R.S.A. § 5223;

E. At least 25% of the area within the proposed development district is in need of rehabilitation, redevelopment, and is suitable for commercial uses; and

F. Development of the project and expansion of ARGO will result in significant new job creation and expansion of Lewiston’s tax base; and

G. The provision of such assistance by the City has been determined to be consistent with the development program, pursuant to authority granted by 30-A M.R.S.A. § 5224 *et. seq.* Without limitation, this includes: financing the expansion, improvement, and redevelopment of commercial facilities; financing economic development programs; funding the marketing of the city as a business or arts location; capitalization of City managed commercial loan and grant programs, and funding for infrastructure and other costs related to improving Downtown

portions of the City, including without limitation the implementation of the City's Riverfront Island Master Plan.

II. THE CITY AND ARGO AGREE AS FOLLOWS:

A. Definitions. The terms defined in this Section II(A) shall, for all purposes of this Agreement, have the meanings herein specified.

1. Agreement - shall mean this Agreement for Development Assistance and Tax Increment Financing between the City and ARGO.

2. ARGO - shall mean Argo Marketing Group, Inc., with a mailing address of 415 Lisbon Street, Lewiston, Maine 04240, Attention: Jason Levesque. Copies of notices required under this Agreement shall be sent to John D. Clifford, IV, Esq., P.O. Box 368, Lisbon Falls, Maine 04252.

3. Captured Assessed Value - shall mean the entire Increased Assessed Value, as certified by the Tax Assessor that is utilized from year to year to finance the Project Costs. The Tax Increment Revenues from the Captured Assessed Value shall be allocated to fund Project Costs as follows:

- a. The following portions shall be paid from the Development Program Fund to Argo as set forth below, for the purpose of financing the costs of improvements made within the Development District:
  - i. For years 1 through 5 (starting April 1, 2014): fifty-percent (50%) of the Tax Increment Revenues;
  - ii. If, at any point during years 1 through 5, fifty percent (50%) of the Leasable Space in the Building is leased and occupied by an entity other than Argo: forty percent (40%) of the Tax Increment Revenues shall be paid to Argo, beginning the following tax year after the Leasable Space is so leased and occupied;
  - iii. For years 6 through 10: forty percent (40%) of the Tax Increment Revenues shall be paid to Argo;
- b. The balance of the Tax Increment Revenue shall be allocated to the City to fund costs related to economic development, environmental

improvements, economic development programs developed by the City in order to fund the marketing of the City as a business and arts location, and other costs related to improving Downtown portions of the City, including without limitation, the implementation of the City's Riverfront Island Master Plan.

The Captured Assessed Value means that the percentage of the Tax Increment Revenues listed above shall be paid into the Development Program Fund for distribution as described herein.

4. City - shall mean the City of Lewiston, Maine, with a mailing address of 27 Pine Street, Lewiston, Maine 04240 Attention: Director of Finance. Copies of notices required under this Agreement shall be sent to Martin I. Eisenstein, Esq., Brann & Isaacson, 184 Main Street, P.O. Box 3070, Lewiston, Maine 04243-3070.

5. City Council – shall mean the legislative body of the City.

6. Claims - shall have the meaning stated in Section II(G).

7. Current Assessed Value - shall have the meaning set forth in 30-A M.R.S.A. Section 5222(4), and for the purposes of this Agreement shall mean the assessed value of all real property in the District as of April 1, 2014 and continuing up to April 1, 2024.

8. Development Costs - shall mean the expenditures made and/or monetary obligations incurred by the City to complete components of the Development Program in connection with completion of the project.

9. Development District or District - shall mean the Municipal Development District to be established by resolution of the City Council and pursuant to 30-A M.R.S.A. Section 5223, *et seq.*, relating to and encompassing the Property at Map 207, Lot 73 in Lewiston, Maine as set forth in Exhibit A and consisting of approximately .37 acres.

10. Development Program - shall mean the Development Program adopted by the City Council for the District pursuant to Title 30-A, Section 5224, *et seq.*

11. Development Program Fund - shall mean the fund established by the City for the District pursuant to 30-A M.R.S.A. § 5227 and shall consist of the (1) Development Sinking Fund Account, if any, which shall be an account pledged to and

charged with the payment of any interest and principal on any Bond, if issued, or any other costs permitted by law as the same shall fall due; and (2) the Project Cost Account which shall be pledged to and charged with the payment of the Project Costs as permitted by Statute.

12. Event of Default - shall have the meaning stated in Section II(F).

13. Increased Assessed Value - shall mean the difference between the Current Assessed Value and the Original Assessed Value of the Development District for each of the 10 Tax Years beginning in Tax Year 2015 and concluding in Tax Year 2024.

14. Leasable Space – means 4,900 square feet of space within the Development District not occupied or leased by Argo.

15. Losses – shall have the meaning stated in Section II(G).

16. Optimal Assessed Value - shall mean a real property Current Assessed Value of One Million Seven Hundred Thousand Dollars (\$1,700,000), if the Leasable Space is restored and capable of commercial use, and a Current Assessed Value of One Million Three Hundred Ninety Thousand Dollars (\$1,390,000) if the Leasable Space is not restored and capable of commercial use.

17. Original Assessed Value – shall mean the assessed value of all real property in the District as of March 31, 2013 which is equal to \$268,750.

18. Project Costs - shall mean any costs that are eligible for reimbursement pursuant to 30-A M.R.S.A § 5225 *et seq.* or in regulations promulgated thereunder and set forth in the development plan, as that term is defined for purposes of this Agreement but in any event not to exceed the Tax Increment Revenues under this Agreement.

**[ARGO NEEDS TO INSERT ITS DESCRIPTION OF THE WORK TO BE DONE PROMISED TO PROVIDE THIS]**

19. Property – shall have the meaning stated in Section II(A)(9).

20. Tax Increment Revenues - shall mean those real property tax revenues attributable to Increased Assessed Value in each Tax Year, during the ten (10) year period beginning in Tax Year 2015 and continuing through Tax Year 2024.

21. Tax Year - shall mean the municipal tax year which begins on July 1<sup>st</sup> after the preceding April 1<sup>st</sup> assessment date in that same calendar year, and which

ends on the following June 30<sup>th</sup>. By way of illustration, Tax Year 2014 begins on July 1, 2013.

B. City's Obligations.

1. Establishment of Development District. The City has established the Development District as a Tax Increment Financing District, for the purpose of facilitating the provision of the financial assistance contemplated hereunder.

2. Transfer of Property. ARGO shall acquire the Building in accordance with the Joint Development Agreement between ARGO and the City of Lewiston, dated as of May 7, 2013 as the same may be amended from time to time.

3. Disbursement of funds to ARGO. The City will disburse the Project Costs to ARGO twice annually in equal disbursements beginning in Tax Year 2015 and continuing through Tax Year 2024, as described in Section II(D)(4), which obligation to disburse is subject to: (1) completion of ARGO's obligations under the Joint Development Agreement; and (2) designation of the Development District and approval of the Development Program and this Agreement by the City Council and Maine Department of Economic and Community Development.

C. ARGO's Obligations.

1. ARGO's Obligation to Construct. ARGO agrees to rehabilitate the Building and restore it to commercial use in accordance with the Joint Development Agreement. ARGO's total investment in the Building, including the City's assistance, shall be at an initial estimated cost of Two Million Two Hundred Thousand Dollars (\$2,200,000). Construction shall commence within 6 months hereof, and be completed on or before April 1, 2014.

2. State Reporting Requirements. To the extent required by statute and regulations, ARGO shall comply with all reporting requirements relating to this tax increment financing project.

3. ARGO Obligation to Achieve and Maintain Optimal Assessed Value. On or before April 1, 2014, ARGO agrees that the Optimal Assessed Value shall be achieved, and that as of April 1<sup>st</sup> of each succeeding year thereafter, during the term of this Agreement, such Optimal Assessed Value shall be maintained.

4. ARGO Contingencies. If any of the following conditions are not satisfied,

ARGO shall have the sole and exclusive right to terminate this Agreement by delivering written notice of such termination to the City, and in the event of such termination, City shall have no further obligations hereunder:

- a. ARGO, or a limited liability company affiliated with ARGO, fails to purchase the Building by August 1, 2013.
- b. ARGO fails to provide equity or obtain financing necessary for Argo to match the City's disbursements to Argo under the Façade Grant/Loan Program on a 1:1 basis with non-city resources.
- c. ARGO fails to provide equity or obtain financing necessary for Argo to match the City's disbursements to Argo under the Life Safety Grant/Loan Program on a 1:1 basis.

ARGO shall have 21 days from the dates specified in the foregoing subsections to deliver such termination notices to the City.

D. Administrative Provisions.

1. Taxable Status of District Property: Tax Base Conservation Payment. The parties agree that, other than public ways, water pipes or conduits, industrial inventories or stock in trade, there is no real property located within the boundaries of the Development District which is entitled to exemption from municipal taxation by reason of the status or other qualification of its owner, or the use to which it is put, and that in the event that any part of such real property now or hereafter located, constructed or delivered into the Development District should be determined to be entitled to such exemption from municipal taxation, the owner of such real property shall annually be liable to City in an amount equal to the amount of tax which, but for the exemption, would be due to the City with respect to such real property (hereinafter the "Tax Base Conservation Payment"). Payment of the Tax Base Conservation Payment shall be made on or before September 30th of each year in which it is due. ARGO shall promptly pay the Tax Base Conservation Payment. This Agreement shall be recorded in the Androscoggin County Registry of Deeds and shall be binding upon the parties and upon all Lessees and/or successors-in-title to ARGO with respect to property located within the District, for so long as this Agreement shall remain in effect. The Agreement

to make Tax Base Conservation Payments with respect to property which is subject to tax exemptions (i) shall be a covenant running with the land, made in consideration of the assistance by the City of Lewiston's Development Costs; (ii) is a voluntary contractual arrangement; and (iii) is not and shall not be construed to create a service charge pursuant to 36 M.R.S.A. Section 652(l)(L).

2. Deposits into Development Program Fund. The term of the Development District shall be 10 years. During the term of the Development District, the City shall annually deposit into the Development Program Fund, or other fund established pursuant to 30-A MRSA § 5227, that portion of each property tax payment by ARGO or its successors or assigns during the term of this Agreement constituting Tax Increment Revenues from within the Development District. The City shall make such deposit promptly upon receipt of Tax Increment Revenues. The remaining proceeds of the Development Program Fund, shall be allocated to the City for expenditure on Project Costs as set forth above, pursuant to 30-A MRSA § 5225(1)(B), (C). In addition:

(A) Any interest earned upon the Project Cost Account shall inure to the benefit of the City;

(B) The first payment into the Development Program Fund shall be made from revenues arising out of the Tax Year 2015 municipal tax bill and shall continue until the last such deposit shall be made from revenues arising out of the Tax Year 2024, municipal tax bill.

3. ARGO Payment. ARGO shall pay to the City when due the taxes on the Optimal Assessed Value or Current Assessed Value, whichever is higher. The City shall withhold from any payment to be made by the City pursuant to this Agreement any amount due from ARGO that is due and unpaid.

4. Payments from the Development Program Fund for Project Costs. Beginning with the 2015 tax year and continuing through Tax Year 2024, within fifteen (15) days after the last payment by ARGO of taxes for the Tax Year, and provided that ARGO has made full payment of taxes on the Optimal Assessed Value, the City shall pay ARGO the Captured Assessed Value for that Tax Year, as identified in Section II(A)(3)(a). ARGO agrees that all payments made to it will be used and applied to

subsidize operational expenses or to reimburse ARGO for indebtedness incurred in redevelopment of the Building.

E. ARGO Guaranty of Optimal Assessed Value to the City.

1. Undertaking to Guaranty and Determination of Amounts Guaranteed. In order to induce the City to enter into this Agreement, ARGO covenants that by April 1, 2014, the Optimal Assessed Value shall be achieved. To give effect to that covenant, ARGO agrees that in the event that as of April 1, 2014, or as of the like day of each subsequent year while this Agreement remains in effect, the Current Assessed Value is less than the Optimal Assessed Value, ARGO promises to pay to the City a sum equal to the difference between the actual tax revenues (being those computed upon the basis of the then Current Assessed Value arising out of real estate property) and the tax revenues which would have been realized had the Optimal Assessed Value been achieved.

2. Due Date of Payment, Etc., of Guaranteed Payments. Such payments shall be made on the due date(s) of tax payments to the City following the April 1 assessment date to which the guaranteed payments correspond) and shall, in the event that they are not timely paid, be subject to the same rate of interest as that assessed upon late taxes. These Guaranty obligations shall remain in effect during the term of this Agreement.

