

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
DECEMBER 15, 2015**

5:00 p.m. Dinner

6:00 p.m. Executive Sessions

- ES-1. Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.
- ES-2. Executive Session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag.
Moment of Silence.

Acceptance of minutes of the meetings of February 17, March 3, April 7, July 14, August 11, October 6, October 20, November 17, and December 1.

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 1.

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. Resolve Accepting a Grant from the American Library Association of Three, 3-D Printers to support STEAM Programming for Teenagers at the Lewiston Public Library.
- * 2. Resolve Accepting a Grant from the Carignan Fund from the Harvard Center for Community Partnership at Bates College to partially support the ArtVan Program at the Lewiston Public Library.

REGULAR BUSINESS:

- 3. Public Hearing and Final Passage regarding amendments to the General Assistance Ordinance regarding eligibility.
- 4. Amendments to the Personnel Policies regarding employee health insurance options, the wellness program and sick leave coverage.
- 5. Resolve Accepting Dolard and Priscilla Gendron's donation of the properties located at 325 Alfred A. Plourde Parkway and 645 Webster Street.
- 6. Order Authorizing the City Administrator to Apply for and Accept a Grant from the Maine Historic Preservation Commission for Roof Improvement to the Clough Meeting House.
- 7. Resolve Receiving the Report of the Downtown Building Task Force.
- 8. Appointment to the Board of Assessment Review.

9. Appointment to the Lewiston Auburn Transit Committee.
10. Order Authorizing the Mayor to Execute Amendment Number Five to the Employment Agreement between the City of Lewiston and Edward A. Barrett.
11. Reports and Updates
12. Any other City Business Councilors or others may have relating to Lewiston City Government.
13. Executive Session pursuant to MRSA Title 1, section 405(6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL
MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6:00pm

SUBJECT:

Executive Session to discuss Acquisition of Property of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

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To enter into an Executive Session, pursuant to MRSA Title 1, section 405(6)(c), to discuss Acquisition of Property, of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6:30pm

SUBJECT:

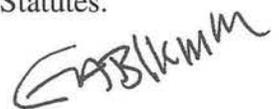
Executive Session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

INFORMATION:

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

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



REQUESTED ACTION:

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To enter into an executive session pursuant to MRSA Title 1, section 405(6)(A) to discuss a personnel matter.

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Resolve Accepting a Grant from the American Library Association of Three, 3-D Printers to support STEAM Programming for Teenagers at the Lewiston Public Library.

INFORMATION:

The Library applied for and was awarded a grant from American Library Association for the acquisition of three, 3-D printers that will be used by the public. There is are no local matching funds required other than to pay for the shipping, which the Friends of the Library organization will cover. This Council is asked to approve the acceptance of the grant. Approval is requested.

Please see attached memorandum from Library Director Rick Speer for additional details.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

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To approve the Resolve Accepting a Grant from the American Library Association of Three, 3-D Printers to support STEAM Programming for Teenagers at the Lewiston Public Library.



COUNCIL RESOLVE

Resolve, Accepting a Grant from the American Library Association of Three, 3-D Printers to Support STEAM Programming for Teenagers at the Lewiston Public Library.

Whereas, the Lewiston Public Library provides a range of programs for teenagers in the areas of Science, Technology, Engineering, Art, and Mathematics (STEAM); and

Whereas, library staff have successfully applied to the American Library Association for a grant to supply three, 3-D Cube printers; and

Whereas, the grant has no local match requirement other than to pay for the shipping costs for the three printers (approximately \$117); and

Whereas, the library plans to use funds provided by the Friends of the Lewiston Public Library to cover these shipping costs;

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

There is hereby accepted an American Library Association grant of three, 3-D Cube printers for the purpose of improving the STEAM programming at the Lewiston Public Library.



Lewiston Public Library

Richard A. Speer, Library Director

TO: CITY COUNCIL AND MAYOR
FROM: RICK SPEER, LIBRARY DIRECTOR
DATE: DECEMBER 9, 2015
RE: RESOLVE APPROVING AMERICAN LIBRARY ASSOCIATION GRANT

The Library is requesting that the City Council approve the attached Resolve, Accepting a Grant from the American Library Association of three, 3-D Printers to Support STEAM Programming for Teenagers at the Lewiston Public Library.

The Library's Adult & Teen Services staff provides ongoing programs for our patrons and users and, over the last several months, staff have been exploring various options for expanding programs designed to increase the knowledge and aspirations of teenagers in the subject areas of Science, Technology, Engineering, Arts and Math (STEAM). Recently, staff learned of the availability of American Library Association grants to enable libraries of all sizes to join their national MakerLab Club and to also provide 3-D Cube printers for use by young people in the library. Library staff subsequently applied for one of these grants for three of the 3-D printers.

We recently received word that our grant application was successful, and, if accepted, we will be provided with three, 3-D printers at the Lewiston Public Library. (Each of these 3-D Cube printers has a value of \$1,030). If we accept this grant, we will be provided with codes to order these three printers at no cost; however, we would be responsible for the shipping costs. The Library plans to use approximately \$117 in funds provided by the Friends of the Lewiston Public Library to pay for the printer shipping costs. No city funding will be needed to accept this grant.

At their meeting last Thursday (Dec. 3), the Board of Library Trustees adopted a resolve recommending to the City Administrator and the City Council the acceptance of this grant.

LEWISTON CITY COUNCIL
MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Resolve Accepting a Grant from the Carignan Fund from the Harward Center for Community Partnerships at Bates College to partially support the ArtVan Program at the Lewiston Public Library.

INFORMATION:

The Library applied for and was awarded a grant from the Carignan Fund to help cover the costs of continuing the ArtVan program, a very successful arts program for youth. The Council is asked to approve the acceptance of the grant. Approval is requested.

Please see attached memorandum from Library Director Rick Speer for additional details.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EABikmm

REQUESTED ACTION:

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To approve the Resolve Accepting a Grant from the Carignan Fund from the Harward Center for Community Partnerships at Bates College to partially support the ArtVan Program at the Lewiston Public Library.



COUNCIL RESOLVE

Resolve, Accepting a Grant from the Carignan Fund from the Harvard Center for Community Partnerships at Bates College to Partially Support the ArtVan Program at the Lewiston Public Library.

Whereas, the Lewiston Public Library has been successfully working with the ArtVan program to provide art therapy and instruction to grade school children in the Library since September of 2006; and

Whereas, the City and Library have been informed that the costs for the ArtVan program will be increasing in September of 2017; and

Whereas, the ArtVan program currently operates in the Library with Bates College student volunteer support; and

Whereas, Library staff successfully applied for a Carignan Fund grant of \$1,300 to cover the increased ArtVan costs for FY2017; and

Whereas, the grant award does not require any increase in expenditures by either the City or the Library;

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

There is hereby accepted a Carignan Fund grant in the amount of \$1,300 for the purpose of continuing the ArtVan programming at the Lewiston Public Library.



Lewiston Public Library

Richard A. Speer, Library Director

TO: CITY COUNCIL AND MAYOR
FROM: RICK SPEER, LIBRARY DIRECTOR
DATE: DECEMBER 9, 2015
RE: RESOLVE APPROVING CARIGNAN FUND GRANT FOR LIBRARY

The Library is requesting that the City Council approve the attached Resolve, Accepting a Grant from the Carignan Fund from the Harward Center for Community Partnerships at Bates College to Partially Support the ArtVan Program at the Lewiston Public Library.

The Library has been working with ArtVan, a Maine nonprofit, for the last nine years to provide children's art programming in the Library. ArtVan is run by a professional art therapist who employs art instructors to work with the children one afternoon weekly in the library. The ArtVan and Lewiston Public Library partnership has had an overwhelmingly positive effect on local children. Not only do they provide quality art instruction, they present a level playing field for any child to excel since no prior education or cultural background is required to participate.

For the last several years, we have been bringing ArtVan in for 26 Monday afternoon sessions spread over the school year. The cost to the Library for these 26 sessions has been \$1,950 for each of the last few years. (The actual cost for ArtVan is twice that amount; however, they receive other sources of funding to cover some of their staff and overhead costs. To date, the Lewiston Public Library costs have been paid for partially from the Library Endowment Fund and partially from funding provided by the Friends of the Lewiston Public Library.) However, ArtVan's costs are going up and to continue the service for the next (FY2017) school year, they have informed us that we need to come up with \$3,250 (an additional \$1,300) to cover our share of the programming costs for the 26-weekly sessions.

Both ArtVan and the Library work with the Harward Center for Community Partnerships at Bates College to identify Bates student volunteers to help with the library's ArtVan program. Through this association with the Harward Center, we were made aware of the Carignan Fund, and library staff applied for \$1,300 in funding to continue the programming for the 2016-17 school year. If this grant is accepted by the City Council, we will continue to use \$1,950 of Endowment Fund and Friends of LPL funding to cover the costs of the full ArtVan program. (The only City money that will be required to accept this grant and operate this program will be the Library Endowment Fund money; no general fund money will be used for ArtVan programming.)

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

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

INFORMATION:

For some time, there has been considerable uncertainty about General Assistance expenditures which are/are not eligible for state reimbursement, especially in regard to asylum applicants. This has included a disagreement between the Governor and Attorney General and a law suit filed by several municipalities. After the suit was settled, the City adopted the position that, while it would continue to provide assistance to asylum applicants already in the program, no new applications from such individuals would be granted after July 1, 2016. Subsequently, the State Legislature amended state law (copy attached) to require, as of July 1, that a person who is lawfully present in the United States or who is pursuing a lawful process to apply for immigration relief, would be eligible for General Assistance for a period not to exceed 24 months. This law is now in effect. Recently, Councilor Libby asked us to review whether our General Assistance ordinance should be amended to reflect state law. Our current ordinance has a very broad definition of who is eligible that now basically covers anyone who is in need. Additionally, it does not include the 24 month limitation. The attached ordinance revision would amend our ordinance to bring it into line with current state law and our actual practice. Recognizing that the state is in the process of adopting regulations to implement the new state law, the amendment also restricts eligibility to individuals for whom the City will receive reimbursement from the state. This will allow our program to flexibly respond to any changes in state laws and regulations.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

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That the proposed amendments to the City Code of Ordinances, Chapter 46 "General Assistance" receive final passage by a roll call vote.

Chapter 46

GENERAL ASSISTANCE*

Article I. In General

- Sec. 46-1. Introductory provisions.
- Sec. 46-2. Definitions.
- Sec. 46-3. Confidentiality of information.
- Sec. 46-4. Maintenance of records.
- Secs. 46-5--46-30. Reserved.

Article II. Application Procedure

- Sec. 46-31. Right to apply.
- Sec. 46-32. Application interview.
- Sec. 46-33. Contents of application.
- Sec. 46-34. General assistance administrator's responsibilities at time of application.
- Sec. 46-35. Responsibilities of applicant at time of application.
- Sec. 46-36. Action on applications.
- Sec. 46-37. Withdrawal of an application.
- Sec. 46-38. Temporary refusal to accept application.
- Sec. 46-39. Emergencies.
- Sec. 46-40. Residence.
- Secs. 46-41--46-60. Reserved.

Article III. Eligibility Factors

- Sec. 46-61. Generally.
- Sec. 46-62. Initial application; repeat applicants.
- Sec. 46-63. Eligibility for categorical assistance.
- Sec. 46-64. Personal property.
- Sec. 46-65. Ownership of real estate.
- Sec. 46-66. Work requirement.
- Sec. 46-67. Municipal work program.
- Sec. 46-68. Use of resources.
- Sec. 46-69. Period of disqualification.
- Secs. 46-70--46-90. Reserved.

Article IV. Determination of Eligibility

- Sec. 46-91. Recognition of dignity and rights.
- Sec. 46-92. Determination; redetermination.
- Sec. 46-93. Verification.
- Sec. 46-94. Fraud.
- Sec. 46-95. Period of eligibility.
- Sec. 46-96. Determination of need.
- Sec. 46-97. Income.

GENERAL ASSISTANCE

- Sec. 46-98. Basic necessities; maximum levels of assistance.
- Sec. 46-99. Notice of decision; disbursements.
- Secs. 46-100--46-120. Reserved.

Article V. Fair Hearing

- Sec. 46-121. Right to fair hearing.
- Sec. 46-122. Method of obtaining.
- Sec. 46-123. The fair hearing authority.
- Sec. 46-124. The fair hearing procedure.
- Sec. 46-125. The fair hearing decision.
- Secs. 46-126--46-145. Reserved.

Article VI. Recovery of Expenses

- Sec. 46-146. Recipients.
- Sec. 46-147. Relatives.

GENERAL ASSISTANCE

ARTICLE I. IN GENERAL

Sec. 46-1. Introductory provisions.

- (a) The city shall administer a program of general assistance available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided in this chapter and in 22 M.R.S.A. § 4301 et seq.
- (b) Every effort will be made to recognize the dignity of the applicant for general assistance and to encourage self-reliance. The program will help each person achieve self-maintenance and will encourage the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. General assistance will promote strengthening the family, especially with regard to the care and protection of children.
- (c) The general assistance program will place no restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on gender, age, race, religion, disability or political affiliation. The applicant or recipient will be informed of his rights and responsibilities under the general assistance program.
- (d) The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. Within 24 hours of receiving an application, the applicant will receive a written decision whether or not assistance is granted, and that will state the specific reasons for the decision. The administrator will also give the applicant written notice that the applicant may appeal to the municipal fair hearing authority, if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted, except when the administrator issues nonemergency assistance conditionally on the successful completion of a workfare assignment.
- (e) The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential.
- (f) The administrator will post a notice stating the days and hours the administrator will be available. A copy of this chapter and the Maine General Assistance Law, 22 M.R.S.A. § 4301 et seq., will be readily available to any member of the public upon request.
- (g) The general assistance administrator will refer to and abide by any other city ordinance to define a condition, area or situation. The administrator will not pay rent to a building owner or landlord when that building, or any unit in that building, has been placarded, condemned, unlicensed, or is known to be in violation of any other municipal ordinance.