F. Default and Remedies.

1. Events of Default. Each of the following events shall constitute and be referred to in this Agreement as an "Event of Default":

a. Failure to Honor Guaranties. ARGO shall fail to timely make payments to City arising out of its Guaranty of Optimal Assessed Value under Subsection II(E)(1) above.

b. Abandonment of Project. ARGO shall abandon the project.

c. Failure to Pay Taxes. ARGO shall fail to make any payment of municipal taxes assessed upon real or personal property of ARGO's within the District within Forty-Five (45) days after the due date of such taxes;

d. Other Failures to Perform. Any other failure by a party hereto to observe and perform in all material respects any covenant, condition, agreement or provision contained herein on the part of the party to be observed or performed, provided that it shall not be a default under this Agreement for ARGO to fail to achieve

the Optimal Assessed Value earlier than April 1, 2014, as long as it continues to make payments as set forth at Section D(3) above;

e. Events of Insolvency. If a decree or order of a court or agency or supervisory authority having jurisdiction in the premises for the appointment of a conservator or receiver or liquidator of, any insolvency, readjustment of debt, marshaling of assets and liabilities or similar proceedings, or for the winding up or liquidation of a party's affairs shall have been entered against the party or the party shall have consented to the appointment of a conservator or receiver or liquidator in any such proceedings of or relating to the party or of or relating to all or substantially all of its property, including without limitation the filing of a voluntary petition in bankruptcy by the party or the failure by the party to have a petition in bankruptcy dismissed within a period of ninety (90) consecutive days following its filing or in the event an order for release has been entered under the Bankruptcy Code with respect to the party.

2. Remedies on Default. Whenever any Event of Default referred to in Section II (F)(1) hereof shall have occurred and be continuing for a period of five (5) days in the case of a payment obligation, and fifteen (15) days after a party's receipt from the other party of written notice of an Event of Default by the party, the other party may, in its discretion, (a) specifically enforce the performance or observance of any obligations, agreements or covenants of the defaulting party under this Agreement and any documents, instruments and agreements contemplated hereby or to enforce any rights or remedies available hereunder; (b) suspend its performance under this Agreement for so long as the Event of Default continues or remains uncured; and/or (c) declare an Event of Default to exist, terminate this Agreement and its obligations under this Agreement. ARGO agrees to pay the City's expenses, including reasonable attorneys' fees, incurred in connection with enforcing this Agreement or as a result of an Event of Default.

3. Remedies Cumulative. No remedy herein conferred upon or reserved to a party is intended to be exclusive of any other available remedy or remedies but each and every such remedy shall be cumulative and shall be in addition to the remedy given under this Agreement or now or hereafter existing at law, in equity or by statute. Delay or omission to exercise any right or power accruing upon any Event of Default, to insist upon the strict performance of any covenant or agreement herein set

forth or to exercise any right or remedy upon the occurrence of an Event of Default shall not impair any such right or power or be considered or taken as a waiver or relinquishment for the future of the rights to insist upon and to enforce, from time to time and as often as may be deemed expedient, by injunction or other appropriate legal or equitable remedy, strict compliance by the party with all of the covenants and conditions hereof, or of the rights to exercise any such right or remedy, if such Events of Default be continued or repeated.

G. Indemnification.

ARGO shall indemnify, defend and hold harmless the City and its agents, servants, officers, directors, employees and affiliates from and against any loss, cost, liability, claim, damage, expense (including, without limitation, all out-of-pocket expenses, reasonable attorneys' fees, disbursements and costs), penalty or fine incurred in connection with any claim or cause of action arising from or in connection with Argo's activities under this Agreement or to the extent caused by the negligence, misrepresentation, fraud, fault or misconduct of Argo.

H. Miscellaneous.

1. Invalidity. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

2. Integration. Except as otherwise expressly provided herein, this Agreement contains the entire agreement between the parties hereto, and no modification, amendments, change or discharge of any term or provision of this Agreement shall be valid or binding unless the same is in writing, signed by all parties hereto. No waiver of any of the terms of this Agreement shall be valid unless signed by the party against who such waiver is asserted. The parties agree that they will not assert in any action arising under this Agreement that an amendment or waiver of this Agreement has occurred unless made in writing.

3. Notices. Any notice, demand, offer, or other written instrument required or permitted to be given, made, or sent hereunder shall be in writing, signed by the party giving or making the same, and shall be sent by certified mail to the other at its

respective address stated in Section II. Any party hereto shall have the right to change the place to which any such notice, offer, demand, or writing shall be sent to it by similar notice sent in like manner to the other party. The date of mailing of any offer, demand, notice, or instrument shall be deemed to be the date of such offer, demand, notice, or instrument and shall be effective from such date.

4. Choice of Law; Jurisdiction. It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and under and pursuant to the laws of the State of Maine and that, in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of this Agreement, the laws of the State of Maine shall be applicable and shall govern to the exclusion of law of any other forum. The parties agree to the jurisdiction of the courts of the State of Maine or of the United States of America located in the State of Maine, and agree that any action relating to this Agreement shall be brought in either such court.

5. Effective Date and Term. This Agreement shall remain in full force from the date of execution of this Agreement and shall expire upon the payment of all amounts due to ARGO and the performance by the City and ARGO of their respective obligations under this Agreement unless sooner terminated as provided in this Agreement. The obligations of the City to deposit Tax Increment Revenues into the Development Program Fund and to make payments from the Development Program Fund to ARGO shall terminate with regard to Tax Year 2024 unless this Agreement shall be terminated earlier. For Tax Years 2024 and thereafter, all property within the Development District shall be taxable by the City to the extent provided by law.

6. Waiver. The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

7. Non-Assignability. ARGO shall not have the right to transfer or assign all or any portion of its rights in, to and under this Agreement, or the Development Program, at any time, unless the City, by its City Administrator consents to the same.

8. Parties in Interest. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person other than the City and ARGO any right, remedy or claim under or by reason of this Agreement, it being intended that this Agreement shall be for the sole and exclusive benefit of the City and ARGO.

9. No Personal Liability of Officials of the City. No covenant, stipulation, obligation or agreement of the City contained herein shall be deemed to be a covenant, stipulation, or obligation of any present or future elected or appointed official, officer, agent, servant or employee of the City in his or her individual capacity, and no such person shall be liable personally with respect to this Agreement or be subject to any personal liability or accountability by reason hereof.

10. Section Headings. The title to the Sections of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

11. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same Agreement.

**(Remainder of page intentionally left blank)**

IN WITNESS WHEREOF, the said City of Lewiston and the Argo Marketing Group, Inc. have caused this Agreement to be executed on their behalf by their officials and officers, as set forth below, thereunto duly authorized, as of the day and year first above written.

CITY OF LEWISTON

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
By: Edward Barrett  
Its: City Administrator

ARGO MARKETING GROUP, INC.:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
By: Jason Levesque  
Its: President

STATE OF MAINE  
ANDROSCOGGIN, SS.

\_\_\_\_\_  
May \_\_\_\_, 2013

Personally appeared before me the above-named Edward Barrett, City Manager of the City of Lewiston and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said City of Lewiston.

\_\_\_\_\_  
Notary Public/Attorney-at-Law

STATE OF MAINE  
ANDROSCOGGIN, SS

\_\_\_\_\_  
May \_\_\_\_, 2013

Personally appeared before me the above-named Jason Levesque, President of Argo Marketing Group, Inc. and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Argo Marketing Group, Inc.

\_\_\_\_\_  
Notary Public/Attorney-at-Law

Exhibit A  
Property Description

(See Attached)

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 16**

**SUBJECT:**

Public Hearing and Adoption of the Resolve approving the FY2013 Community Development Block Grant (CDBG) Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development.

**INFORMATION:**

During previous Council meetings and workshops, the Council received the recommendation from the CDBG Review Committee regarding the FY13 CDBG budget and Action Plan, and voted to set the public hearing for the May 7, 2013 City Council meeting. HUD requires that final acceptance of this budget take effect a minimum of 45 days prior to the end of the fiscal year. The City Council is requested to take the following action:

- 1) Hear public comments on the proposed budget and Action Plan (see attached material).
- 2) Adopt the schedule of funds for the Fiscal Year 2013 (FY11) CDBG budget as recommended by the Community Development Block Grant Review Committee.
- 3) Authorize the submission of the Action Plan to the Department of Housing and Urban Development.

**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 Resolve approving the FY2013 Community Development Block Grant Action Plan Budget for submittal to the U.S. Department of Housing and Urban Development.



**City of Lewiston Maine  
City Council Resolve  
May 7, 2013**



**Resolve,** Approving the FY2013 Community Development Block Grant (CDBG) Action Plan Budget for Submittal to the U.S. Department of Housing and Urban Development (HUD).

Whereas, in accordance with applicable sections of 24 CFR Parts 91 and 570 and the City's Citizen Participation Plan, the City has provided citizens with adequate notice and opportunity to review and comment on its annual Action Plan budget; and

Whereas, the City Council has, on this date, conducted a public hearing and accepted public comments on the proposed Action Plan; and

Whereas, HUD requires that final local acceptance of the CDBG Action Plan budget take effect a minimum of 45 days prior to the end of this fiscal year, which occurs on June 30, 2013;

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

The attached schedule of funds for the Federal Fiscal Year 2013 (FY13) CDBG budget (Action Plan) is hereby adopted and City staff is hereby authorized to submit the FY2013 Action Plan to the U.S. Department of Housing and Urban Development as adopted.

**Be it further Resolved that**

The amount of \$26,744, which is the current estimate of the amount the Action Plan is below the most recent projected allocation, shall be carried as a contingency against any shortfall in projected program income and uncertainty over the final FY13 allocation to be received by the City. Once the final allocation has been determined by HUD, Lewiston's Citizen Advisory Committee will reconvene to develop recommendations for changes in the allocations for presentation to the City Council.

# Economic and Community Development

Lincoln Jeffers  
Director



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE: Proposed CDBG Budget**  
**Date:** May 2, 2013

In my April 9th presentation to the City Council on the recommendations of the Citizen Advisory Committee (CAC) for how the coming years CDBG allocation should be invested, I noted that the recommendations were based on a HUD projected 5% reduction in funding from the current year, a \$38,016 decrease.

Since then, things have changed in Washington. The most recent word from HUD is to plan on flat funding from the City FY2013 to FY 2014 budget. This is good news; but, until Congress acts, it is uncertain. HUD has asked recipients to request extensions on the FY2014 Action Plan filing time frame and to not file until Congress has set the allocation amounts. The City has complied, extending our filing time frame until July 15, 2013.

Attached is the most recent version of the CAC recommended CDBG Budget. The only difference from the budget presented on April 9<sup>th</sup> is the increase in the percentage of my salary funded by CDBG from 50% to 65%, an increase of \$18,050. This increase in funding recognizes the proportionate increase in the amount that can be spent to support program administration. It also assists in freeing up resources in the City's TIF account that can be used to hire an Economic Development Specialist, increasing the productive capacity of the department.

News of the projected increase in CDBG funding came down recently. There has not been enough time to reconvene the CAC to discuss and perhaps amend their funding recommendations. The attached budget would place \$19,966 of the increased projected allocation into contingency. Doing so while approving the budget as part of the City's broader budget process will allow the CAC time to reconvene and make recommendations on the allocation of additional CDBG funding should the revised projections from HUD prove accurate.

In case you have questions on the CDBG allocation process to date, attached is a copy of the memo for the April 9<sup>th</sup> Council Workshop on CDBG.

## Economic and Community Development

Lincoln Jeffers

Director



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE: Proposed CDBG Budget**  
**Date:** April 5, 2013

With all the machinations in Washington D.C. the level of Community Development Block Grant funding Lewiston is expected to receive is uncertain. The most recent word from HUD has been to plan on a 5% reduction from last year's allocation, which translates to a projected allocation of \$722,298 for the coming fiscal year; a 36% reduction since FY11.

The Citizen Advisory Committee (CAC) has had seven meetings, first meeting in October. Prior to issuing a request for funding proposals on December 1, the CAC met twice, reviewing last year's process, evaluating Lewiston's progress toward achieving the goals articulated in the CDBG 5 Year Strategic Plan, as well as how agencies funded last year are doing toward achieving the goals articulated in their applications. The application and scoring processes were reviewed and amended, looking to improve it and have it better reflect the goals of the Strategic Plan, and addressing concerns raised last year by the Council about the process.

A new application was developed, with Community Development staff providing a training on the new application for applicants. The scoring criteria were reduced from five criteria to four, and the points available within each category were adjusted:

How well does the application . . .

- a) Support the 5 Year Strategic Plan and its goals (max. points reduced from 40 to 35)
- b) Meet a critical unmet need (max. points increased from 20 to 35)
- c) Is within the applicant's capacity to carry out (max. points remained at 20)
- d) Is cost effective. (max. points remained at 10)

The criteria that was dropped was "Is of high overall quality." The CAC wanted to reduce the subjective nature of scoring, and felt that the elements of this criteria were captured in large measure by the other criteria.

New agencies requesting funds were interviewed, as were familiar agencies requesting funds for new programs. Each committee member reviewed and individually scored each application. Those scores were combined and averaged for each agency. The CAC had their seventh meeting on March 26<sup>th</sup>. They reviewed the consolidated score averages and developed their funding recommendations to the City Council. Those recommendations are attached.

The amount of money that can be distributed to social service agencies is capped by HUD regulations at 15% of the new allocation plus the program income from the prior year. The social service agency cap for the coming year is estimated to be \$137,325. The combined funding requests from social service agencies for the coming year totaled \$344,425, more than two and a half times the funds available.

With much more demand for funding than there are funds available, and to be able to provide a level of funding to individual agencies that is meaningful, the CAC is recommending that agencies that scored below 80 not be funded. The CAC is also recommending that the funding received by agencies should be linked to their scores, with those agencies that scored highest getting a commensurately higher percentage of their funding request. The formula used by the CAC for their recommendation is:

*Funding request X Score X 60%.*

Salary funding recommendations include funding the dedicated downtown code enforcement officer for a full year, rather than just until November, which would have complete the two year contract when this position was originally created. Putting this position on a calendar year basis requires \$96,400 in funding. Completing the two year contract would require \$32,100. The proposed budget funds 50% of my salary, which in recent years has been 100% paid by the Walmart TIF. Salaries for other staff are distributed across a variety of federal grants.

The budget recommends funding for acquisition/demolition at \$49,805; and to recapitalize our residential lending program with \$126,294 in city administered programs, as well as \$71,242 to go to Community Concepts to capitalize a program that will provide funds to low income home owners to make roof and electrical system improvements that are needed to allow the investment of weatherization and heating system repair funds from other programs. This is in keeping with the community development department's strategy of supporting the removal of the worst of the city's housing stock, and layering and leveraging programs from multiple sources to improve Lewiston's affordable housing stock.

I look forward to further discussion in workshop on April 9<sup>th</sup>.



# LEWISTON CITY COUNCIL

MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 17**

**SUBJECT:**

Final Budget Public Hearing for the Fiscal Year 2014 Municipal Budget.

**INFORMATION:**

The City Council schedules and conducts two public hearings regarding the budget to receive citizen input. An initial public hearing is held earlier in the budget review process and a final public hearing is held at the end of the budget review process, prior to the final budget approval.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

This public hearing is part of the budget process to receive citizen input.

*ERB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To conduct a final budget public hearing to receive citizen input and communication regarding the proposed Fiscal Year 2014 Municipal budget.

**DISPLAY AD**

**CITY OF LEWISTON  
FINAL BUDGET PUBLIC HEARING**

Notice is hereby given in accordance with Article VI, Section 6.07(a) of the City Charter of a Public Hearing on the Budget for Fiscal Year 2014.

All citizens are invited to attend and provide the City Council with written and/or oral comments and ask questions concerning the City's entire proposed budget.

**HEARING DATE: Tuesday, May 7, 2013  
TIME: 7:00pm  
LOCATION: City Council Chambers - City Building  
PROPOSED BUDGET - FISCAL YEAR 2014**

A copy of the proposed budget may be inspected at the City Clerk's Department in City Hall, or at the Lewiston Public Library on Lisbon Street during regular working hours, as well as on the City's website at [www.lewistonmaine.gov](http://www.lewistonmaine.gov) The City of Lewiston is an EOE.

Kathleen M. Montejo, MMC  
City Clerk

**Display Ad – Friday, April 26, 2013**

TO: Advertising Department 784-3062 fax  
FROM: City Clerk's Office 777-4621 fax

Please bill the City Clerk's office account. Thank you.

**LEWISTON CITY COUNCIL  
MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 18**

**SUBJECT:**

Adoption of Budget Articles on School Funding for the period July 1, 2013 to June 30, 2014.

**INFORMATION:**

In accordance with the School Finance Act, it is requested that the City Council adopt Budget Articles relating to school financing. The Superintendent will be present to address any questions the Councilors may have.

The School Budget Validation Referendum election will be held Tuesday, May 14 at the Longley Elementary School (former Multi-Purpose Community Center).

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*ETAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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That the Budget Articles on school funding for the period July 1, 2013 to June 30, 2014, be adopted as recommended by the Lewiston School Committee.

## LEWISTON SCHOOL DEPARTMENT BUDGET ARTICLES

### **EXPENDITURE ARTICLES:**

1. To authorize the Lewiston School Committee to expend \$21,671,598 for Regular Instruction for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
2. To authorize the Lewiston School Committee to expend \$13,042,648 for Special Education for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
3. To authorize the Lewiston School Committee to expend \$2,916,067 for Career and Technical Education for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
4. To authorize the Lewiston School Committee to expend \$825,206 for Other Instruction, including Summer School and Extracurricular Instruction for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
5. To authorize the Lewiston School Committee to expend \$3,252,692 for Student and Staff Support for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
6. To authorize the Lewiston School Committee to expend \$1,141,039 for System Administration for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
7. To authorize the Lewiston School Committee to expend \$2,468,674 for School Administration for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
8. To authorize the Lewiston School Committee to expend \$2,888,877 for Transportation and Buses for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
9. To authorize the Lewiston School Committee to expend \$6,500,119 for Facilities Maintenance for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
10. To authorize the Lewiston School Committee to expend \$2,847,348 for Debt Service and Other Commitments for the fiscal year beginning July 1, 2013 and ending June 30, 2014.
11. To authorize the Lewiston School Committee to expend \$16,000 for All Other Expenditures for the fiscal year beginning July 1, 2013 and ending June 30, 2014.

### **REVENUE ARTICLES:**

12. To see what sum the City will appropriate for the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act (Recommend \$57,124,904) and to see what sum the City will raise as the City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act in accordance with the Maine Revised Statutes, Title 20-A, §15688.

Statutory Recommendation \$18,534,594

School Committee Recommendation \$17,346,724

*Explanation: The City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act is the amount of money determined by state law to be the minimum amount that the City must raise in order to receive the full amount of state dollars. Note: Per PL2009, Chapter 571, the amount recommended by the school committee as the required local share for the FY2013-2014 budget may be no less than 82.10% of the Title 20-A, Section 15688 amount, in order to receive the full amount of State subsidy.*

13. To appropriate the sum of \$388,774 for the annual payments on debt service previously approved by the City Council for non-state-funded school construction projects or non-state-funded portions of school construction projects in addition to the funds appropriated as the local share of the City's contribution to the total cost of funding public education from kindergarten to grade 12. *Explanation: Non-state-funded debt service is the amount of money needed to repay the annual payments on Lewiston's long-term debt for major capital school construction projects that are not approved for state subsidy. The bonding of this long-term debt was previously approved by the City Council.*

14. To raise and appropriate the sum of \$0 in additional local funds for school purposes under Maine Revised Statutes, Title 20-A, section 15690.

*Explanation: The additional local funds are those locally raised funds over and above the City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act and local amounts raised for the annual payment on non-state-funded debt service that will help achieve the City's budget for educational purposes.*

**TOTAL SCHOOL OPERATING BUDGET ARTICLE:**

15. To authorize the Lewiston School Committee to expend the sum of \$7,570,268 for the fiscal year beginning July 1, 2013 and ending June 30, 2014 from the City's contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act, non-state-funded school construction projects, additional local funds for school purposes under the Maine Revised Statutes, Title 20-A, section 15690, unexpended balances, tuition receipts, state subsidy and other receipts for the support of schools.

**OTHER REVENUES**

16. To authorize the Lewiston School Committee to expend additional State, Federal and other funds received during the fiscal year 2013-2014 for school purposes, provided that such additional funds do not require the expenditure of local funds not previously appropriated

17. To authorize the Lewiston School Committee to accept the categories of funds listed below as provided by the Maine State Legislature.

<u>AMOUNT</u>	<u>CATEGORY</u>	<u>ESTIMATED</u>
	Title I A Disadvantaged	\$2,171,000
	Title IIA Teacher Quality	\$ 340,000
	Title III ELL	\$ 135,600
	Local Entitlement, Part 1 School Age and Part 2, Preschool Age	\$1,275,000
	Carl D. Perkins Vocational and Applied Technology Education Act of 1990	\$ 192,915
	Adult Basic Education	\$ 100,000
	Adult Ed Civics Grant	\$ 34,958
	Refugees Impact Grant	<u>\$ 23,000</u>
		\$4,272,473

**ADULT EDUCATION:**

18. To appropriate the sum of \$636,196 for adult education for the fiscal year beginning July 1, 2013, and ending June 30, 2014, and to raise the sum of \$420,862 as the local share for adult education, with authorization to expend any additional incidental or miscellaneous receipts in the interest and for the wellbeing of the adult education program.

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 19**

**SUBJECT:**

Budget Recommendations from the Finance Committee regarding the proposed Fiscal Year 2014 Budget.

**INFORMATION:**

By City Charter, the Finance Committee annually reviews the proposed municipal budget and sends a recommendation to the City Council regarding the proposed budget. Information is attached regarding their recommendation.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

Per the City Charter, the Finance Committee shall issue their budget recommendations to the City Council.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To receive and review the recommendation from the Finance Committee regarding the proposed Fiscal Year 2014 Budget.



## City of Lewiston Finance Department

Norman Beauparlant, Director of Budget/Purchasing



April 23, 2013

The Honorable Robert Macdonald, Mayor  
and Members of the City Council  
City Hall  
Lewiston, Maine 04240

Dear Mayor and Members of City Council:

At a meeting of the Finance Committee held on Monday, April 22, 2013 the Committee took the following action on the recommendation to the Mayor and City Council in regards to the Fiscal Year 2014 Budget:

*On motion of Councilor Cayer, seconded by Councilor Christ it was*

**VOTED:**

*After careful review of the Lewiston City Administrator FY2014 proposed budget, the Finance Committee feels it most important to first remind our City officials that federal spending followed by sequestration added to the State's inability to control its spending habits is now more than ever resulting in towns and cities feeling a heavier burden than one should expect. Given the largest share of those local revenues are now based on property taxes, our homeowners are faced with higher State and Federal income taxes as well as increased property taxes locally.*

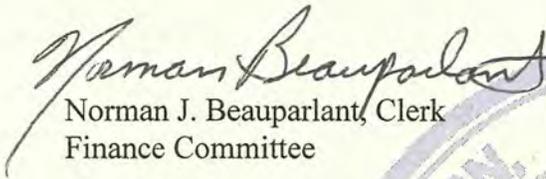
*Lewiston suffers from an aging housing stock, abandoned businesses and recently even more single family residences foreclosed on - unpaid debts typically include unpaid escrow for property taxes and insurance. While City officials may have a vision to create a more liveable City, that vision will not be possible until we control our spending habits and unsustainable continued level of debt service. Each year the Finance Committee provides this warning to the Mayor, City Council and Administrator, only to have the document forgotten once the start of the new fiscal year begins.*

*An aging housing stock coupled with increasing taxes due to increased debt service and continued spending will not be positive signs to attract the new permanent residents we might wish to attract in order to make the vision a reality. While an argument might be made that "if you build it they will come", you also run the significant risk of losing those current residents who can no longer afford the vision or cannot carry the load in hopes of others joining later.*

*Lastly, we offer two recommendations to the elected officials of this City. First you must have the foresight to reduce that tax burden and look at all options for doing business including outsourcing, shared services with other communities and combined departments and divisions. It may even be time to consider a merger of services with other communities. Secondly, you must hold elected and appointed officials at all levels of government to the same standard. Gone are the days when economic development was a sure thing. We must account for every dollar spent, every dollar collected at all levels of government. We have a spending problem at all levels of government and until our elected leaders can recognize and take steps to change that habit, the cost will fall more than ever upon the homeowners of this City.*

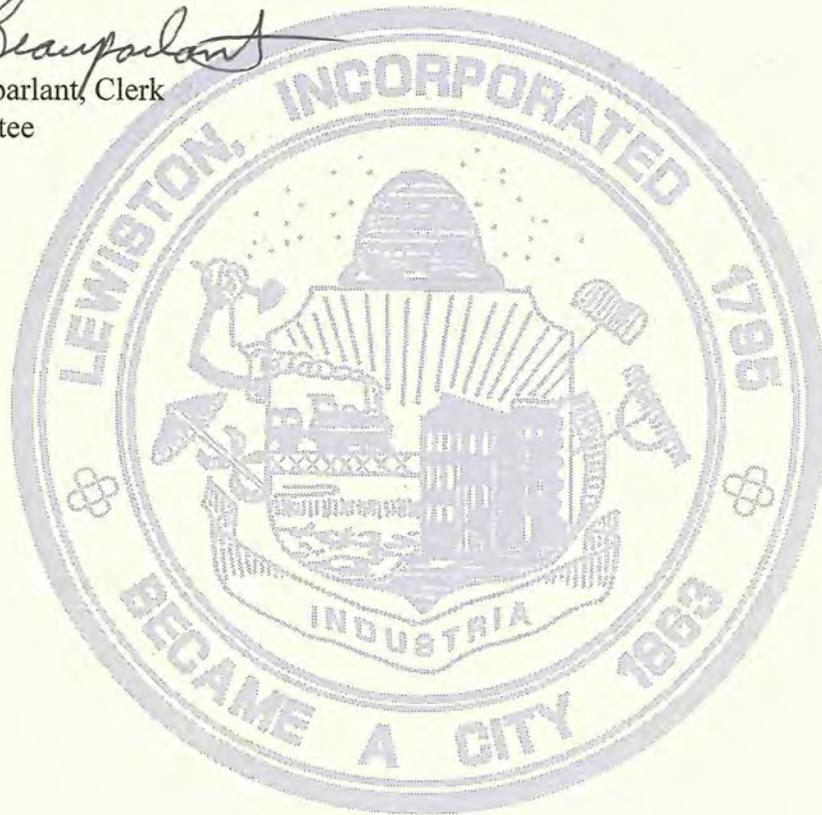
**VOTE: 5-0**

Respectfully,



Norman J. Beauparlant, Clerk  
Finance Committee

NJB/syt



**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 20**

**SUBJECT:**

Resolve approving the Final Adjustments to the Fiscal Year 2014 Municipal Budget.