(Ord. No. 92-6, § 13-1, 3-5-92; Ord. No. 94-2, § 13-1, 5-5-94; 12-9, 8-16-12)

Cross references: Municipal work program, § 46-67.

Sec. 46-2. Definitions.

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

Applicant means a person who has submitted, either directly or through an authorized

GENERAL ASSISTANCE

representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

Application form means a standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

Basic necessities means food, clothing, shelter, fuel, electricity, nonelective medical services as recommended by a physician, nonprescription drugs, telephone where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the city. The term "basic necessities" does not include security deposits for rental property, except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full.

Case record means an official file containing application forms, correspondence, narrative records and all other communications pertaining to an applicant or recipient, written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant's request for fair hearing and those fair hearing decisions.

Caseworker. The term "overseer" shall be that official so designated by the municipal officers, and the term shall incorporate those personnel within the division of general assistance who act as agents of the overseer.

Categorical assistance means all state and federal income maintenance programs.

Claimant means a person who has requested a fair hearing.

Disabled person means a person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician.

Dwelling unit means a building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit.

Eligible ~~person~~Person means a personResident who is otherwise qualified to receive general assistance from the municipality, according to the standardsrequirements of eligibility-set forth in this chapter; and 22 M.R.S. § 4301(3). For purposes of this chapter, the term "Eligible ~~person~~Person" shall include all U.S. citizens and permanent residents aliens who otherwise meet the qualifications of this chapter. Eligible person shall also include a nonresident aliens who:

(a) has been lawfully admitted or paroled into the United States and who is not unlawfully present under U.S. immigration and nationality law; or

(b) is seeking benefits under United States immigration and nationality law, as evidenced by: a receipt notice or other documentation of a pending application for benefits or relief, a sworn statement from the Applicant's attorney identifying the requested relief and confirming that the applicant has a

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meritorious basis for requesting the relief, or a sworn statement from the applicant identifying the requested relief and confirming that he or she is taking all reasonable steps necessary to obtain the relief; or

(c) is an unaccompanied minor; or

(d) is the parent, guardian, or sibling of a U.S. citizen who is a minor; or

(e) is living in the United States with the knowledge and permission of the Department of Homeland Security (DHS) and DHS does not contemplate enforcing the applicant's departure.

The term "Eligible Person" does not include a person who is a fugitive from justice as defined in 15 M.R.S. § 201) or any person for whom the municipality is ineligible for reimbursement in accordance with the rules, regulations, and statutes governing the State of Maine's General Assistance program.

Emergency means any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person.

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

General assistance program means a service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing "grant-in-aid" or "categorical" welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person has need and is found to be otherwise eligible to receive general assistance.

Household means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable or otherwise responsible for supporting the household shall be considered as available to the applicant only when there is a pooling of income.

Income means any form of income in cash or in kind received by the household, including net remuneration for services performed, cash received on either secured or unsecured credit, any payments received as an annuity, retirement or disability benefits, veterans' pensions, workers' compensation, unemployment benefits, benefits under any state or federal categorical assistance program, supplemental security income, social security and any other payments from governmental sources, unless specifically prohibited by any law or regulation, court ordered support payments, income from pension or trust funds, household income from any other source,

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including relatives or unrelated household members and any benefits received pursuant to Title 36, chapter 907 and Title 36, section 5219-II, unless used for basic necessities as defined in section 4301, subsection 1.

The following items shall not be considered as income or assets which must be liquidated for the purposes of deriving income.

- (1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- (2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- (3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

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

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

Just cause means a valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility.

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

Maximum levels of assistance means the amount of assistance as established in article IV or the actual cost of any basic necessity, whichever is less.

Misconduct shall have the same meaning as misconduct defined in 26 MRSA§1043 (23). Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interests may also be found guilty of misconduct.

Municipality means any city, town or plantation administering a general assistance program.

Municipality of responsibility means the municipality which is liable for the support of an ~~eligible person~~ Eligible Person at the time of application.

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Need means the condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance.

Net general assistance costs means those direct costs incurred by a municipality in providing assistance to ~~eligible persons~~ **Eligible Persons** according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program.

Period of eligibility means the time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance, provided, however, that in no event shall this period extend beyond one month.

Pooling of income means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumption of pooling income.

Real estate means any land, buildings, homes, mobile homes, and any other things affixed to the land.

Recipient means a person who has applied for and is currently receiving general assistance.

Resident means a person who is physically present in Lewiston with the intention of remaining in Lewiston in order to maintain or establish a home and who has no other residence. A person who applies for assistance in Lewiston who is not a resident of Lewiston or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he is eligible, until he establishes a new residence in another municipality. See section 46-40.

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

- (1) *Available resources.* Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). Available resources also include the services, commodities or facilities made available by private organizations when:
 - a. The applicant voluntarily agrees to utilize such services;
 - b. The municipality has established a contractual relationship with the private organization to provide services or commodities when requested;
 - c. The municipality is able to secure the services or commodities needed by

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an applicant from the private organization for any consideration acceptable to both the organization and the municipality; and

- d. The service is available and offered at no cost to the applicant and deemed necessary by a physician, psychologist or other professional retraining or rehabilitation specialist.

Charities may be considered private organizations which are available resources only if the charity places no unreasonable requirements on the applicant which are violative of the applicant's fundamental rights. (*Fjeld v. Lewiston, Andro. Sup. Ct. CV 87-4*; *Bolduc v. Lewiston, Andro. Sup. Ct. CV 87-248*)

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

(Ord. No. 92-6, § 13-20, 3-5-92; Ord. No. 94-2, § 13-20, 5-5-94; 12-9, 8-16-12; Ord. No. 13-11, 7-1-13)

Cross references: Definitions generally, § 1-2.

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(1), (2), (3), (4), (5), (6), (7), (8), (8-A), (9), (10), (11), (13), 4307, 4308, 4309(1), 4310, 4311, 4316-A(5), 4317, 26 M.R.S.A. § 1043(23).

Sec. 46-3. Confidentiality of information.

- (a) *Confidentiality.* Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released. (*Janak v. D.H.S., Aroostook Cty #CV-89-116*).
- (b) *Release of information.* Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a legal representative or other third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his records. Whenever the administrator releases any information, he will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.
- (c) *Information from other sources; penalty.*
 - (1) Information furnished to the municipality by the department of human services or any other agency or institution pursuant to 22 M.R.S.A. § 4314 is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of records concerning birth, marriage and death.
 - (2) Any person who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the

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refusal. Any person who refuses to provide information, without just cause, may be subject to a civil penalty in accordance with the city's policy manual as approved by the city council. Any person, including the applicant, who knowingly and willfully gives false information to the administrator is committing a class E crime.

- (d) *Misuse of information.* Misuse of any information relating to an applicant or recipient is a punishable offense.

(Ord. No. 92-6, § 13-30, 3-5-92; Ord. No. 94-2, § 13-30, 5-5-94; Ord. No. 08-06f, 8-14-08)

State law references: Similar provisions, 22 M.R.S.A. §§ 42(2), 2706, 4306, 4314, 4315.

Sec. 46-4. Maintenance of records.

- (a) *Purpose.* The general assistance administrator will keep complete and accurate general assistance records. These records are necessary to:
- (1) Provide a valid basis of accounting for municipal expenditures;
 - (2) Document and support decisions concerning an applicant or recipient; and
 - (3) Assure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.
- (b) *Case records.* The administrator will establish and maintain a separate case record for each applicant or recipient. Each case record will include at least the household's applications, budget sheets, information concerning the types and amounts of assistance provided, narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's unmet need, written decisions, any requests for fair hearings and the fair hearing authority decisions. Workfare participation will also be recorded, as will any cash repayments to the municipality. The record may also include a narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status, the reason(s) for the release of confidential information, adjustments in aid and suspension or termination of eligibility.

Case records will not include information or material that is irrelevant to an applicant's or recipient's application or to the general assistance administrator's decisions.

(Ord. No. 92-6, § 13-31, 3-5-92; Ord. No. 94-2, § 13-31, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4306.

Secs. 46-5--46-30. Reserved.

ARTICLE II. APPLICATION PROCEDURE

Sec. 46-31. Right to apply.

- (a) *Who may apply.* ~~Anyone~~Any Eligible Person may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 46-39

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or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance. The administrator may require a duly authorized representative to present a signed statement documenting that he is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility.

- (b) *Telephone applications.* When a person has an emergency but is unable to apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and the person cannot send an authorized representative, the administrator will accept an application over the telephone. The telephone application process will include the administrator receiving written verification via mail or visiting the applicant's home with the applicant's permission.
- (c) *Written application upon each request.* Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies.
- (d) *Applications accepted; posted notice.* Applications will be processed during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance, and will include the information on the emergency contact available to take emergency applications at all other times. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator; however, in an emergency, the administrator will be available to accept applications for assistance whenever necessary.

(Ord. No. 92-6, § 13-40, 3-5-92; Ord. No. 94-2, § 13-40, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4304, 4305, 4308, 4309.

Sec. 46-32. Application interview.

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

(Ord. No. 92-6, § 13-41, 3-5-92; Ord. No. 94-2, § 13-41, 5-5-94)

Sec. 46-33. Contents of application.

At a minimum, the application will contain the following information:

- (1) Applicant's name, address, date of birth, Social Security Number, and phone number;
- (2) Names, dates of birth, and Social Security Numbers of other household members for whom the applicant is seeking assistance;
- (3) Total number of individuals in the building or apartment where the applicant is residing;

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- (4) Employment and employability information;
- (5) All household income, resources, assets, and property;
- (6) Expenses;
- (7) Types of assistance being requested;
- (8) Penalty for false representation;
- (9) Applicant's permission to verify information;
- (10) Signature of applicant and date.

(Ord. No. 92-6, § 13-42, 3-5-92; Ord. No. 94-2, § 13-42, 5-5-94)

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

- (a) *Generally.* The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and reimbursement obligations.
- (b) *Application requirements.* The administrator will fill out the application as described in section 46-33, with information and documentation provided by the applicant. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.
- (c) *Eligibility requirements.* The administrator will inform the applicant of the eligibility requirements of the program, including the income standard of need; the applicant's ongoing use-of-income, work related, and resource related responsibilities, as described in section 46-35; the financial reduction in assistance that is the consequence of spending household income on nonnecessities; and the disqualification penalties associated with committing fraud, failing to perform work related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.
- (d) *Applicant rights.* The administrator will inform all applicants of their rights to, review this chapter and the state general assistance law, apply for assistance, receive a written decision concerning eligibility within 24 hours of applying for assistance, confidentiality, contact the department of health and human services, and challenge the administrator's decision by requesting a fair hearing.
- (e) *Reimbursement, recovery.* The administrator will inform the applicant that he must reimburse the municipality for the amount of general assistance he has been granted in the event of a subsequent ability to pay. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see article VI, relative to recovery of expenses). Whenever applicable, the administrator will explain the various

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liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the workers' compensation lump sum payment lien or the SSI interim assistance agreement lien, as these liens are described in article VI.

(Ord. No. 92-6, § 13-43, 3-5-92; Ord. No. 94-2, § 13-43, 5-5-94; 12-9, 8-16-12)

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

Sec. 46-35. Responsibilities of applicant at time of application.

- (a) The applicant has the responsibility at the time of each application to provide accurate, complete and current information and verifiable documentation concerning the applicant's income, resources, assets, household employment, how the applicant has spent his income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information from a previous application that would affect the applicant's eligibility.
- (b) In addition, the applicant must accurately report and provide verifiable documentation that shows that the applicant:
 - (1) Has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
 - (2) Has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;
 - (3) Has made use of all available and potential resources when directed in writing to such a program by the administrator, including but not limited to other government benefit programs or the assistance of liable relatives of sufficient means; and
 - (4) Has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance.

(Ord. No. 92-6, § 13-44, 3-5-92; Ord. No. 94-2, § 13-44, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4309, 4316-A, 4317.

Sec. 46-36. Action on applications.

- (a) *Written decision.* The general assistance administrator will give a written decision to the applicant concerning his eligibility within 24 hours after he submits a written application and will furnish assistance to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 46-67) to issue assistance conditionally on the successful completion of a workfare assignment. A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.
- (b) *Content of decision.* The written decision on the application will contain the following information:

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- (1) The type and amount of aid the applicant is being granted or the applicant's ineligibility;
- (2) The period of eligibility if the applicant is eligible for assistance;
- (3) The specific reasons for the decision;
- (4) The applicant's right to a fair hearing; and
- (5) The applicant's right to notify the department of health and human services if he believes the municipality has acted illegally.

(Ord. No. 92-6, § 13-45, 3-5-92; Ord. No. 94-2, § 13-45, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. §§ 4305, 4321.

Sec. 46-37. Withdrawal of an application.

An application is considered withdrawn if:

- (1) The applicant requests, in writing, that his application be withdrawn; or
- (2) The applicant refuses to complete or sign the application, or any other form needed by the general assistance administrator.

(Ord. No. 92-6, § 13-46, 3-5-92; Ord. No. 94-2, § 13-46, 5-5-94)

Sec. 46-38. Temporary refusal to accept application.