**INFORMATION:**

Prior to final budget adoption, the Council must review and approve all adjustments to the proposed budget. The attached listing represents adjustments that the Council has already reviewed and discussed during budget workshops. The City Administrator and the Finance Director will be available to answer questions regarding the proposed budget adjustments.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The budget adjustments are presented to Council to provide various budget alternatives.

*EAB/ckm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To adopt the Resolve approving the final adjustments to the Fiscal Year 2014 Municipal Budget.



**City of Lewiston Maine  
City Council Resolve  
May 7, 2013**

**RESOLVE, Approving the Final Adjustments to the Fiscal Year 2014 Municipal Budget**

**Whereas,** in accordance with the Charter, the City Administrator presented his proposed Fiscal Year 2014 budget to the City Council on March 26, 2013; and

**Whereas,** since then, the City Council has met on numerous occasions to review the various departmental budgets and to discuss changes to the Administrator's proposal; and

**Whereas,** throughout this process, the City Council has shown support for certain changes and adjustments affecting both the revenue and expenditure budgets; and

**Whereas,** the overall goals of this effort were to maintain essential public services while reducing the impact of the budget on the taxpayers of the City of Lewiston; and

**Whereas,** the following summary represents the results of this effort;

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

the following Final Budget Adjustments Summary for Fiscal Year 2014, is hereby approved:

1	41600	4050500	Office Equipment	(8,750)
2	41600	4050500	Office Equipment	(7,650)
3	41600	4050500	Office Equipment	(10,500)
4	41910	4058000	Buildings & Structures	(10,000)
5	43310	4057000	Other Betterments	(10,000)
6	43310	4057001	Resurfacing/Acq. Demo	(421,000)
7	43430	4057000	Other Betterments	(38,850)
8	43810	4051000	Vehicles	(638,250)
9	43810	4052000	Shop Equipment	(10,000)
10	48110	4049000	Fixed Charges	(40,000)
11	48110	4049000	Fixed Charges	(27,500)

The City of Lewiston is an EOE. For more information, please visit our website @ [www.ci.lewiston.me.us](http://www.ci.lewiston.me.us) and click on the Non-Discrimination Policy.

12	44210	4011000	Salaries	(27,185)
13	43510	4027600	Repairs to Grounds	5,000
14	41910	4028812	Outside Jobbing	(3,700)
15	41920	4028812	Outside Jobbing	(1,935)
16	43420	4011000	Salaries	6,730
17	43420	4026000	Equipment Rental	6,590
18	43420	4012000	Overtime	2,245
19	43310	4011000	Salaries	(6,730)
20	43310	4026000	Equipment Rental	(6,590)
21	43380	4022000	Telephone	2,900
22	43430	4028800	Misc. Service	1,425
23	43910	4028812	Outside Jobbing	(400)
24	42190	4028812	Outside Jobbing	(6,265)
25	42130	4011000	Salaries	(42,965)
26	41600	4026200	MIS Rentals	(7,025)
27	42220	4048800	Hydrant Rental	46,280
28	45590	4028812	Custodial Services	5,980
29	49410	4046500	Unemployment	(4,500)
30	41600	4050500	Office Equipment	(12,000)
31	42130	4051000	Vehicles	(82,500)
32	42130	4051000	Vehicles	(18,200)
33	41410	4012000	Overtime	(100)
34	41440	4012000	Overtime	(250)
35	41550	4012000	Overtime	(100)
36	41600	4012000	Overtime	(2,578)
37	42120	4012000	Overtime	(3,000)
38	42130	4012000	Overtime	(10,000)
39	42220	4012000	Overtime	(12,000)
40	43320	4012000	Overtime	(10,000)
41	43430	4012000	Overtime	(1,577)
42	43610	4012000	Overtime	(100)
43	43810	4012000	Overtime	(1,000)
44	45190	4012000	Overtime	(500)
45	43810	4028900	Training	(2,200)
46	43810	4032500	Tires	(12,000)
47	49210	4046005	Boston Mutual	(2,390)
48	49610	4049000	Fixed Charges	(2,949)
49	43430	4012000	Overtime	7,020
			<b>Total General Fund Adjustments</b>	<b>(1,419,069)</b>
50	1110	4011000	Salaries - net	(12,824)
51	1110	4017001	MePERS - net	(5,555)
52	1110	4017501	FICA - net	(694)
53	1110	4018501	MMEHT Health Insurance - net	1,153
54	1110	4046012	Flexible Spending Account - net	77
55	1110	4047000	Workers Comp - net	(150)
56	1110	4044800	Retirement Health Savings - net	(1,757)

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57	1110	4022000	Telephone	435
58	1110	4023000	Travel	400
59	1110	4042000	Dues	100
			<b>Total TIF Fund Adjustments</b>	<b>(18,815)</b>
60	62100	4012000	Overtime	(1,200)
61	62500	4012000	Overtime	(1,500)
62	62700	4012000	Overtime	(240)
			<b>Total Sewer Fund Adjustments</b>	<b>(2,940)</b>
62	60700	4012000	Overtime	(245)
			<b>Total Water Fund Adjustments</b>	<b>(245)</b>
			<b>Total FY14 Budget Adjustments</b>	<b>(1,441,069)</b>

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 21**

**SUBJECT:**

Order Authorizing the City Administrator to provide city services and funding for City Non-Profit Organization Activities in accordance with the FY2014 City Council approved list.

**INFORMATION:**

The City Council has received and reviewed the list of requested donations and in-kind support from various non-profit agencies. This agenda item is to approve the City Administrator's recommendations for city support regarding a monetary donation as well as an in-kind donation for the upcoming programs and events. In-kind donations include city support such as overtime costs for Public Works and Police Department staff as well as a waiver of fees and use of city equipment such as jersey barriers, snow fencing, trash cans and so forth.

**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 approve the Order authorizing the City Administrator to provide city services and funding for City Non-Profit Organization Activities in accordance with the FY2014 City Council approved list.



**City of Lewiston, Maine  
City Council Order  
May 7, 2013**



ORDER, Authorizing the City Administrator to Provide City Services and Funding for City Non-Profit Organization Activities in Accordance with the FY 2014 City Council approved List.

Whereas, the City of Lewiston has a history of providing support services and limited cash contributions for a variety of activities that will enhance our city's quality-of-life and provide certain non-profit organizations a source of revenue to support programming available to eligible Lewiston residents; and

Whereas, the organizations who will receive FY 2014 city support have complied with the application requirements set forth in the "Charitable Organization Support Policy;" and

Whereas, requests for such City support have been reviewed by the City Council as a part of the FY 2014 budget process;

**Now, therefore, be it Ordered by the City Council of the City of Lewiston that**

the City Administrator is authorized to direct city departments to provide applicable city support services and to issue cash payments outlined in the attached "Lewiston Charitable Donations – Summary of Requests for FY 2014", less the \$50 application fee which is included on the summary and which is no longer to be waived under Policy recently adopted by the City Council; and

**Be It Further Ordered That**

The City Policy restricting the loaning of tables and chairs be waived for Advocates for Children and the Great Falls Balloon Festival.

**EWINGTON CHARITABLE DONATIONS - Summary of requests for FY2014**

	Cash Requests	Total all OT Costs	Total Reg Hrs Cost	Total Misc, Perm, U/c	Total In-Kind Requested	ADMIN CASH RECOM	ADMIN IN-KIND RECOM	ADMIN TOT RECOM
Andros Greater Humane Strut	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Bridge Foundation/LA Bridge Run	\$ -	\$ 2,321.00	\$ -	\$ 163.00	\$ 2,484.00	\$ -	\$ 2,484.00	\$ 2,484.00
Cemetery Flags	\$ 4,800.00	\$ -	\$ -	\$ -	\$ 4,800.00	\$ 4,800.00	\$ -	\$ 9,600.00
CMC - Dempsey Challenge (1)	\$ -	\$ 5,704.00	\$ 3,328.00	\$ 3,790.00	\$ 12,822.00	\$ -	\$ 12,822.00	\$ 12,822.00
Great Falls Balloon Fest (1)	\$ -	\$ 9,457.00	\$ 8,231.00	\$ 5,847.00	\$ 23,535.00	\$ -	\$ 23,535.00	\$ 23,535.00
Hillside Riders	\$ 3,667.00	\$ -	\$ -	\$ -	\$ 3,667.00	\$ 3,667.00	\$ -	\$ 7,334.00
Joint Cities Holiday Cefeb	\$ -	\$ 2,236.00	\$ 3,689.00	\$ 1,066.00	\$ 6,991.00	\$ -	\$ 6,991.00	\$ 6,991.00
LA Arts-Dufrense Plaza Outdoor Concerts	\$ -	\$ -	\$ -	\$ 266.00	\$ 266.00	\$ -	\$ 266.00	\$ 266.00
LA Vets Council (Mem/Vets/Flag Day Parades)	\$ -	\$ 1,142.00	\$ -	\$ 278.00	\$ 1,420.00	\$ -	\$ 1,420.00	\$ 1,420.00
Lawston Farmers Market	\$ -	\$ -	\$ 45.00	\$ 908.00	\$ 953.00	\$ -	\$ 953.00	\$ 953.00
Liberty Festival (1)	\$ 10,000.00	\$ 4,756.00	\$ 34.00	\$ 3,593.00	\$ 18,383.00	\$ 8,600.00	\$ 18,383.00	\$ 26,983.00
LA Murphy 5K Trot-Run Autism Fundraiser	\$ -	\$ -	\$ -	\$ 16.00	\$ 16.00	\$ -	\$ 16.00	\$ 16.00
March of Dimes Walk	\$ -	\$ -	\$ -	\$ 225.00	\$ 225.00	\$ -	\$ 225.00	\$ 225.00
MS Society Walk	\$ -	\$ 413.00	\$ -	\$ 50.00	\$ 463.00	\$ -	\$ 463.00	\$ 463.00
Museum LA - Band on the Run(1)	\$ -	\$ 3,240.00	\$ 34.00	\$ 3,217.00	\$ 6,491.00	\$ -	\$ 6,491.00	\$ 6,491.00
NEW--Advocates for Children - Children's Hoi Fest	\$ -	\$ -	\$ -	\$ 118.00	\$ 118.00	\$ -	\$ 118.00	\$ 118.00
NEW--Alzheimer's Association Walk	\$ -	\$ -	\$ -	\$ 77.00	\$ 77.00	\$ -	\$ 77.00	\$ 77.00
NEW--American Heart Association	\$ -	\$ 576.00	\$ -	\$ 52.00	\$ 628.00	\$ -	\$ 628.00	\$ 628.00
IEW--Back40 Night of the Liv Dead LHS/EL Fund	\$ -	\$ 159.00	\$ -	\$ 77.00	\$ 236.00	\$ -	\$ 236.00	\$ 236.00
IEW--Community Partners	\$ 2,500.00	\$ -	\$ -	\$ -	\$ 2,500.00	\$ -	\$ 2,500.00	\$ 2,500.00
IEW--LA Arts - Lisbon St Mile	\$ -	\$ 95.00	\$ 34.00	\$ 50.00	\$ 179.00	\$ -	\$ 179.00	\$ 179.00
IEW--Pathways Vineyard 5K Fundraiser	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
IEW--Rainbow Bikes Bike Race Fundraiser	\$ -	\$ 1,062.00	\$ -	\$ 50.00	\$ 1,112.00	\$ -	\$ 1,112.00	\$ 1,112.00
IEW--Rally N. America Camp Sunshine Awareness Rally	\$ -	\$ -	\$ -	\$ 77.00	\$ 77.00	\$ -	\$ 77.00	\$ 77.00
IEW--Safe Voices Walk Fundraiser	\$ -	\$ -	\$ -	\$ 120.00	\$ 120.00	\$ -	\$ 120.00	\$ 120.00
IEW--Trinity Church Greek Festival	\$ -	\$ -	\$ -	\$ 43.00	\$ 43.00	\$ -	\$ 43.00	\$ 43.00
IEW--YMCA Fit Test	\$ -	\$ 927.00	\$ -	\$ 77.00	\$ 1,004.00	\$ -	\$ 1,004.00	\$ 1,004.00
Walks which will not require OT & min staff costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL REQUESTS</b>	<b>\$ 20,967.00</b>	<b>\$ 32,088.00</b>	<b>\$ 15,395.00</b>	<b>\$ 20,160.00</b>	<b>\$ 88,610.00</b>	<b>\$ 17,067.00</b>	<b>\$ 88,610.00</b>	<b>\$ 105,677.00</b>

(1) Dempsey, Great Falls Balloon Festival, Liberty Festival, Museum LA Band on the Run, all assessed new \$3,000 field charge for possible rain damaged fields

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 22**

**SUBJECT:**

Adoption of Municipal Budget Appropriation Resolve for Fiscal Year 2014.

**INFORMATION:**

This action is the final phase of the budget adoption for the municipal budget. The attached information defines the Appropriation Resolve.

Please note, per the City Charter, five or more affirmative votes are required for the passage of this Resolve.

**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 approve the Municipal Budget Appropriation Resolve for Fiscal Year 2014.



**City of Lewiston Maine  
City Council Order  
May 7, 2013**

**RESOLVE, Making an Appropriation for Municipal Budget Year 2014**

**Be It Resolved by the City Council of the City of Lewiston** that the sum of forty-three million, twelve thousand, three hundred and fifty-eight dollars (\$43,012,358) is hereby appropriated in the General Fund for the municipal year 2014 in accordance with the schedule of appropriations; and

**Be It Further Resolved by the City Council of the City of Lewiston** that in addition to such other revenues as are estimated to be available to meet the above appropriations including the Homestead and Business Equipment Tax Exemption reimbursement, the sum of thirty million, six hundred, sixty thousand, six hundred and twenty dollars (\$30,660,620) be raised by assessment upon the estates of the inhabitants of the City of Lewiston and upon the estates of non-resident proprietors within said City for the present municipal year; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the sum of twelve million, three hundred and fifty-one thousand, seven hundred and thirty-eight dollars (\$12,351,738) be appropriated as non-tax revenues in the General Fund for the municipal year 2014 in accordance with the schedule of appropriations; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the list of tax assessment upon the estates in Lewiston for all city taxes, together with all assessments and charges made under the provisions of the Maine Revised Statutes annotated, Title 30A, Section 3406 and 3442 to 3445 inclusive, and the City's due proportion of the County Tax, in the amount of two million, two hundred and eighty-one thousand, one hundred and seventy-six dollars (\$2,281,176) for the period of July 1, 2013 through June 30, 2014, shall be committed by the Assessor to the Finance Director and one-half of said taxes shall be due and payable on the 16th day of September 2013 with the remaining one-half of said taxes due and payable on the 17th day of March 2014; and

**Be It Further Resolved by the City Council of the City of Lewiston** that interest at the maximum State approved rate of 7% per annum for fiscal year 2014 shall be collected on the first half of said taxes from September 17, 2013, if not voluntarily paid to the Finance Director on or before September 16, 2013 and on the second half of said

taxes from March 18, 2014, if not voluntarily paid to the Finance Director on or before March 17, 2014; and

**Be It Further Resolved by the City Council of the City of Lewiston** that in each case, said interest shall be added to and become a part of said taxes; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the Tax Collector is authorized to accept payments of uncommitted taxes and to pay to the taxpayer interest from the date of payment to the commitment date at a rate of 0% and that refunds for overpayments or abatements shall be paid to the taxpayer with interest from the date of payment to the date of abatement or refund, whichever is earlier, at an interest rate of 3.00%; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the Tax Collector shall apply all tax payments to the oldest balance due on that account regardless of any instructions the taxpayer may give. If, however, a tax lien has matured, the Tax Collector may not accept payment on that account unless a workout agreement is in place or approval has been granted by the Finance Director to accept payment. If a taxpayer has more than one tax account, any payment shall be applied to the oldest balance due unless the taxpayer specifies the account against which the payment is to be applied; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the appropriation for municipal year 2014 for the following Enterprise Funds is hereby authorized and approved: the Water Fund in the amount of \$5,171,379, the Sewer Fund in the amount of \$5,286,646, and the Stormwater Fund in the amount of \$2,723,810; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the appropriation for municipal year 2014 for the following Special Revenue Funds is hereby authorized and approved: the Tax Increment Financing Fund in the amount of \$762,661 that includes the new Economic Development Specialist position, the Recreation Activity Fund in the amount of \$183,640, and the Police Drug Forfeiture Fund in the amount of \$43,016; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the Council hereby formally appropriates any cash contributions received during this budget year to the appropriate department and purpose for which such contribution has been made and, where such contribution is equal to or less than \$10,000, such appropriation will become effective upon formal Council action to accept such contribution; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the Council hereby formally appropriates any grants from the State of Maine or the Government of the United States of America, and any other organization received during this budget year where such grant is equal to or less than \$25,000, such appropriation to become effective upon formal Council action to accept such grant; and

**Be It Further Resolved by the City Council of the City of Lewiston** that the Council hereby formally appropriates any insurance proceeds received during this budget year to the appropriate department for the purpose of repairing or replacing the damaged property where such amount is equal to or less than \$25,000, such appropriation to become effective upon receipt of funds; and

**Be It Further Resolved by the City Council of the City of Lewiston** the Council hereby formally appropriates any Municipal Garage revenues in excess of the amount expended at the end of the fiscal to be included in the General Fund Municipal Garage Vehicle Reserve Account.

**Be It Further Resolved by the City Council of the City of Lewiston** that an appropriation is authorized from the library's permanent endowment fund in accordance with the recommendation of the Library Board of Trustees and to the extent that the City Administrator determines that such an appropriation is in accordance with existing City and Library policies.

**Be It Further Resolved by the City Council of the City of Lewiston** that an appropriation is authorized to transfer the amount of \$6.62 or the current State reimbursement rate per snowmobile registration, to the Hillside Snowmobile Club. Payment will be made annually to the Hillside Snowmobile Club by June 30, 2014.

**Be It Further Resolved by the City Council of the City of Lewiston** that an appropriation is authorized to transfer the amount of 20% of the net timber harvesting revenue, to the Community Forestry Fund in accordance with City Ordinance 78-45 and the accumulated funds from fiscal years 2012 and 2013. Payment will be made annually to the Community Forestry Fund by June 30, 2014.

**Be It Further Resolved by the City Council of the City of Lewiston** that the City Council deems it necessary to adopt a budget which exceeds the percent increase of the Gross National Product-Implicit Price Deflator, and hereby waives the provisions of Section 6.06(f) of the City Charter.

(NOTE – Five or more affirmative votes are required for the passage of this Resolve.)

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 23**

**SUBJECT:**

Resolve Authorizing the Use of \$2,500 from the Farrar Fund for costs of basic necessary services for needy individuals.

**INFORMATION:**

The Farrar Fund is an endowment fund that was established to provide services for the residents of Lewiston who are not able to meet their own needs. These residents are usually not eligible for other forms of aid and would otherwise go without needed services and products such as eyeglasses, dentures, prescription drugs, etc.

The Council is requested to authorize the Director of Social Services to expend up to \$2,500 from this account in the coming year, a similar amount to past years. This amount will include interest earned in the past year supplemented by interest earnings accumulated and retained over time. Fund principal in the amount of \$18,551.07 is to be maintained in perpetuity.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/amm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve authorizing the use of up to \$2,500 from the Farrar Fund for the costs of basic necessary services for Lewiston residents where such costs are not covered by other assistance programs and as determined by the Director of Social Services.



**City of Lewiston Maine  
City Council Resolve  
May 7, 2013**



**Resolve,** Authorizing the Use of \$2,500 from the Farrar Fund for Costs of Basic Necessary Services for Needy Individuals.

Whereas, the City of Lewiston was left an endowment to provide for medical and dental expenses for needy individuals; and

Whereas, in 2008, the City Council authorized the use of these funds, as determined by the Social Services Director, to provide basic, necessary services to those individuals whose income is no greater than 185% of the federal poverty level; and

Whereas, fund principal in the amount of \$18,551 is to be maintained in perpetuity; and

Whereas, due to the low rate of return on investments, it is anticipated that the demand for service will exceed the adopted procedure of only utilizing the prior year's investment earnings; and

Whereas, the past year's appropriation of \$2,500 is again recommended with additional funding for this amount over and above the interest earned in the prior year coming from interest earnings accumulated and retained over time;

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

the Social Services Director is authorized to spend up to \$2,500 from the Farrar Fund, the same amount as last fiscal year.



## Finance Department

Heather Hunter  
Director of Finance/Treasurer  
hhunter@lewistonmaine.gov



**TO:** Mayor Robert E. Macdonald  
And Members of the City Council

**FROM:** Heather Hunter, Finance Director

**SUBJECT:** **Farrar Fund Expenditures**

**DATE:** April 30, 2013

Annually, the City Council is asked to approve the use of the accumulated investment earnings from the Farrar Fund. On May 10, 2001, the City Council voted to authorize the use of these funds for medical and dental expenses incurred in the Social Services budget; prior to this date it was budgeted in the Public Health budget.

In 2008, the Council voted to authorize the funds to be used for charitable needy purposes, as determined by the Social Services Director, to provide basic necessary services to those individuals whose income is no greater than 185% of the federal poverty level. This action allows for the funds to be used for essential basic needs; however, in the recent past the majority of the assistance has been with prescription medication due to the overwhelming demand. These clients are not covered by MaineCare or any other insurance program and, after the City provides rent and utility assistance, their overall General Assistance maximum has been met.

As of April 30, 2013, the principal balance of \$18,551 has been maintained in perpetuity and the accumulated interest earnings amount to \$23,252. In accordance with the adopted procedure, anticipated expenditures in excess of the prior year's interest earning of \$184.82 must be approved by Council. Although the need is far greater, it is requested that the City Council authorize a \$2,500 limit for fiscal year 2014.

**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 24**

**SUBJECT:**

Resolve authorizing the use of \$1,519,950 from the General Fund Unassigned Fund Balance for Capital Outlay purchases.

**INFORMATION:**

This agenda item is to approve the appropriation of the General Fund Unassigned Fund Balance for the purchase of capital needs. The City Council wishes to minimize the tax rate increase needed to balance the fiscal year 2014 budget and therefore will utilize existing fund balance to cover some pending capital needs.

**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 approve the Resolve authorizing the use of \$1,519,950 from the General Fund Unassigned Fund Balance for Capital Outlay purchases.



**City of Lewiston Maine  
City Council Resolve  
May 7, 2013**



**Resolve,** Authorizing the Use of \$1,519,950 from the General Fund Unassigned Fund Balance for Capital Outlay Purchases.

Whereas, the City of Lewiston adopted Ordinance 11-05 pertaining to Unassigned Fund Balance and effective on August 18, 2011; and

Whereas, the ordinance establishes a floor of 8% and a ceiling of 12% of GAAP revenues including transfers in; and

Whereas, as of June 30, 2012, the City's General Fund Unassigned Fund Balance floor was \$8,054,518 and the ceiling was \$12,081,777; and

Whereas, the City's actual General Fund Unassigned Fund Balance was \$11,595,988 or 11.52% as of June 30, 2012; and

Whereas, the City Council wishes to minimize the tax rate increase needed to balance the fiscal year 2014 budget;

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

\$1,519,950 of unassigned fund balance be appropriated to purchase the following capital needs:

- the local share of 2 transit buses (\$80,000);
- 50 copies of MS Office 2010 (\$17,500);
- 50 copies of MS Windows 7 (\$15,300);
- the CLT Assessing software upgrade (\$10,500);
- general computer replacement (\$12,000);
- 3 police cruisers (\$82,500);
- 1 police SUV vehicle (\$18,200);
- Lincoln Street Bridge reinforcement (\$5,000);
- acquisition/demolition funds (\$350,000);
- street maintenance funds (\$71,000);
- cracksealing funds (\$26,000);
- mercury street light replacement (\$20,000);
- one roll-off container (\$12,000);
- leachate collection system improvements (\$80,850);
- municipal garage shop equipment (\$10,850);
- municipal garage vehicles (\$638,250);
- development of a regional advertising campaign and branding (\$25,000);
- Pine Street front entrance stair improvements (\$20,000); and
- boiler replacement at the police station (\$25,000).