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications for 24 hours. Such circumstances may include, but are not limited to, the following:

- (1) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be requested to leave. If the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will be accepted when his conduct is under control;
- (2) When a third person applies for assistance on behalf of the applicant. That person may be required to provide written verification that he has been duly authorized to act as a representative for the applicant.

(Ord. No. 92-6, § 13-47, 3-5-92; Ord. No. 94-2, § 13-47, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4308.

Sec. 46-39. Emergencies.

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

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have not had sufficient income and resources to avert the emergency. The following exceptions and conditions apply when determining eligibility for emergency assistance.

- (1) *Disqualification.* A person who is currently disqualified from receiving general assistance due to a violation of sections 46-66, 46-67, 46-68 and 46-94 is ineligible to receive emergency assistance. Dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as: (i) a dependent minor child; (ii) an elderly, ill or disabled person; or (iii) a person whose presence is required to provide care for any child under the age of six years or any ill or disabled member of the household. If one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.
- (2) *Assistance prior to verification.* Whenever an applicant informs the administrator that he needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:
 - a. After interviewing the applicant, the administrator has determined that he will probably be eligible for assistance after a verification of information is completed; and
 - b. The applicant submits documentation, when possible, to verify his need.

The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility has been confirmed.

- (3) *Telephone applications.* If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, lack of child care, or other good cause, and if there is no authorized representative who can apply for the applicant, the administrator will accept an application over the telephone.

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his home, or by mail, and the administrator cannot determine his eligibility through any other means.
- (4) *Limitation on emergency assistance.* Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace that money. Applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation.

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

- a. The applicable time period shall be the 30 days preceding the application

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

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

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

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

(Ord. No. 92-6, § 13-48, 3-5-92; Ord. No. 94-2, § 13-48, 5-5-94; 12-9, 8-16-12)

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

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Sec. 46-40. Residence.

- (a) *Eligibility.* The administrator shall provide general assistance to all ~~eligible persons~~Eligible Persons applying for assistance who are residents of this municipality. A "resident" is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household. The municipality also recognizes its responsibility to provide assistance to ~~eligible persons~~Eligible Persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his eligibility and, if eligible, will grant assistance until he establishes a residence in another municipality.
- (b) *Moving, relocating.* The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after the applicant moves, provided the recipient remains eligible.
- (c) *Institutions.* If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitative center, nursing home, or hospital) and requests assistance while at the institution, he will be the responsibility of this municipality for up to six months after he enters the institution. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution.
- (d) *Temporary housing.* Hotels, motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. [Note: Municipalities which illegally deny housing assistance, and as a result of the denial the applicant stays in temporary lodging, are responsible for the applicant for up to six months and may be subject to other penalties.]
- (e) *Disputes.* When the administrator believes that an applicant is a resident of another municipality, but that municipality disputes its responsibility, the administrator will notify the department of human services in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his eligibility and, if eligible, will grant assistance until the department has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the department will recover the amount due from the other municipality.

(Ord. No. 92-6, § 13-49, 3-5-92; Ord. No. 94-2, § 13-49, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4307, 4307(4), (5), (6).

Secs. 46-41--46-60. Reserved.

ARTICLE III. ELIGIBILITY FACTORS

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Sec. 46-61. Generally.

~~A person will be eligible for~~An Eligible Person may receive general assistance if he is in need and has complied with the eligibility requirements set forth in this article.

(Ord. No. 92-6, art. V, 3-5-92; Ord. No. 94-2, art. V, 5-5-94)

Sec. 46-62. Initial application; repeat applicants.

(a) *Initial application.*

- (1) For initial applicants, except as provided below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct. See section 46-66. An initial applicant is a person who has never before applied for general assistance in any Maine municipality.
- (2) *Need* means that the applicant's income, including pro-rated income where applicable, property, credit, assets or other resources are less than the overall maximum levels of assistance established in accordance with section 46-98 or the actual 30-day costs, whichever is less, and he doesn't have adequate income or other resources available to provide basic necessities.

- (b) *Subsequent applicants.* Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need, have used their income and resources to secure basic necessities, and meet all other eligibility requirements.

(Ord. No. 92-6, § 13-50, 3-5-92; Ord. No. 94-2, § 13-50, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4308(1), 4316-A(1A).

Sec. 46-63. Eligibility for categorical assistance.

- (a) Receipt of categorical assistance will not disqualify a person from receiving general assistance, if he is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of food stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. section 2017(b)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income or resources; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his total fuel costs (42 U.S.C. section 624(f); Dept. of Health and Welfare v. Block, 784 F.2d 895). The computation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under types of income at section 46-96.
- (b) Applicants or recipients must apply for other program benefits within seven days after

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being advised in writing to do so by the general assistance administrator. Persons who, without just cause, fail to make a good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit.

(Ord. No. 92-6, § 13-51, 3-5-92; Ord. No. 94-2, § 13-51, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4317.

Sec. 46-64. Personal property.

- (a) *Liquid assets.* No person owning assets easily convertible into cash, including, but not limited to, bank deposits, stocks, bonds, certificates of deposit and other marketable security, will be eligible for general assistance unless and until he uses these assets to meet his basic needs and thereby exhausts them.
- (b) *Tangible assets.* No person owning or possessing personal property consisting of more than one motor vehicle, or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are nonessential to the maintenance of the applicant's household will be eligible for general assistance. Exceptions may be made when a person is making an initial application and when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.
- (c) *Automobile ownership.* Ownership of one automobile per household will not make a person ineligible for assistance, if such vehicle is essential for transportation to employment, medical care, rehabilitation or training facilities, or if it is essential to the maintenance of the applicant and his family. Recipients of general assistance who own an automobile with a market value greater than \$8,000.00 may be required, with written, 30-day notice, to make a good faith effort to trade that automobile in to a reputable automobile dealer for an automobile with a market value of less than \$8,000.00. Any income received by the applicant by virtue of such a trade-down must be used for his basic necessities. Failure to liquidate or trade down the excess value of an automobile asset can result in disqualification. The municipality will neither pay, nor consider as necessary expenses, any car payment for which the applicant is responsible. General assistance for travel-related needs shall be computed in accordance with section 46-98, regarding work related expenses.
- (d) *Insurance.* Insurance that is available to an applicant on a noncontributory basis, or that is required as a condition of employment, will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may be considered as a tangible asset when an applicant has received assistance for four weeks or more after an application for assistance.
- (e) *Transfer of property.* Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the

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applicant transferred his assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of an arms-length transaction.

(Ord. No. 92-6, § 13-52, 3-5-92; Ord. No. 94-2, § 13-52, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. § 4317.

Sec. 46-65. Ownership of real estate.

- (a) If the applicant or dependents own real property other than that occupied as the principal home, continued eligibility will depend on the applicant making a reasonable effort to:
 - (1) Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
 - (2) Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to someone solely to appear eligible for general assistance will be ineligible.
- (b) If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient. See section 46-97.

(Ord. No. 92-6, § 13-53, 3-5-92; Ord. No. 94-2, § 13-53, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4320.

Sec. 46-66. Work requirement.

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

- (1) *Employment, rehabilitation.* All unemployed applicants and members of their households who are 16 years of age or older will be required to accept any suitable job offer or opportunity for rehabilitative services, except as provided in this article (see exemptions). Applicants must demonstrate to the administrator that they are available for work and are actively seeking full time employment.
 - a. *Suitable job* means any job (at a rate of at least the state's minimum wage) which the applicant is mentally and physically able to perform.
 - b. *Available for work* means that applicants must make themselves available for work during the normal business hours prevailing in the area and show that no circumstance exists which would prevent them from complying with the work requirement.
- (2) *Verification.* Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. If

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employment is pursued online, an actual application must be completed, and a receipt for the completed application must be provided *Pursuit of employment* means actually submitting a written application or applying for a job in person when reasonable, or submitting an online application. For the duration of any repeat applicant's period of unemployment or partial employment, each recipient will be responsible for providing documentation of their pursuit of employment according to the conditions set forth by the administrator. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

- (3) *Disqualification.* After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:
 - a. Refuse to register for employment with the state job service;
 - b. Refuse to search diligently for employment when the search is reasonable and appropriate. Recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent work search and will be disqualified;
 - c. Refuse to accept a suitable job offer;
 - d. Refuse to participate in an assigned training, education or rehabilitative program that would assist the applicant in securing employment;
 - e. Fail to be available for work;
 - f. Refuse to participate, or participate in a substandard manner, in the municipal work program. See section 46-67.
- (4) *Disqualification for quitting job, discharge for misconduct.* No applicant, whether an initial or repeat applicant, who has quit his full-time or part-time job without just cause or who has been discharged from employment for misconduct will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment.
- (5) *Just cause.* Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. Just cause will be considered to exist when there is reasonable and verifiable evidence that:
 - a. The applicant has a physical or mental illness or disability, which prevents him from working;
 - b. Employment pays below minimum wage;
 - c. The applicant was subject to sexual harassment;
 - d. The applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;
 - e. The applicant has no means of transportation to or from work or a training or rehabilitation program;

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- f. The applicant is unable to arrange for necessary child care or care of ill or disabled family members;
 - g. Any reason found to be good cause by the state department of labor or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause.
- (6) *Applicant's burden of establishing just cause.* If the administrator finds that the applicant has violated a work related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause.
- (7) *Eligibility regained.* Persons who are disqualified for 120 days because they violated the work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement they violated. Persons who have been disqualified for 120 days for failing or refusing to participate in the municipal workfare program or for performing their workfare assignment in a substandard manner shall be limited to a single opportunity to regain eligibility. If a workfare participant fails to regain eligibility, without just cause, after being offered a distinct and separate opportunity to do so, the administrator shall enforce the 120-day disqualification for the term of its initial duration. If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial period of disqualification for failing to comply with the municipal work program, that participant shall be ineligible for a new 120-day period beginning with a new disqualification date, but with no opportunity to requalify.
- (8) *Dependents.* Failure of an otherwise ~~eligible person~~Eligible Person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:
- a. A dependent minor child;
 - b. An elderly, ill, or disabled person; and
 - c. A person whose presence is required in order to provide care for any child under six years of age or for any ill or disabled member of the household.
- If one or more members of a household are disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.
- (9) *Exemptions.*
- a. The work requirements of this section do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the family residing in the household is also exempt from the requirements of this section.
 - b. The requirements of this section will not be imposed so as to interfere with

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an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved or determined by the department of labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program under the control of the department of human services or department of labor.

(Ord. No. 92-6, § 13-54, 3-5-92; Ord. No. 94-2, § 13-54, 5-5-94; 12-9, 8-16-12)

State law references: Similar provisions, 22 M.R.S.A. § 4301(8), 4309(3), 4316-A(1A), (4).

Sec. 46-67. Municipal work program.

- (a) *Participation.* Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a nonprofit organization, as a condition of receiving assistance. The work requirement provisions found in section 46-66 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.
- (b) *Consent.* Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.
- (c) *Limitations.* The work requirement is subject to the following limitations:
 - (1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance the value of which is computed at the rate of at least the prevailing minimum wage under state or federal law.
 - (2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.
 - (3) In no case shall ~~eligible persons~~Eligible Persons performing work under this section replace regular municipal employees.
 - (4) In no case will work performed under this section interfere with an ~~eligible person's~~Eligible Person's:
 - a. Existing employment;
 - b. Ability to follow up on a bona fide job offer;
 - c. Attendance at an interview for possible employment;

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- d. Classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
 - e. Classroom or on-site participation in a training program which is approved or determined by the department of labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree granting program operated under the control of the department of human services or the department of labor.
- (5) In no case may an ~~eligible person~~Eligible Person be required to work more than 40 hours per week. An ~~eligible person~~Eligible Person who has full- or part-time employment shall be exempt from the work requirement, to the extent that the work requirement in combination with his regular employment would result in the person working more than 40 hours per week.
- (6) In no case will an ~~eligible person~~Eligible Person be required to perform work beyond his capabilities. However, when an illness or disability is claimed, an ~~eligible person~~Eligible Person may be required, as a condition of receiving assistance, to present a medical statement detailing the extent of the disability or illness. If the administrator requires a medical statement to verify an applicant's illness or disability, the municipality will pay for the doctor's evaluation if the applicant has no means to pay for the exam; however, in such a case, the administrator will choose the medical provider. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention.
- (7) In no case may an ~~eligible person~~Eligible Person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this section prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the ~~eligible person~~Eligible Person that he is willing to perform workfare in order to continue to be eligible for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following workfare first policy.
- (d) *Workfare first policy.* Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.
- (1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
 - (2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
 - a. A specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;

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- b. The period of eligibility for which the general assistance grant is being issued, in days or weeks but not to exceed 30 days;
 - c. The rate, at a dollar-per-hour basis, but not less than the prevailing minimum wage, upon which the duration of the workfare assignment is calculated;
 - d. The actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
 - e. The specifics of the workfare assignments, including the general nature of the type of work being assigned, locations of work sites, dates and times of assigned workfare, workfare supervisors' names and contact telephone numbers; and
 - f. Any other pertinent information related to the workfare assignments the recipient will be expected to perform.
- (3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his workfare related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- (4) In addition to any disqualification penalty that may apply, the consequences of refusing to perform or failing to completely perform the workfare assignment, without just cause, or performing the entire workfare assignment below the average standards for that job, without just cause, will be the termination of the entire general assistance grant. Notice of the grant termination will be provided to the workfare participant in accordance with section 46-99.
- (5) If some of the workfare first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination and the reasons therefore will be issued to the workfare participant in accordance with section 46-99.
- (6) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned.
- (e) *Work-related expenses.* A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person. The municipality will provide any special clothes or equipment the recipient needs to perform his work assignment, if they are not available through other sources.
- (f) *Disqualification.* Any person who willfully fails to perform or willfully performs below average standards the work assigned by the municipality, without just cause, will be ineligible for 120 days. As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient that he is

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disqualified for 120 days unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

- (g) *Eligibility regained.* Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions:

- (1) Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (see section 46-66).