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**LEWISTON CITY COUNCIL**  
**MEETING OF MAY 7, 2013**

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 25**

**SUBJECT:**

Resolve expressing support for the initiative to evaluate and improve the joint economic development efforts of the Cities of Lewiston and Auburn.

**INFORMATION:**

This Resolve outlines the interest and desire of the Twin Cities to work together jointly on future economic development programs and projects. This initiative was discussed at the May 1 joint meeting of the two City Councils.

**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 approve the Resolve expressing support for the initiative to evaluate and improve the joint economic development efforts of the Cities of Lewiston and Auburn.



## City of Lewiston

27 Pine Street  
Lewiston, Maine 04240

## City of Auburn

60 Court Street  
Auburn, Maine 04210



### RESOLVE

#### **Expressing Support for the Initiative to Evaluate and Improve the Joint Economic Development Efforts of the Cities of Lewiston and Auburn.**

- Whereas, concerns have been raised regarding the focus of the Twin Cities' economic development efforts and the extent to which they reflect the changing nature of the national and regional economy; and
- Whereas, interest arose during a joint workshop of the City Councils to pursue shared investment in staff support for economic development in the downtown area as well as support for the creative economy in its broadest sense and a desire to pursue policies that enhance the region's ability to attract creative and talented individuals to Lewiston and Auburn as a means to foster economic growth and investment; and
- Whereas, there remains a strong commitment to the legacy of Lewiston and Auburn as a manufacturing and transportation hubs and support for strengthening targeted efforts in those areas; and
- Whereas, there has been a demand among local elected officials in both communities for enhancing their role in the economic development process, including regular discussion between peers on either side of the river, and how that role should be balanced with the involvement of other stakeholders, in order to maintain a high level of involvement from the private sector in Lewiston and Auburn; and
- Whereas, these issues, along with the numerous public and private organizations that are involved in economic development in this region, have raised concerns regarding our overall joint economic development strategy, the efficiency of our current structure, and the extent to which the various agencies, including the respective City governments, are coordinating their efforts around areas of joint interest; and
- Whereas, there is a desire to develop a focused economic development structure for Lewiston and Auburn; improve communication and coordination between the organizations and principals involved in providing economic development support services; and strengthen the knowledge and involvement of municipal elected officials from both Cities;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCILS OF THE CITY OF AUBURN AND THE CITY OF LEWISTON THAT**

We support the effort to review, revise, and update the economic development structure currently in place in Lewiston and Auburn with the goal of implementing a broadly based, widely supported and focused joint economic development strategy, sustaining broadly based input from partners and businesses, increasing the knowledge and involvement of municipal elected officials in economic development efforts, and better coordinating and focusing the efforts and resources of the Cities and private sector partners on the areas identified as key to the economic future of the cities.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 26**

**SUBJECT:**

Resolve transferring unused Community Development Block Grant funds for the purpose of implementing Phase II of the Paradis Park Improvements Project.

**INFORMATION:** Community Development Block Grant funds have been previously appropriated for a variety of purposes relating to the Downtown Neighborhood and the City's adopted Action Plan for that area. Since the Downtown Neighborhood Action Committee has been established, the Council has considered its recommendations on how these funds should be used.

Funds have previously been appropriated for the purpose of implementing the revised winter parking system in the downtown area. The winter parking change has now been implemented, and there remains a balance in that account. A second appropriation intended as an incentive for the redevelopment of city-owned property at Maple and Park has not resulted in a potential project at that location. The total balance in these projects is \$54,896.84.

While Phase I of the Paradis Park improvement project has been funded and will be completed shortly, funding is currently not available for Phase II. The Downtown Neighborhood Advisory Committee has voted to request that the City Council reallocate \$54,896.84 in unused funds from these previously approved projects for use in Paradis Park. The Committee also plans to continue to raise private funds for this purpose.

**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 approve the Resolve transferring unused Community Development Block Grant funds for the purpose of implementing Phase II of the Paradis Park Improvements Project.



**City of Lewiston Maine  
City Council Resolve  
May 7, 2013**



**Resolve,** Transferring Unused Community Development Block Grant Funds for the Purpose of Implementing Phase II of the Paradis Park Improvement Project.

Whereas, Community Development Block Grant funds have previously been appropriated for the purpose of implementing the revised winter parking system in the downtown area and for providing a potential incentive for redevelopment of the City owned property at the corner of Maple and Park Streets; and

Whereas, an unexpended balance remains from the revised winter parking system implementation effort; and

Whereas, the funds allocated as a redevelopment incentive for the City property at Maple and Park have not resulted in a potential project; and

Whereas, while Phase I of the Paradis Park improvement project has been funded and will be completed shortly, funding is currently not available for Phase II; and

Whereas, the Downtown Neighborhood Advisory Committee (DNAC) has voted to request that the City Council reallocate \$54,896.84 in unused funds from these previously approved projects for use in Paradis Park; and

Whereas, DNAC has also committed to continuing its efforts to raise private funds for this purpose;

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

Community Development Block Grant Fund available balances in the amount of \$54,896.84 and previously allocated for implementation of the City's revised winter parking regulations in the downtown neighborhood and as an incentive for the potential redevelopment of city-owned property located at the intersection of Maple and Park are hereby transferred to the Paradis Park redevelopment project, Phase II improvements.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 27**

**SUBJECT:**

Order authorizing the City Administrator to accept property donated by Gendron & Gendron for a Canoe/Kayak Launch and Recovery location along the Androscoggin River.

**INFORMATION:**

Gendron and Gendron own property at 463 River Road and have offered to donate a portion of the land to the City for use as a location to both launch and recover canoes and kayaks from the Androscoggin River. Discussions are underway with L/A Trails and Androscoggin Land Trust regarding operation and maintenance of this site.

This agenda item is seeking permission from the Council to accept this land donation and authorize the City Administrator to handle the real estate transfer documents.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*AB/KMM*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order authorizing the City Administrator to accept property donated by Gendron & Gendron for a Canoe/Kayak Launch and Recovery location along the Androscoggin River



City of Lewiston, Maine  
City Council Order  
May 7, 2013



**ORDER, Authorizing the City Administrator to Accept Property Donated by Gendron & Gendron for a Canoe/Kayak Launch and Recovery Location along the Androscoggin River.**

- Whereas, the City of Lewiston was approached by residents interested in identifying a location to launch and recover canoes and kayaks on the Androscoggin River; and
- Whereas, Gendron & Gendron owns property at 463 River Road, a portion of which is located between River Road and the Androscoggin River and which would be suitable for this purpose; and
- Whereas, Gendron and Gendron has offered to donate a portion of 463 River Road which is south of 483 River Road and runs between River Road and the River to the City for such a launch and recovery site; and
- Whereas, the property has an area with an existing easy walking access path of 50-60 feet leading from River Road to the River; and
- Whereas, this would create a natural recreational area available to all residents to enjoy; and
- Whereas, the City examined the property and found no improvements would be needed to create this natural recreational area and make it available to all residents to enjoy; and
- Whereas, discussions are underway with the L/A Trails and Androscoggin Land Trust for them to assume operation & maintenance of the property

**Now, therefore, be it Ordered by the City Council of the City of Lewiston that**

The City hereby gratefully accepts the conveyance of a portion of the property identified as 463 Rivier Road as identified in Exhibit A of the attached Quitclaim Deed and the City Administrator is hereby authorized to sign any and all real estate transfer documents to accept this property donation.



## Department of Public Works

David A. Jones, P.E.  
Director



April 22, 2013

Ed Barrett (City Administrator) & Kathy Montejo (City Clerk)

Re: Accepting Donation of Canoe/Kayak Launch & Recovery Property

In May 2012, K.C. Geiger and Judy Gervais approached me about developing a canoe/kayak launch & recovery area on the Androscoggin River near the Public Works Operations Center. We discussed this and decided locating it behind the Operation Center would cost quite a bit of money and would not work well with our operations. We began looking at other potential sites that would meet the following goals Judy laid out:

- On the Lewiston side of the river;
- South of Dresser Rips (to allow novice paddlers to launch and go downriver to Lisbon or more advanced paddlers who put in at the boat launch and traversed the "Rips" to recover)

Judy Marden of Bates College and LA Trails joined the group. We found another area just south of the landfill that fits the need. This property is owned by Gendron & Gendron, and I approached Dave Gendron about getting an easement to cross the property to get access from the road to the river. Dave went one step further and offered to donate the property to the City for this purpose. This is an excellent location, which meets all the following needs:

- has easy access to the river (only about 50-60 feet carry of a kayak or canoe);
- has adequate road shoulders such that ~6 vehicles can park off the roadway near the site;
- from this point to the take out at Papermill Park in Lisbon Falls (where the Sabattus River flows in) is about a 8.5 mile paddle, making it a very nice day trip. By car, the distance between the two points is 7 miles and takes 15 minutes to drive. (This is preferable to putting in at Durham. Putting in at Durham requires a longer trip to Lisbon Falls to park a vehicle for take-out and a much shorter paddle on the river. Durham is a nice facility but you spend more time putting in and driving back and forth than you actually spend paddling.) See attached map.
- Dresser's Rips can be a challenging set of whitewater. There are many whitewater enthusiasts who would love to have a set-up where the Rips could be run multiple times in one day. We are unaware of another such whitewater set-up anywhere near L/A. If they could take out at this location, it is a mere 5-10 minute trip back to the boat ramp near the Sewerage Treatment Plant. They could run them again and again. This could be a great way to get a whole new audience to the Lewiston/Auburn area;
- there is no investment needed to prepare the site;
- we have discussed adding this site to the L/A Trails and Androscoggin Land Trust areas of interest for maintenance.

As a result, I am recommending the City accept Dave Gendron's generous offer to donate the property and ask the City Council authorize the City Administrator to execute the real estate documents required.

Sincerely,

David A. Jones, P.E.  
Director

**QUITCLAIM DEED WITH COVENANT**

**Gendron & Gendron, Inc.**, a Maine Corporation with a mailing address at P.O. Box 1913, Lewiston, Maine 04241-1913, grants to the **City of Lewiston**, a body corporate and politic with a mailing address at 27 Pine Street, Lewiston, Maine 04240, with **Quitclaim Covenant**, a certain lot or parcel of land, together with any buildings thereon, situated in **Lewiston**, County of **Androscoggin**, and State of **Maine**, as more fully described in Exhibit "A" attached hereto and made a part hereof.

**In Witness Whereof**, the undersigned has hereunto set its hand effective this \_\_\_ day of April, 2013.

**Witness:**

\_\_\_\_\_

**Gendron & Gendron, Inc.**  
By:   
John M. Gendron, Its Vice-President

STATE OF MAINE  
ANDROSCOGGIN, SS.

April \_\_, 2013

Personally appeared the above-named **John M. Gendron** in his capacity as Vice-President of **Gendron & Gendron, Inc.**, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Corporation.

Before me  
  
Notary Public  
Print Name: MAURICE E. CHITLAND  
My Commission Expires: 06-09-2019

## EXHIBIT "A"

Beginning at a point on the westerly most Right-of-Way of the South River Road, said South River Road being more closely described on a certain plan entitled "Definition of the South River Road, Lewiston, Maine. South Avenue to Garcelons Ferry. By the Androscoggin County Commissioners", "George H. Barron, Engineer, Lewiston-Auburn, Maine, Sheets 1 thru 6"; said point being at station 129+03.75, twenty-five and zero hundredths (25.00) feet right of the centerline of said plan, thence; in a Westerly direction and perpendicular to the above mentioned centerline to the Westerly most property line of said Grantor, thence; along the Westerly most property line of said Grantor to the Southerly most point of said Grantor's parcel, thence in a Northerly direction, along the Easterly most property line of said Grantor, said Easterly most property line of said Grantor also being the Westerly most Right-of-Way of said South River Road, to the point of beginning.

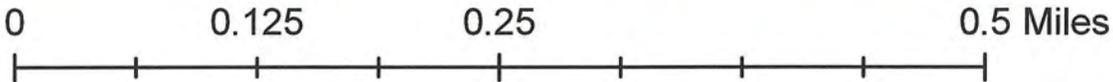
Meaning and intending to describe that portion of said Grantors parcel that lies wholly to the South of the above mentioned and described line.

Being a part, and only a part, of that certain real estate conveyed to Gendron & Gendron, Inc. by Warranty Deed of Peter Gagnon and Serrene Gagnon dated March 10, 2001 recorded in the Androscoggin County Registry of Deeds at Book 8128, Page 294.