If during the 120-day disqualification period the recipient makes a timely and reasonable request to perform the work assignment which he, without just cause, failed to perform, the disqualified recipient will be given an opportunity to regain his eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency but the provision of such emergency assistance will not bar the administrator from subsequently enforcing the 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked to regain their eligibility during a 120-day disqualification period and who agree to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

- (2) If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of disqualification for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but with no opportunity to requalify.
- (3) Any recipient who intentionally causes damage to property or harms other employees by his actions and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.
- (4) For the purposes of regaining eligibility under section 46-66 and this section by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § 1043 et seq., or a service performed for an employer who withholds from the employee a social security tax pursuant to federal law.
- (h) *Reports.* The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the department of human services.

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(Ord. No. 92-6, § 13-55, 3-5-92; Ord. No. 94-2, § 13-55, 5-5-94)

Cross references: Nonemergency assistance issued conditionally upon successful completion of workfare assignment, § 46-1(d).

State law references: Similar provisions, 22 M.R.S.A. §§ 4309, 4316(5), 4316-A(1), (2), (3).

Sec. 46-68. Use of resources.

- (a) *Required.* Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource which may reduce his need for general assistance (see definition of resources, section 46-2). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource.
- (b) *Minors.* A minor under the age of 18 years who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:
- (1) The minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement;
 - (2) The minor has no living parent or the whereabouts of the parents are unknown;
 - (3) No parent will permit the minor to live in the parent's home;
 - (4) The minor has lived apart from both parents for at least one year before the birth of any dependent child;
 - (5) The department of human services determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his child or children lived with a parent; or
 - (6) The department of human services determines, in accordance with its regulations, that there is good cause to waive this limitation on eligibility.

Any person under the age of 25 years who is applying independently from his parents for general assistance will be informed that until he reaches the age of 25, the applicant's parents are still legally liable for his support, and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his parents are financially capable of repaying the municipality. With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his parents (City of Bangor v. DHS, Penob. Cty #CV-90-28). If the applicant's parents declare a willingness to provide the applicant with his basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his needs are being provided by a legally liable relative.

- (c) *Mental or physical disability.* Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been

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recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant provided they would not constitute a financial burden or create a physical risk to the individual.

- (d) *Written notice; disqualification.* The administrator will give each applicant written notice that he is required to utilize any and all potential resources. Any applicant who refuses to utilize potential resources, without just cause, after receiving a written seven-day notice, will be ineligible for further assistance until he has made a good faith effort to utilize the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.
- (e) *Forfeiture of benefits.* Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture. An applicant who is found to be ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to Title 26, section 1051, subsection 1 is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor.

(Ord. No. 92-6, § 13-56, 3-5-92; Ord. No. 94-2, § 13-56, 5-5-94; Ord. No. 13-11, 7-1-13)

State law references: Similar provisions, 19 M.R.S.A. §§ 441--443, 22 M.R.S.A. §§ 4309(4), 4317, 4319.

Sec. 46-69. Period of disqualification.

- (a) *Notice; hearing.* No one will have his assistance terminated, reduced or suspended prior to being given written notice and an opportunity for a fair hearing. Each person will be notified in writing of the reasons for his ineligibility, and any person disqualified for not complying with this chapter will be notified in writing of the period of disqualification.
- (b) *Work requirement.* People who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility; see section 46-66). Recipients who do not comply with the work requirement and are disqualified before the period covered by the grant of assistance expires shall be disqualified for 120 days following the end of the period covered by the assistance grant. People who do not comply with a work requirement and are disqualified after the period covered by the grant of assistance expires will be disqualified for 120 days from the date of the written notice of disqualification. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of disqualification.
- (c) *Fraud.* People who commit fraud are disqualified from receiving assistance for a period of 120 days (see section 46-94, fraud). The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the

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expiration of a grant of assistance, the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance or on the day the fair hearing authority renders its decision, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification, unless subsequently modified by the fair hearing authority.

(Ord. No. 92-6, § 13-57, 3-5-92; Ord. No. 94-2, § 13-57, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4321, 4322.

Secs. 46-70--46-90. Reserved.

ARTICLE IV. DETERMINATION OF ELIGIBILITY

Sec. 46-91. Recognition of dignity and rights.

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his individual rights.

(Ord. No. 92-6, § 13-60, 3-5-92; Ord. No. 94-2, § 13-60, 5-5-94)

Sec. 46-92. Determination; redetermination.

- (a) The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly, but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.
- (b) The administrator may redetermine a person's eligibility at any time during the period he is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority.

(Ord. No. 92-6, § 13-61, 3-5-92; Ord. No. 94-2, § 13-61, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4309.

Sec. 46-93. Verification.

- (a) *Applicant's responsibility.* Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his need, income, use of income, expenses,

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and any changes in information previously reported on the application. The administrator will require documentation of the applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities that are reasonably obtainable. The recipient is responsible for notifying the administrator of any changes in his household or income that may affect his eligibility. When determining an applicant's eligibility, the administrator will seek all necessary information first from the applicant. Information needed from other sources, with the exception of public records, will be gathered only with the knowledge and consent of the applicant.

- (b) *Decision.* If an applicant does not have the necessary information at the time of application, the administrator will give the applicant the opportunity to provide the information prior to the expiration of the 24-hour period within which the administrator must act on the application. Except when assistance is conditionally granted pursuant to this municipality's workfare first policy (see section 46-67). If all the necessary information has been provided and the applicant is eligible, assistance will be granted. If the applicant does not provide the required information needed within the 24-hour period, and the administrator cannot determine the applicant's eligibility, the applicant will be denied assistance for that reason.
- (c) *Denial of assistance.* The administrator will not grant assistance to any applicant who refuses to supply necessary information and documentation concerning his needs, income and other resources, or who refuses to grant permission for the administrator to contact other persons to verify the information. If the administrator has attempted to verify the information but is unable to determine if the applicant is eligible because the applicant has refused to provide or allow the administrator to verify the necessary information, the applicant will be denied assistance until the necessary verification has been accomplished.
- (d) *Right to verify.* It is the administrator's responsibility to determine and verify the eligibility of each applicant. The administrator may seek and verify information from all appropriate sources including, but not limited to: The department of human services and any other department of the state having information that has a bearing on an applicant's eligibility, financial institutions, employers and landlords, physicians, and legally liable relatives. The administrator will request the applicant's written consent authorizing the administrator to receive the necessary information.
- (e) *Penalty for refusing to release information.* Any person who refuses to provide necessary information to the administrator, after it has been requested, must state in writing the reasons for the refusal within three days of receiving the request. Any person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25.00 nor more than \$100.00, which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a class E crime.

(Ord. No. 92-6, § 13-62, 3-5-92; Ord. No. 94-2, § 13-62, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4309(1-B), 4314, 4315.

Sec. 46-94. Fraud.

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- (a) *Generally.* It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance. A "material fact" is any information which has direct bearing on the person's eligibility. "False representation" shall consist of any individual knowingly and willfully:
- (1) Making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
 - (2) Concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
 - (3) Using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

- (b) *Period of ineligibility.* When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself eligible for general assistance, the administrator shall notify the applicant in writing that he has been disqualified from receiving assistance for up to 120 days. For the purpose of this section, a "material misrepresentation" is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of disqualification issued by the administrator shall inform the applicant of his right to appeal the administrator's decision to the fair hearing authority within five working days of receipt. Unless modified by the fair hearing authority, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of disqualification, whichever is later.
- (c) *Right to a fair hearing.* Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with article V of this chapter. No recipient shall have his assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the superior court pursuant to rule 80-B.
- (d) *Reimbursement.* If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he was not entitled.
- (e) *Dependents.* In no event will the disqualification of a person under this section serve to disqualify any eligible dependent in that household. If one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that the entire household income will be considered available to them.

(Ord. No. 92-6, § 13-63, 3-5-92; Ord. No. 94-2, § 13-63, 5-5-94)

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State law references: Similar provisions, 22 M.R.S.A. § 4315.

Sec. 46-95. Period of eligibility.

The administrator will grant assistance to all ~~eligible persons~~Eligible Persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month. Upon any application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis. For reasons of administrative efficiency, however, the administrator may elect to disburse that applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

(Ord. No. 92-6, § 13-64, 3-5-92; Ord. No. 94-2, § 13-64, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4309.

Sec. 46-96. Determination of need.

The period of time used to calculate need will be the next 30-day period from the date of application. The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in the general assistance policy, whichever is less. Applicants will not be considered eligible if their income and other resources exceed this calculation, except in an emergency. See section 46-39.

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the general assistance policy. The difference between the applicant's income/resources and the overall maximum levels of assistance established by this chapter is the applicant's deficit. Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity listed in the general assistance policy shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency.

- (1) *Income for basic necessities.* Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to the application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility. Applicants who have sufficient income to provide their basic necessities, but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum levels of assistance.

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- (2) *Use-of-income requirements.* Anyone applying for general assistance must document his use of income to the administrator. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Any repeat applicants must verify that such an expenditure of income was for basic necessities.
- a. Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; nonprescription drugs up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons; the costs of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement or insurance; the reasonable cost of essential clothing; and the costs of any other commodity or service determined essential by the administrator.
 - b. Cable television, cigarettes, alcohol, gifts purchased, costs of trips or vacations, court fines paid, repayments of unsecured loans, credit card debt, costs associated with pet care, etc., are not considered basic necessities and will not be included in the budget computation.
 - c. The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his income for basic necessities or fails to reasonably document his use of income. Those additional requirements will be applied in the following manner:
 1. The administrator may require the applicant to use some or all of his income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities.
 2. The administrator will notify applicants in writing of the specific use-of-income requirements placed on them.
 3. If upon subsequent application it cannot be determined how the applicant's income was spent, or if it is determined that some or all of applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income.
 4. If the applicant does not spend his income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.
- (3) *Computation of income and expenses.* In determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of

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assistance found at the beginning of section 46-98. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (see section 46-39).

The municipality will provide assistance in an amount up to the deficit to the extent the applicant is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 46-98 for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's unmet need, as provided in subsection (4) of this section.

- (4) *Consolidation of deficit.* As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this chapter or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.
- a. The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
 - b. The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
 - c. The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his income or resources in violation of the use-of-income requirements of this chapter.

(Ord. No. 92-6, § 13-65, 3-5-92; Ord. No. 94-2, § 13-65, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. §§ 4301(7), (10), 4305(3-A), (3-B), 4308(2), 4315-A.

Sec. 46-97. Income.

- (a) *Income standards.* Applicants whose income exceeds the overall maximum level of assistance provided in the general assistance policy shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time they apply.
- (b) *Calculation of income.* To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in the general assistance policy, applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded. See section 46-39. To calculate weekly income and

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expenses, the administrator will divide the applicant's monthly income and expenses by 4.3.

- (c) *Types of income.* Income which will be considered in determining an applicant's need includes:
- (1) *Earned income.* Income in cash or in-kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income. Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted.
 - (2) *Income from other assistance or social services programs.* State/federal categorical assistance benefits, SSI payments, social security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits food stamps and fuel assistance payments made by the home energy assistance program (HEAP) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive, although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP benefit has sufficiently credited their account or otherwise obliterated an actual fuel-related cost over the prospective 30-day period. The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP as if that applicant paid for his total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward nonheating purposes solely on the basis of the recipient's receipt of HEAP.
 - (3) *Court-ordered support payments.* Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the state department of human services' support enforcement location unit.
 - (4) *Income from other sources.* Payments from pensions and trust funds will be

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considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives.

- (5) *Earnings of a son or daughter.* Earned income received by sons and daughters below the age of 18 years who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- (6) *Income from household members.* Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another. (Boisvert v. Lewiston, CV#80-436, Androscoggin County Superior Court)
- (7) *Pooling or nonpooling of income.* When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income. One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of nonpooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his pro rata share of household costs. If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his income and his pro rata share of actual household expenses.
- (8) *Lump sum income.* A lump sum payment received by an applicant or recipient, prior to or subsequent to applying for assistance shall be considered as income available to the household, with the exception of any required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant or recipient can document was spent on basic necessities, as described below. The lump sum payment must be prorated over future months according to the following criteria:

The period of proration is determined by disregarding any portion of the lump sum payment that the applicant or recipient has spent to purchase basic necessities, including but not limited to: all basic necessities provided by general assistance; reasonable payment of funeral or burial expenses for a family member; reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or

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purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities; repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid. All income received by the household between the receipt of the lump sum payment and the application for assistance is added to the remainder of the lump sum. The period of proration is then determined by dividing the remainder of the lump sum payment by the verified actual monthly amounts for all of the household's basic necessities. That dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

(Ord. No. 92-6, § 13-66, 3-5-92; Ord. No. 94-2, § 13-66, 5-5-94; 12-9, 8-16-12; Ord. No. 13-11, 7-1-13)

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

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

- (a) *Overall maximum levels of assistance.* Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in this section, an applicant's eligibility for general assistance will be first determined by subtracting his income from the overall maximum level of assistance, established in Title 22, section 4305, subsection 3-C, as set in the general assistance policy for the applicable household size. The difference yielded by this calculation shall be the applicant's deficit. Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 46-39.
- (b) *Maximum levels of assistance for specific basic necessities.* The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance as set forth in the general assistance policy. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs (*Glidden v. Town of Fairfield, et al, CV79-17, Somerset County Superior Court*). In all cases, either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need. The applicant's need for common living expenses for food, rent, fuel, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. This presumption may be rebutted by evidence that the other household members had no income with which to pay their share of common expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person, or which has been incurred in another person's name.

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- (1) *Food.* The administrator will provide food assistance to ~~eligible persons~~Eligible Persons up to the allowed maximum amounts as established by the city council in the general assistance policy, such amounts being as designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size, and distributed by the state department of human services on or about October of each year. In determining need for food, the administrator will not consider the value of food stamps an applicant receives as income (7 USC sec. 2017(b); Dupler, et al v. City of Portland, et al, CV-74-134 SD). The municipality will authorize vouchers to be used solely for approved food products.
- (2) *Housing.* The administrator will provide assistance with rent or mortgage payments that are reasonable and within the allowed maximum levels established by the city council in the general assistance policy, and in accordance with the housing assistance limits provided in Title 22, section 4308, subsection 1-A; and in accordance with the housing exceptions provided in Title 22, section 4308, subsection 1-B. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed. Single individuals will be required to live in rooms, boardinghouses or shelters when such housing is available. Persons will be required to find rooms or apartments that have utilities furnished, unless they are residing in subsidized housing. Persons will be required to apply for, and accept, subsidized housing. The municipality will not pay security deposits or back bills, except in an emergency as provided in section 46-39.
- (3) *Rental payments to relatives.* The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relatives rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relatives' children.
- (4) *Rental payments to private homes.*
 - a. When applicants are living in private homes or sharing dwelling units with other people who are not requesting general assistance, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum.
 - b. Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with most superior legal or equitable interest in the property.
 - c. When the municipality issues in aggregate more than \$600.00 in rental payments to any landlord in any calendar year, a 1099 form declaring the

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total amount of rental payments during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation. See section 6041(a) of the Internal Revenue Code.

- d. Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the department of human services, division of health engineering, pursuant to 10-144A Code of Maine Regulations, chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his tenants.

(5) *Mortgage payments.*

- a. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:
 - 1. The marketability of the shelter's equity;
 - 2. The amount of equity;
 - 3. The availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
 - 4. The extent to which liquidation may aid the applicant's financial rehabilitation;
 - 5. A comparison between the amount of mortgage obligations and of anticipated rental charges the applicant would be responsible for if he were to be dislocated to rental housing;
 - 6. The imminence of the applicant's dislocation from owned housing because of his inability to meet the mortgage payments;
 - 7. The likelihood that the provision of housing assistance will prevent such dislocation; and
 - 8. The applicant's age, health and social situation.
- b. These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide. If after reviewing the above criteria the administrator determines that the payment of the mortgage is not necessary to meet the applicant's immediate shelter needs, the administrator may elect not to make any mortgage payment unless the applicant has been served a notice of foreclosure, although mortgage payments, up to the ordinance maximum for housing, will be budgeted as an expense.

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- c. If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels established by the city council in the general assistance policy, whichever is less. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he is responsible for finding alternative housing within his ability to pay and will be obligated to make all reasonable efforts to secure such housing.

(6) *Liens.*

- a. The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. No lien may be enforced against a recipient, except upon his death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance or who would again become eligible for general assistance if the lien were enforced.
- b. If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment, it must file a notice of the lien with the county register of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage payment and all subsequent mortgage payments made on behalf of the same ~~eligible person~~Eligible Person, plus interest and costs. Not less than ten days prior to filing the lien notice in the registry, the municipal officers must send a different notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment or the imposition of interest. This notice must include the same information that appeared on the original notice of proposed filing sent to the recipient.
- c. The municipality will charge interest on the amount of money secured by the lien. The city council will establish the interest rate, not to exceed the maximum rate of interest allowed by the state treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

(7) *Property taxes.* If an applicant requests assistance with his property taxes, the administrator will inform the applicant that there are two procedures on the local

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level to request that relief: the poverty abatement process and general assistance. If the applicant chooses to seek property tax assistance through general assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a. The property tax in question is for the applicant's place of residence;
 - b. There is a tax lien on the property which is due to mature within 60 days of the date of application;
 - c. As a matter of policy or practice it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
 - d. The applicant, with sufficient notice, applies for property tax relief through the state resident property tax program, when available.
- (8) *Housing maximums.* The maximum levels of housing assistance contained in this chapter have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values as those values are prepared and distributed by the state department of human services on or about November 1 of each year, those levels are hereby incorporated by reference. If and when the maximum levels of housing contained in this chapter are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the department of human services, general assistance unit, and the maximum levels of housing assistance will be incorporated into this chapter pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305. The maximum amounts allowed for housing are as established by the city council in the general assistance policy.
- (9) *Utilities.*
- a. Expenses for lights, cooking and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.
 - b. Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 46-39. Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds. Applicants have the

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burden of providing evidence of their income and use of income for the applicable time period. See section 46-39. The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicants' responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

- c. In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant:
 1. The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for nonelectrically heated dwelling units.
 2. The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.
 3. The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.
 - d. Pursuant to the use-of-income requirements in section 46-96, whenever the administrator budgets for SPAs or BPAs under this section, the recipient will be required to pay the SPA or BPA himself to the extent of the income capacity of the household.
- (10) *Nonelectric utilities.* The allowed amount for water and sewer utility service will be budgeted at the actual 30-day cost for those services.
- (11) *Fuel.*
- a. Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May), provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.
 - b. Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills, except in an emergency as provided in section 46-39. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicant's

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control, and process the emergency request accordingly, pursuant to section 46-39. Running out of fuel will not necessarily be considered an emergency unless the applicants have just cause for failing to give the administrator timely notice of their need for fuel.

- c. When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon.
 - d. When fuel such as wood, coal and/or natural gas is used to heat, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than seven tons of coal per year, eight cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.
- (12) *Personal/household supplies.* Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums. Personal and household supplies include hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags, and lightbulbs.
- (13) *Other basic necessities.* Expenses falling under this subsection may be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.
- a. *Clothing.* The municipality may assist a household with the purchase of adequate clothing, although, in most instances, clothing will be a postponable item. Exceptions to this would be, for example, if fire or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. Clothing will be budgeted at a fee as determined by the city council in the general assistance policy when the general assistance administrator finds it necessary to authorize clothing.
 - b. *Medical.* The municipality will pay for essential medical expenses, other than hospital bills (see hospital bills), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. The municipality will grant assistance for medical service only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his need to seek general assistance for medical expenses. The municipality will grant assistance for nonemergency medical services only if a physician verifies that the services are essential. All medical costs authorized by the municipality will be at Medicaid rates. The administrator may require a

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second medical opinion from a physician designated by the municipality at the municipality's expense to verify the necessity of the service. In order for telephone service to be considered an allowable expense, the applicant must provide a written statement from a physician certifying that the telephone is absolutely essential to the applicant's health and safety. Only the basic rate will be considered.

c. *Hospital bills.*

1. In the event of an emergency admission to the hospital, the hospital must notify the administrator within five business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.
2. Any person who cannot pay his hospital bill must apply to the hospital for consideration under the hospital's charity care program as provided in 22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital's charity care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's charity care program.
3. Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 46-96 of this chapter.

d. *Dental.* The municipality will not furnish dental services, except in cases of emergency. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

e. *Eye care.* In order to be eligible to receive general assistance for eyeglasses, an applicant must have his medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to ~~eligible persons~~Eligible Persons only after the applicant has exhausted all other available resources.

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- f. *Work-related expenses.* In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include child care costs, work clothes, supplies and transportation (if it is not available by the local bus service or car pooling) at the actual costs, not to exceed the ordinance maximum as established by the city council in the general assistance policy. The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- g. *Burial, cremations.*
1. Under the circumstances and in accordance with the procedures and limitations described below, the municipality recognizes its responsibility to pay for the burial or cremation of ~~eligible persons~~Eligible Persons. The administrator will provide for burial and cremation services to ~~eligible persons~~Eligible Persons up to the allowed maximum amounts as established by the city council in the general assistance policy.
 2. Funeral directors must give timely notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of 3 business days following the funeral director's receipt of the body, whichever is earlier. This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact with the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.
 3. Application for assistance shall be created on behalf of the deceased. For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be created by the administrator on behalf of the deceased.
 4. With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 46-40.
 5. Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible

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for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

6. The financial responsibility of certain family members. Grandparents, parents, children and grandchildren of the deceased, who live in the state or own property in the state, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator, with any reasonable requested information regarding their income, assets, and basic living expenses. If any responsible family members refuse to provide the requested information or refuse to allow the municipality to investigate their resources, the municipality will not grant the requested burial or cremation assistance. If the administrator makes a finding that one or more legally liable relatives has a financial capacity to pay for the burial or cremation, the municipality will not grant the requested burial or cremation assistance.
7. Eight days to determine eligibility. The administrator may take up to eight days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation.
8. The municipal obligation to pay when legally liable relatives or others can contribute. The figures provided in the general assistance policy are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source.
- h. *Burial expenses.* The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremation. Burial services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, preparation of the body, a minimum casket, and necessary transportation. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a cement liner if the cemetery bylaws require one, the opening and closing of the gravesite, and a lot in the least

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

- i. *Cremation expenses.* In the absence of any objection by any family members of the deceased, the administrator will issue general assistance for cremation services. Cremation services required, at a minimum, shall include removal of the body from a local residence or institution, a secured death certificate and obituary, an appropriate container for cremation, and necessary transportation. Other reasonable and necessary specified direct costs may be approved for reimbursement by the administrator, and may include the wholesale cost of a liner if the cemetery bylaws require one, and a cremation lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery, or in a cemetery under municipal control, or in a cemetery that donates the lots to the city, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.
- j. *Capital improvements.* The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been preapproved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible, for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:
 1. The failure to do so would place the applicant(s) in emergency circumstances;
 2. There are no other resources available to effect the capital repair; and
 3. There is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (b)(2) of this section.

(Ord. No. 92-6, § 13-67, 3-5-92; Ord. No. 94-2, § 13-67, 5-5-94; Ord. No. 99-8, 4-15-99; Ord. No. 12-06, 7-5-12; 12-9, 8-16-12)

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

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Sec. 46-99. Notice of decision; disbursements.

- (a) *Written decision.* The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving an application. See section 46-36.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicant's right to a fair hearing in the written notice of decision.

- (b) *Contents.* After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 46-36, the notice will state that applicants:
- (1) Have the right to a fair hearing and the method by which they may obtain a fair hearing;
 - (2) Have the right to contact the department of human services if they believe the municipality has violated the law. The decision will state the method for notifying the department.
- (c) *Disbursement of general assistance.* Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash.

(Ord. No. 92-6, § 13-68, 3-5-92; Ord. No. 94-2, § 13-68, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4305(3), (6).

Secs. 46-100--46-120. Reserved.

ARTICLE V. FAIR HEARING

Sec. 46-121. Right to fair hearing.

Within five working days of receiving a written notice of denial, reduction or termination of assistance, or within ten working days after any other act or failure to act, the applicant or his authorized representative has the right to request a fair hearing. The right to review a decision by the general assistance administrator is a basic right of the applicant to a fully evidentiary hearing and is not limited solely to a review of the decision. (*Carson v. Oakland*, 442 A.2d 170 (Me. 1982); *Thibodeau v. Lewiston*, Androscoggin Superior Court, 1979, CV78-388)

(Ord. No. 92-6, § 13-70, 3-5-92; Ord. No. 94-2, § 13-70, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-122. Method of obtaining.

Upon receiving notification of the decision of the general assistance administrator, all

GENERAL ASSISTANCE

claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

- (1) *Written request.* To obtain a fair hearing, the claimant must make a written request within five working days of receiving the administrator's decision to deny, reduce or terminate assistance, or within ten working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:
 - a. The decision on which review is sought;
 - b. The reasons for the claimant's dissatisfaction and why the claimant believes he is eligible to receive assistance; and
 - c. The relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn by the claimant.

- (2) *Scheduling the fair hearing.* Upon receipt of the completed written request, the fair hearing authority must meet and hold the hearing within five working days. The administrator will notify the claimant in writing when and where the hearing will be held. In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:
 - a. Be his own spokesperson at the fair hearing or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
 - b. Confront and cross examine any witnesses presented at the hearing against the claimant;
 - c. Present witnesses on his own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given notice early enough to allow preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of the claimant's case.

(Ord. No. 92-6, § 13-71, 3-5-92; Ord. No. 94-2, § 13-71, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-123. The fair hearing authority.

- (a) The municipal officers will appoint a fair hearing authority, which will review decisions of the general assistance administrator when requested by any claimant. The authority is charged with the responsibility of ensuring that general assistance is administered in accordance with state law and local ordinance.

GENERAL ASSISTANCE

- (b) The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the hearing authority or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691. In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as fair hearing authority must:
- (1) Not have participated in the decision which is the subject of the appeal;
 - (2) Be impartial;
 - (3) Be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination;
 - (4) Be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear or inadequate policies, practices or actions.

(Ord. No. 92-6, § 13-72, 3-5-92; Ord. No. 94-2, § 13-72, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-124. The fair hearing procedure.