This conveyance is made together with, and subject to, any and all rights, easements, privileges, and appurtenances of record.

# City of Lewiston

Gendron & Gendron Parcel  
South River Road  
Deed Reference  
Bk 8128 Pg 294





\*12RETTD\*  
**RETTD**

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**MAINE REVENUE SERVICES  
REAL ESTATE TRANSFER TAX  
DECLARATION**

TITLE 36, M.R.S.A. SECTIONS §§4641-4641N

1. County

ANDROSCOGGIN

2. Municipality/Township

LEWISTON

3. GRANTEE/  
PURCHASER

3a) Name LAST or BUSINESS, FIRST, MI

CITY OF LEWISTON

3b) SSN or Federal ID

3c) Name, LAST or BUSINESS, FIRST, MI

3d) SSN or Federal ID

3e) Mailing Address

27 PINE STREET

3f) City

LEWISTON

3g) State

ME

3h) Zip Code

04240

BOOK/PAGE—REGISTRY USE ONLY

4. GRANTOR/  
SELLER

4a) Name, LAST or BUSINESS, FIRST, MI

GENDRON & GENDRON, INC.

4b) SSN or Federal ID

4c) Name, LAST or BUSINESS, FIRST, MI

4d) SSN or Federal ID

4e) Mailing Address

P.O. BOX 1913

4f) City

LEWISTON

4g) State

ME

4h) Zip Code

04241

5. PROPERTY

5a) Map

156

Block

Lot

1

Sub-Lot

5b) Type of property—Enter the code number that best describes the property being sold. (See instructions) →

Check any that apply:

No tax maps exist

Multiple parcels

Portion of parcel

5d) Acreage

5c) Physical Location

River Road

6. TRANSFER TAX

6a) Purchase Price (If the transfer is a gift, enter "0")

6a

0.00

6b) Fair Market Value (enter a value **only** if you entered "0" in 6a) or if 6a) was of nominal value)

6b

.00

6c) Exemption claim -  Check the box if either grantor or grantee is claiming exemption from transfer tax and explain.

36 MRSA Sec. 4641-C(1) Deed to governmental entity.

7. DATE OF TRANSFER (MM-DD-YYYY)

MONTH DAY YEAR

8. WARNING TO BUYER—If the property is classified as Farmland, Open Space, Tree Growth, or Working Water-front a substantial financial penalty could be triggered by development, subdivision, partition or change in use.

CLASSIFIED

9. SPECIAL CIRCUMSTANCES—Were there any special circumstances in the transfer which suggest that the price paid was either more or less than its fair market value? If yes, check the box and explain:

10. INCOME TAX WITHHELD—Buyer(s) not required to withhold Maine income tax because:

Seller has qualified as a Maine resident

A waiver has been received from the State Tax Assessor

Consideration for the property is less than \$50,000

Foreclosure Sale

11. OATH

Aware of penalties as set forth by Title 36 54641-K, we hereby swear or affirm that we have each examined this return and to the best of our knowledge and belief, it is true, correct, and complete. Grantee(s) and Grantor(s) or their authorized agent(s) are required to sign below:

Grantee \_\_\_\_\_ Date \_\_\_\_\_ Grantor  \_\_\_\_\_ Date \_\_\_\_\_

Grantee \_\_\_\_\_ Date \_\_\_\_\_ Grantor \_\_\_\_\_ Date \_\_\_\_\_

12. PREPARER

Name of Preparer Shawn K. Bell, Esq.

Phone Number (207) 376-3330

Mailing Address P. O. Box 1776

E-Mail Address bell@bellfirmmaine.com

Lewiston, ME 04241-1776

Fax Number (207) 376-3326

<http://www.maine.gov/revenue/propertytax/transfertax/transfertax.htm>



City of Lewiston  
Planning & Code Enforcement  
Gil Arsenault, Director  
**MEMORANDUM**



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**To:** City Council Members  
**From:** David Hediger  
**Date:** April 26, 2013  
**Subject:** Planning Board Action

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The Planning Board took the following action at their meeting held on April 22, 2013 regarding the acquisition of a portion of 463 River Road.

The following motion was made:

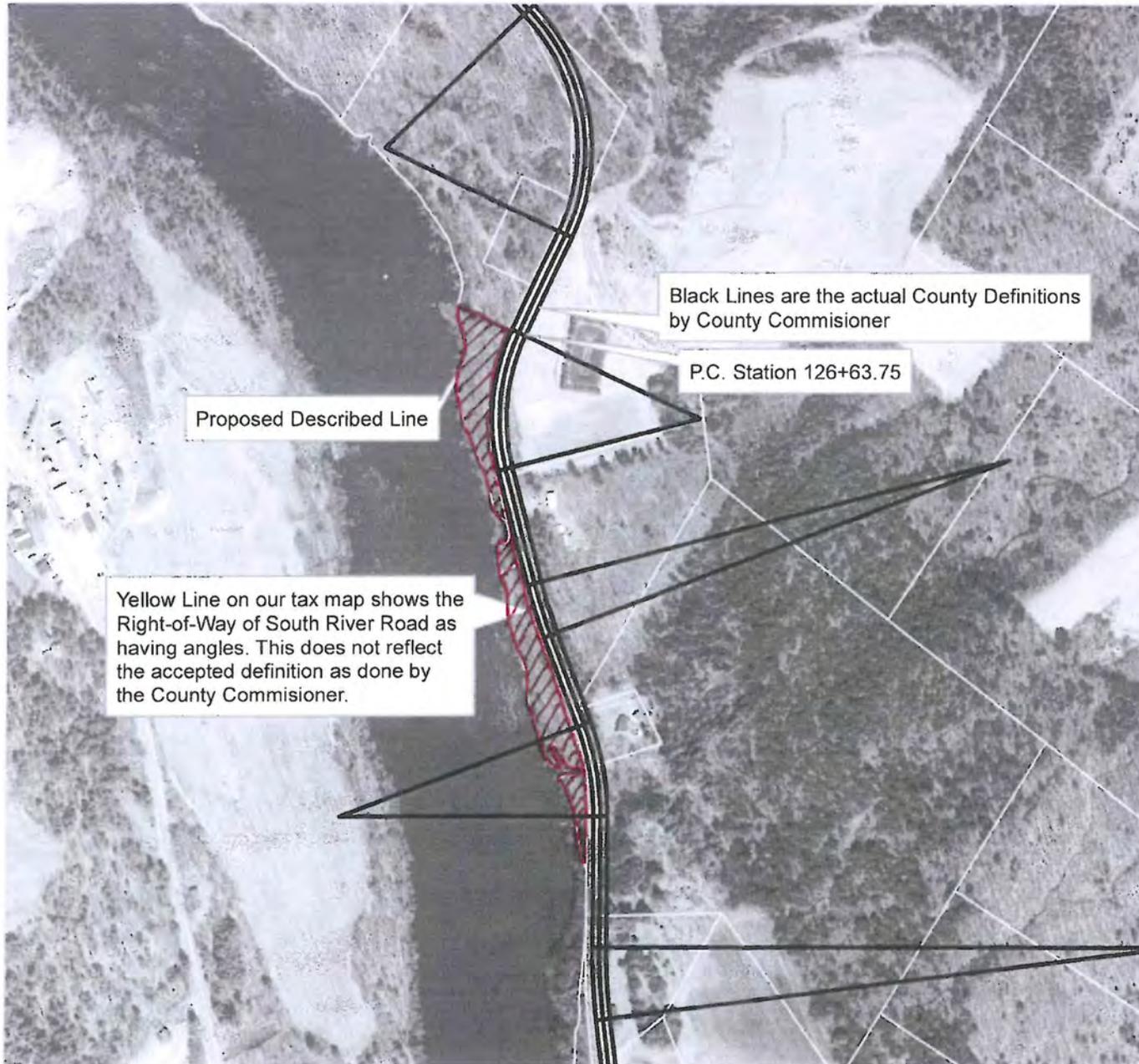
**MOTION:** by **Walter Hill** pursuant to Article VII, Section 4(h) of the Zoning and Land Use Code to send a favorable recommendation to the City Council for the acquisition of a portion of 463 River Road with the condition that the site be monitored to ensure adequate off street parking is provided. Second by **Paul Madore**.

**VOTED:** 6-0 (Passed)

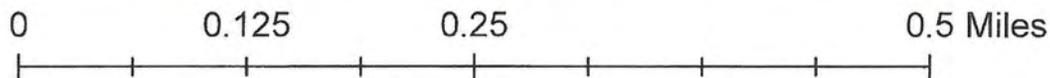
c: Ed Barrett, City Administrator  
Planning Board Members

# City of Lewiston

Gendron & Gendron Parcel  
South River Road  
Deed Reference  
Bk 8128 Pg 294



*Property being donated*



# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 28**

**SUBJECT:**

Amendments to the Municipal Parking Fees Policy to revise the Major Employer Parking Fee Discount Program.

**INFORMATION:**

Lincoln Jeffers, Director of the Economic and Community Development Department, has been working with local downtown businesses regarding parking issues and he is recommending amendments to the Major Employer Parking Fee Discount Program. Please see the attached material for an outline of the suggested policy changes.

Note: Additions are underlined; deletions have ~~strikeout~~ lines.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/KMM*

**REQUESTED ACTION:**

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To approve the proposed amendments to the Parking Fees Policy, Policy Manual Number 42, as recommended by City Administration and the Economic and Community Development Department.

(Note - Full copy of the amendments are attached.)

# PARKING FEES

## MUNICIPAL PARKING FACILITIES

- A. \$1.00 each hour; maximum of \$6.00 per day. The fees shall apply between the hours of 6 a.m. and 6 p.m. Any vehicle that enters and exits from a parking facility within one hour shall not be charged a fee.
- B. That monthly parkers be assessed a fee of \$55.00 per month payable on the first working day of each month. A five-working-day grace period will be granted before monthly parking card is keyed out.
- C. That a fee of \$600.00 be set for a yearly parking pass. Payments to be made in each city fiscal year as follows:
  - 1. \$300.00 on the first working day of July
  - 2. \$150.00 payable on the first working day of October
  - 3. \$150.00 payable on the first working day of January
- D. Major Employer Parking Fee Discount Program
  - 1. A property tax paying company that purchases 50 or more parking passes may do so at a 10% discount off of the Yearly Parking Pass rate, under the following conditions:
  - 2. A property tax paying company that purchases 150 or more parking passes in either the Oak Street or Southern Gateway Parking Garage may do so at a rate of \$35 per month.

The following conditions will apply for both Major Employer programs:

- a. Passes are paid for with one lump sum annual payment made on or before July 15 of each fiscal year and equal to the number of passes being purchased multiplied by the discounted rate; or in three installments based on the number of passes being purchased for the year multiplied by the discounted rate, with 50% of the total payment due on the first working day of July, 25% of the total payment due on the first working day of October, and the remaining portion of the payment due on the first working day of January.
  - b. After provision of the passes by the City to the company purchasing the passes, it is the purchaser's responsibility to issue the parking passes to employees and administers their utilization.
  - c. No credit will be provided by the city for unused or underutilized passes.
  - d. This program cannot be combined with or be utilized in addition to any other parking discount program offered by the city.
- E. Downtown Small Business Parking Fee Discount Program

Businesses with less than 50 employees and that are located within the area described in the last sentence of this section are eligible to receive two parking passes at the Special Rate for Downtown Residents. The passes may be used by the owners or employees of the business. Businesses that own or lease real estate and operate within the area beginning at the corner of Main and Bates Streets, southward to Adams Avenue, westward to Canal Street, northward to Cedar Street, westward to Lincoln Street, northward to Main Street and eastward to the point of beginning are eligible for this program.

This program cannot be combined with or be utilized in addition to any other parking discount program offered by the city.

# Economic and Community Development

Lincoln Jeffers

Director



**To:** Honorable Mayor and Members of the City Council  
**From:** Lincoln Jeffers  
**RE:** Draft Proposed Amendments to Major Employer Parking Fee Discount Program  
**Date:** May 1, 2013

Providing enough parking at a fair price is one of the challenges of downtown redevelopment. In a small city like Lewiston, a downtown can't survive without adequate and convenient parking. It is an essential public infrastructure investment that supports economic and community development. Over the last decade, Lewiston has done well in meeting demand, building more than 2,000 surface and decked parking spaces.

Utilization of Lewiston's garages varies, with peak daily occupancy levels from the low end of the spectrum at 29% in the Oak Street Garage and 31% in the Southern Gateway Garage to the high end of the scale where the Chestnut Street Garage has a peak daily occupancy level of approximately 67% during the warm months. This occupancy level bumps against capacity during the snowy months, when the top deck is not plowed. At the Chestnut Street Garage, 590 monthly passes have been issued for 610 spaces.