When a claimant requesting a fair hearing is notified of the date, time and place for the hearing in writing, he will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his case. The claimant shall be permitted to review his file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- (1) Be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his agents, counsel and witnesses;
- (2) Be opened with a presentation of the issue by the fair hearing authority;
- (3) Be conducted informally, without technical rules of evidence, but subject to the requirements of due process;
- (4) Allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- (5) Give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal, question witnesses presented at the hearing, and examine all evidence presented at the hearing;
- (6) Result in a decision, based exclusively on evidence or testimony presented at the hearing;
- (7) Be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing

GENERAL ASSISTANCE

authority must be made available to the claimant or his representative. The claimant will be responsible for preparing a written transcript if he wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

(Ord. No. 92-6, § 13-73, 3-5-92; Ord. No. 94-2, § 13-73, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4322.

Sec. 46-125. The fair hearing decision.

- (a) The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within five working days after completion of the hearing. Written notice of the decision will contain the following:
 - (1) A statement of the issue;
 - (2) Relevant facts brought out at the hearing;
 - (3) Pertinent provisions in the law or general assistance ordinance related to the decision;
 - (4) The decisions and reasons for it.
- (b) A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.
- (c) The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he has a further legal right to appeal the decision, pursuant to the Maine Rules of Civil Procedure, rule 80B. To take advantage of this right, the claimant must file a petition for review with the superior court within 30 days of receipt of the fair hearing decision.
- (d) When the decision by the fair hearing authority or court authorizes assistance to the claimant, that assistance will be provided within 24 hours.

(Ord. No. 92-6, § 13-74, 3-5-92; Ord. No. 94-2, § 13-74, 5-5-94)

Secs. 46-126--46-145. Reserved.

ARTICLE VI. RECOVERY OF EXPENSES

Sec. 46-146. Recipients.

- (a) *Generally.* The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or from his executors or administrators in a civil action. Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the

GENERAL ASSISTANCE

person would again become eligible for general assistance.

- (b) *Recipients anticipating workers' compensation benefits.* The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the workers' compensation act or similar law of any other state. After issuing a general assistance payment on behalf of a recipient who has applied for or is receiving workers' compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the office of secretary of state, uniform commercial code division. The notice of lien shall be filed un a UCC-1 form. The municipality shall also send a photocopy of that filing to the recipient's workers' compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the workers' compensation board. The lien shall be enforced at the time any lump sum workers' compensation benefit is issued.
- (c) *Recipients of SSI.* All applicants who receive general assistance while receipt of their supplemental security income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an interim assistance agreement form distributed by the department of human services that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317 and who refuses to sign the interim agreement SSI authorization form will be found ineligible to receive general assistance until he provides the required signature.

(Ord. No. 92-6, § 13-80, 3-5-92; Ord. No. 92-14, § 1, 7-23-92; Ord. No. 94-2, § 13-80, 5-5-94)

State law references: Similar provisions, 22 M.R.S.A. § 4318, 39 M.R.S.A. § 106.

Sec. 46-147. Relatives.

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

(Ord. No. 92-6, § 13-81, 3-5-92; Ord. No. 94-2, § 13-81, 5-5-94; 12-9, 8-16-12)

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

LEWISTON CITY COUNCIL
MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

Amendments to the Personnel Policies regarding employee health insurance options, the wellness program and sick leave coverage.

INFORMATION:

City Administration is recommending an amendment to the Personnel Policies regarding options for employee health insurance programs which offer higher deductibles with lower premium costs. The recommendations regarding sick leave is to allow the accumulation of 180 days instead of 175 days. Please see the attached memorandum from Deputy City Administrator Phil Nadeau for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

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To approve the amendments to the Personnel Policies for employee health insurance options, the wellness program and sick leave coverage, as recommended by City Administration.

(Note - Full copy of the amendment is attached. Additions are underlined and ~~deletions~~ have strike-out lines.)



The Office of
Deputy City Administrator
Phil Nadeau
MEMORANDUM

TO: Mayor and City Council

FR: Phil Nadeau

CC:

RE: Personnel Policy Amendments – Health Insurance-Wellness Program-Sick Leave

DT: December 15, 2015

The enclosed Personnel Policy amendments feature changes as they pertain to:

- EFFECTIVE JANUARY 1, 2016--Changes associated with the increase of employee premiums for the new PPO 500 standard health insurance coverage and the alternate choice (and lower cost) PPO 1500 program. Employees hired before September 1, 2007 will pay a maximum of 25% towards the cost of the health insurance premium which can be reduced by as much as 10% under the city's revised Wellness Program. Employees hired on or after September 1, 2007 will pay a premium maximum of 30% with up to 10% premium reductions available through the Wellness Program.
- EFFECTIVE JANUARY 1, 2016-- The Health Reimbursement Arrangement (HRA) amounts for PPO 500 have been adjusted to reflect changes recently approved for the new MSEA and AFSCME Local 1458 collective bargaining agreements. The PPO1500 \$300 increase for single employees is administrative as the \$3000 family rate must be double the single rate. This requirement was unknown to the city when it was first approved in 2014.
- EFFECTIVE JANUARY 1, 2016--The Wellness Program has been substantially re-written and reflects changes to the Wellness Program approved in the new CBAs.
- EFFECTIVE JANUARY 1, 2016--The Health Insurance Incentive paid to those members opting out of health insurance coverage now reflects the payment associated with PPO 500 costs for the city's standard health insurance coverage.
- EFFECTIVE JANUARY 1, 2016—Sick leave accumulation will increase from 175 to 180 days and will be in line with management level benefits for police supervisors.



CITY OF LEWISTON, MAINE

December 15, 2015

COUNCIL RESOLVE

Resolve, Amending Sections of the Personnel Policy Applicable to Health Insurance Premium Payments; Health Reimbursement Arrangements; the City of Lewiston Wellness and Health Care Management Program; Health Insurance Incentive; and Sick Leave.

Be it Resolved by the City Council of the City of Lewiston that effective January 1, 2016, the Personnel Policy be amended to reflect changes in Health Insurance premium payments; Health Reimbursement Arrangements; the City of Lewiston Wellness and Health Care Management Program; Health Insurance Incentive; and Sick Leave in accordance with the attached.

**FLEXIBLE SPENDING ACCOUNT AND HEALTH REIMBURSEMENT
ARRANGEMENT BENEFITS PLAN**

For all eligible employees, the City of Lewiston shall provide a Flexible Spending Account and Health Reimbursement Arrangement Benefits Plan (through a third party administrator) as allowed under Section 125 of the Internal Revenue Code. Eligible employees shall bear the cost of either the Flexible Spending Account and/or Dependent Care Options, except for a yearly contribution from the City of Lewiston of \$200 in the Flexible Spending Account of those employees who are not covered by a labor agreement and are participating in the Health Care Management System.

For those employees ~~electing to participate~~ participating in the MMEHT PPO 500 or 1500 health insurance plans, the City of Lewiston shall contribute funds to the employee's Health Reimbursement Arrangement in accordance with the following schedule:

- A. PPO 500: ~~\$600~~ 1000 Single Plan; ~~\$1,200~~ 2,000 Family Plan; ~~\$1,200~~ 2,000 Employee/Spouse Plan
- B. PPO 1500: ~~\$1,200~~ 500 Single Plan; \$3,000 Family Plan; \$3,000 Employee/Spouse Plan

Employees not opting to participate in the Flexible Benefits Plan or the Health Reimbursement Arrangement immediately upon being employed or not ~~complying with the requirements outlined~~ voluntarily participating in the ~~Health Care Management System Focusing on Prevention~~ City of Lewiston Wellness and Health Care Management Program section of the City Personnel Policy during the year, will not be eligible to participate until the next calendar year, ~~or shall pay applicable penalties outlined in the Health Care Management System Focusing on Prevention~~ until such time as they are fully compliant.

City of Lewiston Wellness and Health Care Management Program

~~**HEALTH CARE MANAGEMENT SYSTEM FOCUSING ON HEALTH CARE PREVENTION**~~
(Established 7/1/2005 - Updates Effective 7/1/2007)

City of Lewiston Wellness and Health Care Management Program

The City of Lewiston Wellness and Health Care Management Program (program) is pleased to provide this voluntary health care management system which focuses on healthy lifestyles and healthy activities based on documented public health literature. The goal is to reduce the overall need for health care services among members and to prevent disease by rewarding employees and spouses for healthy behaviors that will contribute to healthier outcomes. The program can be broken down as follows:

I. Health Risk Analysis and Educators

With the exception of Category 1 (or filing applicable spouse waiver if authorized by this collective bargaining agreement), Section II, Category 2, 3, and 4 of this Wellness program will only be in effect upon the first HCE appointment listed in sub-section G(i) below. Upon the approval of this new Wellness Program by the City Council, Category 1 requirements will remain in effect. Not completing any part of the Category 1 requirements will result in the non-issuance of all Wellness health insurance premium reward reductions outlined in Category 1 through 4 of this Wellness program (if applicable, all waiver requirements outlined in Item D of this Appendix shall be in effect).

- A. The first major part of the program is an individual health risk analysis which will be available for each member that desires one. This service will be provided by a health care provider (currently Central Maine Medical Center) that will be under contract with the City to provide these services. The aggregate results of the analysis for all City Employees will be available to the City. However, consistent with federal law, the City will not have access to an individual's health risk analysis.
- B. The contracted health care provider will assign a Health Care Educator (HCE) to work with each and every Employee and applicable spouse (herein referred to as "participant") that elect to participate in this health insurance benefit offered by the City. As a condition of enrollment into the City health insurance program, the participant must schedule an annual meeting with the HCE and fully participate in the program.
- C. The City has introduced this program as a way to reward healthier lifestyles through a series of Category rewards which can reduce the Employees health insurance payment premium stated in Article 17 of this collective bargaining agreement by as much as 10% (5% each for married couples) if the Participant achieves all program requirements (applicable exceptions noted in Section I, Item G and in Section II, Item D)
- D. Working with the four Categories specified in Item III.B of this section, the HCE will strive to establish a health plan strategy for each individual Participant. Once established, the HCE will work with the Participant to provide wellness goals and benchmarks. Educational material and motivation will be a core part of the program.
- E. After the HCE consultation, each Participant may receive at least one additional face to face meeting annually. Each Participant must schedule their annual HCE appointment using the city-provided online calendar software or, if no computer is available, the Participant must call or email the Human Resources office, no later than March 31st of each year.
- F. The following outlines what constitutes a failure to meet the HCE appointment requirement and what qualifies as an exception to the requirement:
- Employee or spouse fail to schedule their appointment between January 1st and March 31st of each year.
 - Employee or spouse fails to appear for a scheduled appointment (only significant matters of a serious and personal nature will serve as cause for a waiver to be issued by the City Administrator or Deputy City Administrator).
 - Appointments cancelled by the HCE will be rescheduled by the HCE within 14 days of the cancellation and shall not result in any penalty to the Employee or spouse on the condition that the Employee and/or spouse meets with the HCE before the end of the coverage year (Exception: if there are less than 14 days remaining in the coverage year at the time of the HCE cancellation, the participant must meet with the HCE no later than February 28th of the following coverage year).
 - Unless management disputes an Employee's claim that a cancellation or "no show" was job related, job related duties that result in Employee cancellations or "no shows" shall require the HCE to reschedule the appointment within 14 days of the cancellation and shall not result in any penalty to the Employee on the condition that the Employee meets with the HCE before the end of the coverage year (Exception: if there are less than 14 days remaining in the coverage year at the time of the HCE cancellation, the participant must meet with the HCE no later than February 28th of the following coverage year).
 - Employees and spouses without access to a computer must ensure that they call or email Human Resources early enough so that staff may assist in scheduling the appointment for the Employee or spouse no later than March 31st.

Such meetings will be primarily designed to be on the job site for the Employees in a private setting. Depending on the results of the health risk analysis and the goals of the member, additional meetings may be scheduled. Should a face-to-face HCE consultation not be practical

(e.g., working out-of-state, serious illness, etc.), participants must contact Administration to approve any phone or other acceptable alternatives.

G. Qualifying Periods:

Fully achieving all program rewards for Section II of this program will require the Participant to meet the minimum requirement language of Section II within the Qualifying Period which shall be as follows:

- i. Upon the signing of this (and any other applicable years) collective bargaining agreement, the first "Qualifying Period" shall begin on January 1st of the first full health insurance coverage year and shall end at the time of the participant's next HCE appointment in the following health insurance coverage year.
- ii. All subsequent "Qualifying Periods" shall begin on the next day following the participant's HCE appointment outlined in Item i above and end in the following coverage year at the time of the next HCE appointment.
- iii. In order to receive full or partial Category percentage rewards, the participant(s) must meet the minimum conditions articulated in Section II, of this program no later than the first Qualifying Period defined in Item i of this Section. Meeting the minimum conditions will then be required within all future "Qualifying Period" (as defined in Item ii of this Section) thereafter in order to receive the full or partial of any Category percentage reward.

II. Individual Health Care Management Requirements and Savings

All Employees who receive city health insurance must pay the Employee's share of health insurance as specified in Article 17, Section 7 of this collective bargaining agreement. Though this Wellness program is voluntary, the Employee Health Insurance Payment can be reduced by as much as an additional 10% (5% for each Employee and spouse if applicable) if enrolled Employees and/or applicable spouses (participants) achieve with all Category program elements listed in this section.