A variety of amendments have been made to the parking policy over the last several years, seeking to support the needs of both small and large users while being equitable to all. The City Council has had several policy discussions over the last year on how to better utilize Lewiston's built parking capacity. Ed Barrett has spoken of parking programs in other communities that have variable rate structures based on occupancy levels and user demand.

One of the challenges of attracting large employers to the downtown has been the cost of parking. The council is being asked to take action to amend Lewiston's Parking Fee Policy, lowering the monthly parking pass cost to \$35 for companies that commit to purchase 150 or more parking passes annually; and to pay for the passes in no more than three installments. As in the past, to get the reduced rate, these large users will need take the lead on utilization of the passes, reducing the city's administrative burden. This pricing structure would apply only to the City's least utilized garages – Oak Street and Southern Gateway. This change will help make downtown options more cost competitive with more suburban locations, may result in the redistribution of parkers looking to take advantage of the lower rates at these two garages, and may result in higher occupancy levels and revenues at these two garages.



**City of Lewiston Maine  
City Council Resolve  
May 7, 2013**



**Resolve, Amending Parking Fees Policy (Policy 42)**

Whereas, Lewiston desires downtown private sector investment and development and wishes to support and encourage it; and

Whereas, Lewiston recognizes that having adequate parking capacity in the downtown that is convenient to places where people live, work, shop, and recreate is essential to that revitalization; and

Whereas, Lewiston has invested in the public parking infrastructure to meet that demand; and

Whereas, the utilization of the built parking capacity varies significantly depending upon its location with significant underutilized capacity at the Oak Street and Southern Gateway Parking Garages; and

Whereas, Lewiston wants to attract large employers to the downtown and to help make downtown options competitive with business locations outside of downtown; and

Whereas, Reducing the parking fees charged in the Oak Street and Southern Gateway Garages to \$35 per month for users that pay for 150 spaces or more on an annual basis as specified in the proposed Parking Fees amendment will help achieve that goal; and

Whereas, Lewiston also wants to better distribute utilization of its already built parking capacity;

**Now, therefore, be it Resolved by the City Council of the City of Lewiston** that the attached amendment to Policy 42, *Parking Fees* is hereby adopted.

# LEWISTON CITY COUNCIL

## MEETING OF MAY 7, 2013

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 29**

**SUBJECT:**

Order authorizing the City Administrator to execute an Easement Deed from the Lewiston and Auburn Railroad Company appurtenant to 46 Beech Street and 46 Beech Street Rear.

**INFORMATION:**

The recently completed and City Council approved Riverfront Island Master Plan included a proposal to extend Simard-Payne Memorial Park from Oxford Street to Lincoln Street in order to increase the visibility of the park to the public and visitors. The extension would be across land adjacent to the Grand Trunk Railroad Depot that is owned by the Lewiston and Auburn Railroad Company.

The Railroad Company has indicated its willingness to work with the City in improving this property by granting the City an easement to allow its use for pedestrian access to and from the Park and which will allow the City to landscape and improve the property.

The attached easement would provide the City the ability to undertake these improvements, subject to certain conditions requested by the railroad including retaining the existing tracks and end of track bumper currently on the property. The City would also agree to allow the tenant at the Grand Trunk to make use of a section of the property for outdoor seating/serving.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*GAB/KMM*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order authorizing the City Administrator to execute an Easement Deed from the Lewiston and Auburn Railroad Company appurtenant to 46 Beech Street and 46 Beech Street Rear.



**City of Lewiston Maine  
City Council Order  
May 5, 2013**



**Order,** Authorizing the City Administrator to Execute an Easement Deed from the Lewiston and Auburn Railroad Company Appurtenant to 46 Beech Street and 46 Beech Street Rear.

Whereas, the Riverfront Island Master Plan was recently completed and adopted by the City Council; and

Whereas, one element of that plan is the extension of Simard-Payne Memorial Park from Oxford Street to Lincoln Street; and

Whereas, the Lewiston and Auburn Railroad Company currently owns the property adjacent to the Grand Trunk Railroad Depot across which the park would be extended; and

Whereas, the Railroad Company has indicated its willingness to work with the City in improving this property by granting the City an easement, subject to certain conditions, to allow its use for pedestrian access to and from the Park and which will allow the City to landscape and improve the property; and

Whereas, this park extension has been identified as a high priority project which should be undertaken as one of the first steps in implementing the plan;

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

the City Administrator is hereby authorized to execute an easement deed from the Lewiston and Auburn Railroad Company appurtenant to 46 Beech Street and 46 Beech Street Rear in a form substantially as attached hereto.

## EASEMENT DEED

Lewiston and Auburn Railroad Company, a Maine corporation with a mailing address of 415 Lisbon Street, Lewiston, ME 04240 (the "Railroad"), grants to the City of Lewiston, Maine whose mailing address is 27 Pine Street, Lewiston, ME 04240, (the "City"), with QUITCLAIM COVENANT, an easement (the "Easement"), in the location shown on the attached Exhibit A ("Easement Area"), which is a portion of the property at 38 Oxford Street and 103 Lincoln Street in Lewiston, which property is described in a deed recorded in the Androscoggin County Registry of Deeds ("Registry") in Book 5418, Page 345.

The Easement shall be appurtenant to 46 Beech Street and 46 Beech Street Rear, Lewiston, described in a deed recorded in the Registry in Book 4007, Page 318, now known as Simard-Payne Memorial Park (the "Park"). The Easement Area shall be used for pedestrian access by the public to and from the Park, and includes the right of the City to: landscape and plant; install signs, walkways, seating, lighting and other pedestrian improvements; to maintain the Easement Area and the improvements thereon; and to temporarily install and/or place tables, tents and kiosks in connection with events taking place in the Park. The making of any improvements shall be subject to the approval of the Railroad, which shall not be unreasonably withheld, conditioned or delayed.

By accepting this Easement, the City agrees to the following conditions:

1. The City accepts the Easement Area in its present condition and agrees that the existing tracks and bumper on the property shall remain in their existing location, and shall not be altered, buried or otherwise concealed by any structure that cannot be removed without damage to the tracks. The City shall be solely responsible for all maintenance within the Easement Area and shall maintain the Easement Area and all improvements thereon in a manner that is consistent with the safe use of the Easement Area by the public.
2. Any tenant of the Grand Trunk Depot is authorized to use the area adjacent to the Grand Trunk Depot and extending to the first set of railroad tracks, for purposes of outside seating, provided, however, that such seating does not interfere or otherwise restrict public passage across the Easement Area and provided that the Tenant must comply with applicable City ordinances in effect at the time, including but not limited to Section 66-36 of the City Ordinances, as it may be amended in the future.
3. The City shall require any contractor it engages to perform work in or on the Easement Area to: (a) maintain liability insurance in such amount as the Railroad may reasonably require; (b) name the Railroad as an additional insured on such policies; and (c) provide the Railroad with a certificate of insurance evidencing such insurance prior to commencing any work in or on the Easement Area. The City shall not permit any mechanic's lien to be asserted against the property by any person claiming under the City. In the event any such lien is asserted, the City shall promptly cause the lien to be discharged by payment, bond or otherwise and shall pay all costs incurred by the Railroad, including attorney's fees, that arise out of or in connection with any such lien.

4. Subject to any immunity or other defense to which the City may be entitled under the Maine Tort Claims Act, including any future amendments, the City shall hold the Railroad harmless from and defend and indemnify the Railroad against any and all claims and costs of any type whatsoever, including attorney's fees, that arise out of or in connection with the use of the Easement Area by the public or City's employees, agents or subcontractors of the City, except to the extent such claims arise out of the negligence of the Railroad or its tenants, invitees or guests. The City shall maintain liability insurance that provides coverage for its obligations hereunder; and

5. In the event the Railroad intends to re-establish rail service on the property, this Easement may be terminated by written notice to the City of Lewiston at least six months prior to the termination date. The Railroad may also terminate this Easement by written notice to the City in the event the City, for a period of two years or more, ceases to use the Easement Area for pedestrian access by the public to and from the Park or if the City transfers (by sale, lease, or otherwise) the Park or any substantial portion thereof or any interest therein such that the Park is not used for a public purpose.

In Witness whereof this Easement Deed has been executed by the duly authorized representatives of the parties on this \_\_\_ day of \_\_\_\_\_, 2013.

**LEWISTON AND AUBURN RAILROAD  
COMPANY**

\_\_\_\_\_  
By:  
Its:

STATE OF MAINE \_\_\_\_\_, 2012  
ANDROSCOGGIN COUNTY

Now personally appeared before me the above-named \_\_\_\_\_,  
\_\_\_\_\_ of Lewiston and Auburn Railroad Company, acknowledged the  
foregoing to be the free act and deed of the Lewiston and Auburn Railroad Company and  
\_\_\_\_\_ free act and deed in that capacity.

\_\_\_\_\_  
Notary Public/Attorney at Law  
Print Name: \_\_\_\_\_

**CITY OF LEWISTON**

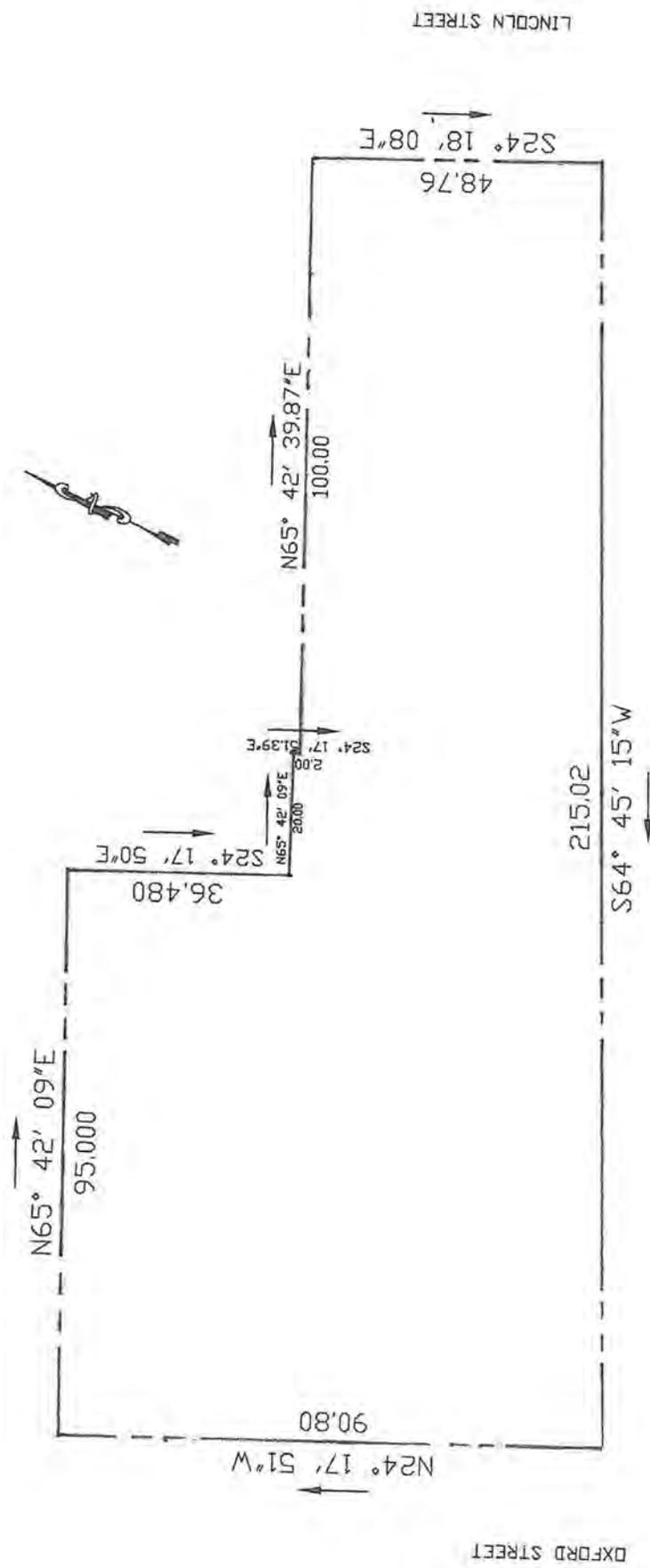
\_\_\_\_\_  
By:  
Its:

STATE OF MAINE  
ANDROSCOGGIN COUNTY

\_\_\_\_\_, 2012

Now personally appeared before me the above-named \_\_\_\_\_,  
\_\_\_\_\_ of the City of Lewiston, acknowledged the foregoing to be the free  
act of the City of Lewiston and \_\_\_ free act and deed in that capacity.

\_\_\_\_\_  
Notary Public/Attorney at Law  
Print Name: \_\_\_\_\_



LINCOLN STREET

OXFORD STREET

BEECH STREET