The specifics on how participants can achieve savings through the four categorical program requirements are as follows:

<u>CAT</u>	<u>CATEGORY REQUIREMENTS FOR EMPLOYEE AND APPLICABLE SPOUSE</u>	<u>Single & Employee w/Child Reward Premium Savings</u>	<u>Employee & Spouse (family coverage) Reward Premium Savings each</u>	<u>COMMENTS</u>
1	Annual HCE appointment or providing spouse waiver (if approved in this CBA); evidence of participation in HCE/Provider (doctor) risk assessment plan; providing HCE with written proof of annual Provider physical for coverage year	3.50%	1.75%	Failure to comply with any part of this Category item will result in the NON-ISSUANCE OF ALL FOUR CATEGORY REWARDS (SEE ITEM D BELOW FOR CATEGORY WAIVER ELIGIBILITY)
2	Exercise program approved by HCE (may be reviewed by the participant's Provider)	1.75%	0.875%	(SEE ITEM D BELOW FOR CATEGORY WAIVER ELIGIBILITY)

3	<u>Non-tobacco product use. Also prohibits the smoking, inhaling, vaporizing ("vaping") or consumption of nicotine-based products through so called "e-cigarette", "vapor" or similar non-tobacco nicotine delivery devices that utilize non-prescribed nicotine that can be ingested or delivered in any way into the body this is not part of a provider approved and supervised tobacco or nicotine cessation program. Written proof must be submitted to the HCE that Participant has enrolled into a Provider approved and medically supervised tobacco or nicotine cessation program.</u>	<u>1.75%</u>	<u>0.875%</u>	<u>(SEE ITEM D BELOW FOR CATEGORY WAIVER ELIGIBILITY)</u>
4	<u>Reward is possible by achieving one of three of the following metrics: A. BMI (body mass index) as scored by the WebMD calculator (or similar public health agency calculator);or B. WHtR (waist-to-height ratio) as scored by the Penn State calculator (or similar public health agency calculator);or C. waist measurement health metric requirements as recommended by the Harvard School of Public Health</u>	<u>up to 3.0%</u>	<u>up to 1.50%</u>	<u>Applicable scoring and program savings listed in charts below (SEE ITEM D BELOW FOR CATEGORY WAIVER ELIGIBILITY)</u>
-	<u>TOTAL SAVINGS UP TO----->>>>></u>	<u>10%</u>	<u>5%</u>	-

1. BODY MASS INDEX (BMI) CHART AND APPLICABLE SAVINGS:

BMI	
Underweight	Below 18.5
Normal	18.5–24.9
Overweight	25.0–29.9
Obesity	30.0 and Above

Men and Women:

- BMI equal to/less than 24.9=applicable 2.5% or 5% savings**
- BMI equal to/greater than 25.0 but equal to/less than 29.9=50% of savings**
- BMI equal to/greater than 30.0 – not in compliance= not eligible for savings**

Chart Source: National Institutes of Health -

http://www.nhlbi.nih.gov/health/public/heart/obesity/lose_wt/risk.htm#limitations

Calculator Source:

<http://www.webmd.com/diet/body-calculator>

2. WAIST-TO-HEIGHT RATIO CHART AND APPLICABLE SAVINGS:

Male	> Ratio less than 43%: underweight
Female	> Ratio 43% to 52%: healthy weight
	> Ratio 53% to 62%: overweight
	> Ratio over 63%: obese

Men:

- **Ratio less or equal to 52%=applicable 2.5% or 5% savings**
- **Ratio equal to/greater than 53% but equal to/less than 62%=50% of savings**
- **Ratio equal to/greater than 63% - not in compliance= not eligible for savings**

Chart Source: Penn State University Hershey, Pro Wellness Center

http://prowellness.vhost.psu.edu/prevention/understanding_risk/whtr

Calculator Source:

http://prowellness.vhost.psu.edu/prevention/understanding_risk/whtr

Male	> Ratio less than 42%: underweight
Female	> Ratio 42% to 48%: healthy weight
	> Ratio 49% to 57%: overweight
	> Ratio over 58%: obese

Women:

- **Ratio less or equal to 48%= applicable 2.5% or 5% savings**
- **Ratio equal to/greater than 49% but equal to/less than 57%=50% of savings**
- **Ratio equal to/greater than 58% - not in compliance=not eligible for savings**

Chart Source: Source: Penn State University Hershey, Pro Wellness Center

http://prowellness.vhost.psu.edu/prevention/understanding_risk/whtr

Calculator Source:

http://prowellness.vhost.psu.edu/prevention/understanding_risk/whtr

3. WAIST MEASUREMENT

WAIST MEASUREMENT REQUIREMENTS	MEN	WOMEN	FULL COMPLIANCE ONLY
Cannot exceed specified waist measurement	=/< 40"	=/< 35"	5%

<u>Organization</u>	<u>Measurement used</u>	<u>Definition of abdominal obesity</u>
American Heart Association, National Heart, Lung and Blood Institute (10)	Waist circumference	Women: > 88 cm (35 inches), Men: > 102 cm (40 inches)

Source: Harvard School of Public Health: <http://www.hsph.harvard.edu/obesity-prevention-source/obesity-definition/abdominal-obesity/>

Men and Women:

Equal or less than stated maximum: full 5% savings

More than stated maximum: not eligible for savings

D. CATEGORY 1 - 4 WAIVERS & REAUTHORIZATIONS

1. Waivers for all four Categories may be approved on the condition that the participant's Medical Provider (doctor) has provided a written statement that confirms that the participant has a medical reason that he/she achieves any one of the Categories listed.
2. Not achieving any of the Category rewards may be achieved after the annual meeting with the HCE but will require HCE verification. Participants may not schedule HCE verification appointments. HCE verification appointments must be scheduled through Human Resources and shall only be scheduled within the available appointment dates/times for the applicable calendar year.
3. Participants are authorized to have their Medical Provider confirm any metric needed to obtain a Category reward that was not achieved by the participant. All updated medical metric information must be verified in writing by the Medical Provider and submitted to the HCE for verification.
4. The "City of Lewiston Health Care Educator Spouse Waiver Form," if approved and included in the Appendix of this collective bargaining agreement, may be used by the Employee's spouse in place of meeting with the HCE. A completed and signed form must be submitted to the HCE in accordance with the guidelines outlined in the form. Required Category 1 through 4 information must be verified by the HCE in order to receive any applicable Category reward.

HEALTH INSURANCE

~~A. The City of Lewiston shall provide the Maine Municipal Employee's Health Trust (MMEHT) Dual Option Point-of-Service (POS) C Comprehensive Plan, the Preferred Provider Organization (PPO) 500, 1500 or comparable plans providing substantially similar coverages and deductibles (single, two-person or family plan) to those eligible employees and their eligible dependents.~~

~~Eligible employees shall be authorized to receive this insurance on the first (1st) day of the month following the month they begin working for the City. Employees will pay a portion of the annual premium for the POS-C, PPO 500 or 1500 (single, two-person or family plan). Employee contributions for the POS-C, PPO 500 or 1500 Plans will be in accordance to the schedule outlined in the City Personnel Policy entitled Health Care Management System focusing on Health Care Prevention.~~

~~B. In the event that an employee takes an approved leave of absence for medical reasons, the City shall continue to pay its share of health insurance costs for a period of six (6) months following the depletion of the employee's accumulated sick leave.~~

The Employer shall make available and pay for the applicable premium level of Employee health insurance coverage provided by the Maine Municipal Employees Health Trust Preferred Provider Organization (PPO) 500 or PPO 1500 plan (changes in Employee premium payments and coverages from POS C to PPO 500/1500 will become effective on the first payroll date for 1/1/16). The Employer reserves the right to convert said coverage to another carrier or other coverage which provides substantially equal or better coverage.

It is understood that the term “applicable premium” refers to all available plans---Employee only, Employee and spouse, Employee with children, Employee & spouse with children plan, or any of the other available plans. Employees wishing to participate in the Point of Service (POS) C plan may do so by paying the difference in the City’s monthly cost between the PPO 500 and POS C plans for applicable coverage.

Effective January 1, 2016, all Employees hired before September 1, 2007 shall contribute twenty-five percent (25%) for their share of the premium for MMEHT PPO 500/1500 coverage. Employees who voluntarily enroll in the Wellness and Health Care Management System program (outlined in this Policy) can achieve rewards to reduce their PPO 500/1500 (or POS-C if applicable) health insurance premium payment up to 10% (10% for single employees/parents or 5% for each employee and spouse) resulting in a reduced Minimum Health Insurance Premium (MHIP) of no less than 15%.

All new employees hired after September 1, 2007 shall contribute thirty percent (30%) for their share of the premium for MMEHT PPO 500/1500 (or POS-C if applicable) coverage. Employees who voluntarily enroll in the Wellness and Health Care Management System program can achieve rewards to reduce their health insurance premium payment up to 10% (10% for single employees/parents or 5% for each employee and spouse) resulting in a reduced MHIP of no less than 20%.

Coverages and benefits under the above program may change from time to time. The Human Resources Department will maintain up-to-date information on all benefits available under such program.

After January 1, 2007, the Employee health insurance premium cap schedule in Table 1 shall be increased by 10% each year. Premium payments between 15% and 25% or Employees hired before September 1, 2007 shall be determined by the employee and (if applicable) spouse’s participation in the Wellness Program. For Employees hired on or after September 1, 2007, the premium payments between 20% and 30% shall be determined by the employee and (if applicable) spouse’s participation in the Wellness Program. The table below is indicative of the actual cap amounts and will be updated periodically.

Table 1. – Weekly Employee Health Insurance Premium Payment Caps

<u>Employees hired before September 1, 2007</u>			
	<u>1/1/2015</u>	<u>1/1/2016</u>	<u>1/1/2017</u>
<u>%</u>			
<u>Minimum Rate – 15%</u>	<u>\$90.63</u>	<u>\$99.69</u>	<u>\$109.66</u>
<u>MxHIP Rate – 25%</u>	<u>\$147.18</u>	<u>\$161.90</u>	<u>\$178.09</u>

Employees hired after September 1, 2007

	<u>1/1/2015</u>	<u>1/1/2016</u>	<u>1/1/2017</u>
<u>%</u>			
<u>Minimum</u>			
<u>Rate – 20%</u>	<u>\$117.89</u>	<u>\$129.67</u>	<u>\$142.64</u>
<u>MxHIP</u>			
<u>Rate – 30%</u>	<u>\$192.03</u>	<u>\$211.23</u>	<u>\$232.36</u>

HEALTH INSURANCE INCENTIVE PLAN

Payments to Employees Who Waive Health Insurance Coverage

Any employee may elect to waive coverage in the City's Health Insurance Plan. Any employee waiving full coverage or partial coverage for which he/she would otherwise be eligible shall be paid according to the following conditions (changes from POS payment levels to PPO 500 will become effective January 1, 2016):

1. Any employee eligible for full family coverage or single coverage and who elects to waive health insurance coverage shall receive an annual payment equal to the amount of four months of POS PPO 500 health insurance premiums for which the employee is eligible.
2. An employee who is eligible for full family plan opts to take either a "single parent plan" or a "single plan" shall receive an annual payment equal to four months of the difference in premiums between the POS PPO 500 plan for which he/she is eligible and the POS PPO 500 plan which he/she opts to take.
3. In the event both spouses are employees and eligible for health insurance coverage, the ineligible spouse shall receive an annual payment equal to one month of the POS PPO 500 family plan premium.
4. The payments in lieu of health insurance shall be based on the premiums in effect the month the premiums are paid.
5. A new employee who waives health insurance coverage shall be eligible for the payment in lieu of insurance upon becoming eligible for the health insurance. (It is understood that should an employee leave the employ of the City before July 1st, the Health Insurance Incentive shall be prorated and reimbursed to the City either through payroll deduction or personal check).
6. If the employee wishes to be reinstated on the health insurance policy or change coverage from a single or a single parent plan (if he/she would otherwise be eligible for full coverage) he/she may do so as long as he or she follows the insurance carrier's requirements for evidence of insurability and portability of coverage provisions.
7. If an employee is reinstated (or covered for the first time) after receiving payment for waiving health insurance coverage, the employee shall repay the City the balance of the payment pro-rated on a monthly basis.
8. In order to receive payment for waiving health insurance coverage or to be reinstated on the health insurance plan, the employee must submit written notice to the Human Resources Director. Discontinuance of health insurance or reinstatement of coverage will be effective the first day of the following month in which written notice has been received.
9. Eligible employees who are married to other City employees covered by the MMEHT shall receive MMEHT life insurance coverage at no cost.

NOTE: Annual and prorated payments shall be based on the City's fiscal year July 1 through June 30.

SICK LEAVE

A. *Accumulation.* Permanent employees shall accrue paid sick leave at the rate of one (1) day per month, a total of twelve (12) days per year accumulating to one-hundred ~~seventy five~~eighty (175~~180~~) days. Employees must have been compensated at least ten (10) days in a month to accumulate sick leave.

LEWISTON CITY COUNCIL
MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Resolve Accepting Dolard and Priscilla Gendron's donation of the properties located at 325 Alfred A. Plourde Parkway and 645 Webster Street.

INFORMATION:

Mr. and Mrs. Gendron have offered to donate some parcels of land to the City - the properties at 325 Alfred A. Plourde Parkway and 645 Webster Street. Both properties are in the Hart Brook urban impaired watershed. Some of the land is wetlands and is deemed undevelopable, but some might be able to be developed for future house lots. The Gendrons have requested the paperwork to transfer ownership of the properties be completed by the end of the year. As such, city staff is recommending the City accept ownership and then take the time to review options for the land.

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 Accepting Dolard and Priscilla Gendron's donation of the properties located at 325 Alfred A. Plourde Parkway and 645 Webster Street.



CITY OF LEWISTON, MAINE

December 15, 2015

COUNCIL RESOLVE

Resolve, Accepting Dolard and Priscilla Gendron's Donation of the Properties Located at 325 Alfred A. Plourde Parkway and 645 Webster Street.

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

The donation by Dolard and Priscilla Gendron of the properties located at 325 Alfred A. Plourde Parkway and 645 Webster Street is hereby accepted and the City Administrator is authorized to execute the necessary documents to accept ownership.



EXECUTIVE DEPARTMENT

Edward A. Barrett, City Administrator
Phil Nadeau, Deputy City Administrator

December 9, 2015

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett/David Hediger
Su: 325 Alfred A Plourde Parkway (AAPP) and 645 Webster Street – Land Donation

On December 3, 2015, Dolard Gendron met with staff to discuss donating the land that he and his wife Pricilla Gendron own at 325 Alfred A Plourde Parkway (AAPP) and 645 Webster Street, subject to the City accepting this donation prior to the end of the calendar year for tax purposes. Mr. Gendron approached the city thinking the city may want to use the property for future wetland mitigation, recognizing development is limited due to wetlands.

The property at 325 AAPP was acquired by the Gendrons in 1985 and consists of approximately 15.28 acres assessed at \$57,480. City Assessor Bill Healey has reviewed recent sales and listings and believes the current market value is in the range of \$45,000 to \$50,000. The owners are current with their taxes at \$1,573.22 for FY16. The property at 645 Webster Street was acquired by the Gendrons in 1986 and consists of 1.24 acres with a taxable valuation of \$28,200. The City Assessor believes the current assessment is reflective of market value. The owners are current with their taxes at \$771.82 for FY16.

Both properties are vacant and located in the Neighborhood Conservation "A" (NCA) district with any potential development limited to single family homes. Frontage is provided on AAPP and Webster Street. Two paper streets from Jan's Boulevard provide other potential access.

The ability to develop the lot at 325 AAPP is severely limited due to wetlands. The Lewiston School department hired consultant Stantec to investigate the site's potential for a new school and discovered the majority of the site is impacted by wetlands. There is also a 12" city sewer line that bisects this property. The majority of the property at 645 Webster Street is dry. A single family home on the lot was demolished in 2010. Both properties are located within the Hart Brook urban impaired watershed.

The property owner had previously prepared a concept subdivision showing 11 house lots. However, four of the lots would require street extensions. When considering the cost of street extensions and the amount of wetlands, staff is of the opinion that the creation of house lots would be limited. The following attachments may be reviewed when consider this request:

- Exhibit A: Concept subdivision plan prepared for the Gendrons showing 11 house lots. This plan made general assumptions about wetland boundaries and the need for street extensions.
- Exhibit B: Preliminary wetland report and map prepared for the Lewiston School Department.

[Type text]

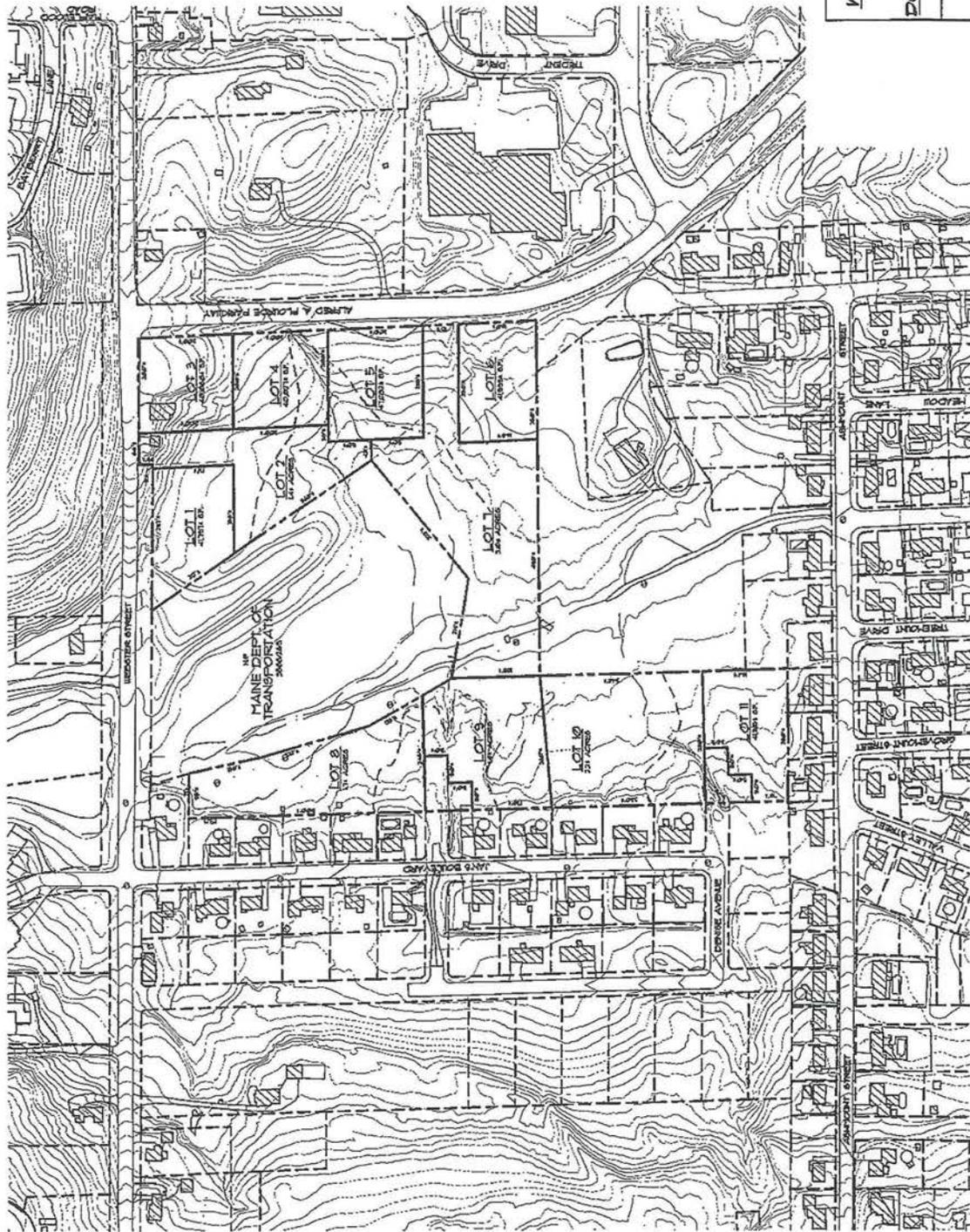
- Exhibit C: Staff's mark up of School Department's wetland map with a concept subdivision overlaid. The purpose of this exhibit is to show how the concept plan for house lots is further impacted when considering the more detailed wetland delineation.
- Exhibit D: Staff's attempt to demonstrate what may be a more realistic concept for proposed house lots (i.e. four lots shown; however, five might possibly be created) with everything in green remaining undeveloped due to wetlands.

It's worth noting that while the Gendrons recognize that this donation may be of value to the City, they will be using it as a tax deduction. For that reason, the Gendrons have made it clear that this donation and transaction need to occur by no later than December 31, 2015. If the City is not interested, he needs to know as soon as possible so that he may pursue other interested parties. It should be noted that such other parties could well be tax exempt, such as a local land trust or other non-profit organization.

CONCLUSION

While we would normally take more time to evaluate and discuss this offer, the end of the year time limit requires that we act more rapidly. As a result, the Planning Board will be considering this offer at its meeting next Monday and, if they take action, their recommendation will be available for the Council meeting on Tuesday. Given the limited potential for development due to wetlands and its location within the Hart Brook impaired watershed, staff believes there may be value in acquiring this property for open space and conservation, if not for future mitigation purposes associated with other development in the Hart Brook watershed. Given the potential mitigation value of this property, the possibility that donation to another party might result in its tax exemption, and the option of selling portions of the property for housing development while retaining others for mitigation and open space, we recommend that you accept this offer.

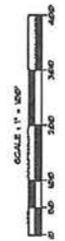
Given the short period of time in which action is possible, we wanted to get this information to you as soon as possible. If you have questions or need any other information, please let me know.



NOTES

- 1) THESE LOTS ARE TO BE CONSIDERED AS ONE UNIT FOR DEVELOPMENT POTENTIAL. THIS IS NOT A WARRANTY OR GUARANTEE OF ANY KIND. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND STATE AGENCIES. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND STATE AGENCIES. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND STATE AGENCIES.
- 2) THE MARKET PARCEL IS IN THE NCA ZONING DISTRICT. MARKET LOT SIZE IS 100,000 SQ. FT. AND FRONT FOOTAGE IS 100 FT.

SEWER	PROPOSED 18" DRAINAGE PIPE	18"
	PROPOSED 12" DRAINAGE PIPE	12"
WATER	PROPOSED 18" DRAINAGE PIPE	18"
	PROPOSED 12" DRAINAGE PIPE	12"
ROAD	PROPOSED 18" DRAINAGE PIPE	18"
	PROPOSED 12" DRAINAGE PIPE	12"



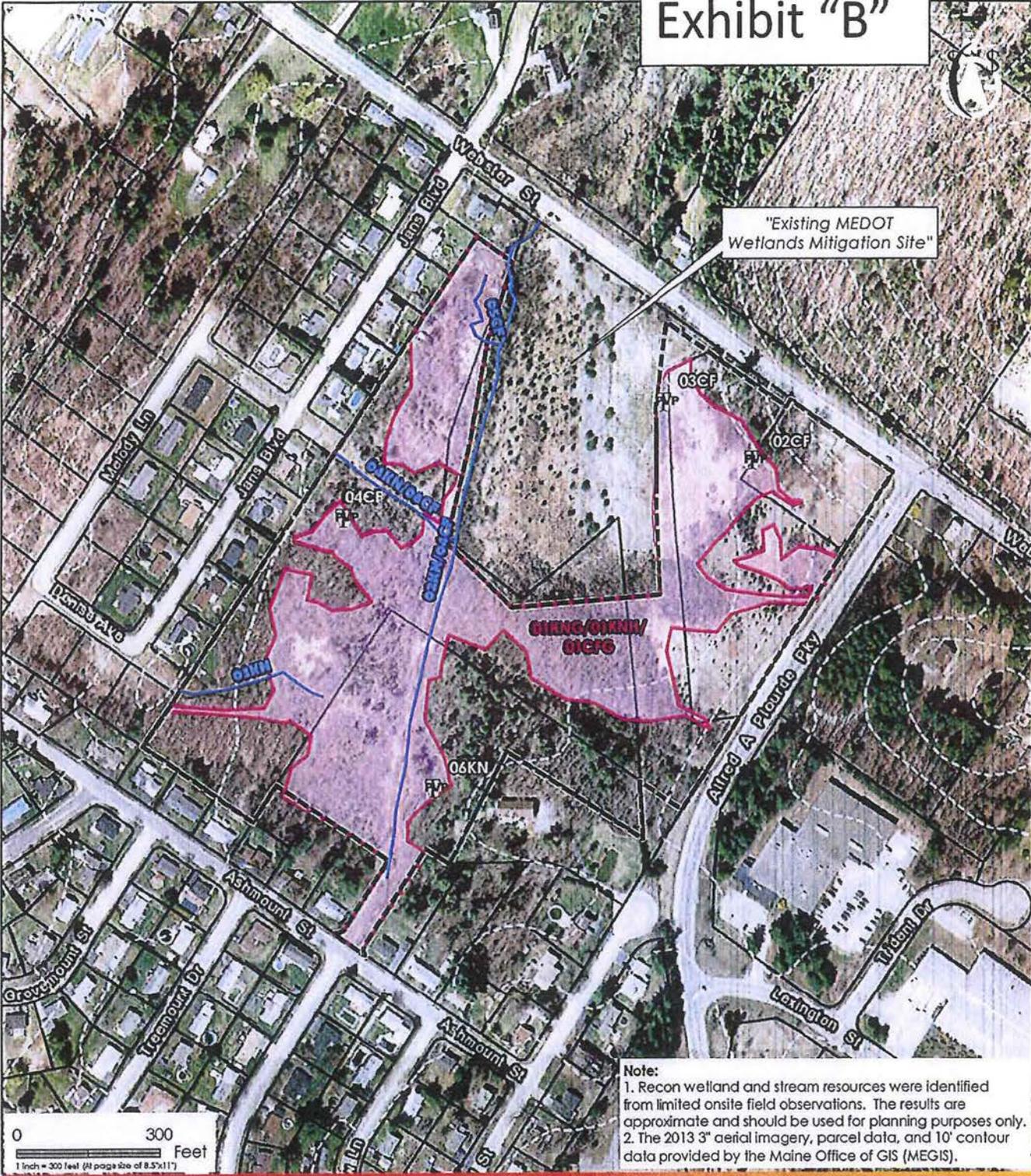
GIS SCHEMATIC - CONCEPT #2
WEBSTER STREET DEVELOPMENT
 WEBSTER STREET - LEBURTON, MAINE
 ANDROSCOGG COUNTY

PREPARED FOR
POLARD GENDRON REAL ESTATE
 P.O. BOX 103 - LEBURTON, MAINE 04041-0103

Stoneybrook Consultants, Inc.
 425 South Main Road, Tunno, Maine 04992
 (207) 534-7191 / (207) 534-7192 Fax

DATE: AUGUST 2006
 DRAWN BY: DRG
 CHECKED BY: DRG
 SCALE: 1" = 100'
 SHEET 1 OF 2

Exhibit "B"



"Existing MEDOT Wetlands Mitigation Site"

Note:
 1. Recon wetland and stream resources were identified from limited onsite field observations. The results are approximate and should be used for planning purposes only.
 2. The 2013 3" aerial imagery, parcel data, and 10' contour data provided by the Maine Office of GIS (MEGIS).

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

195601069



30 Park Drive
 Topsham, ME USA 04086
 Phone (207) 729-1199

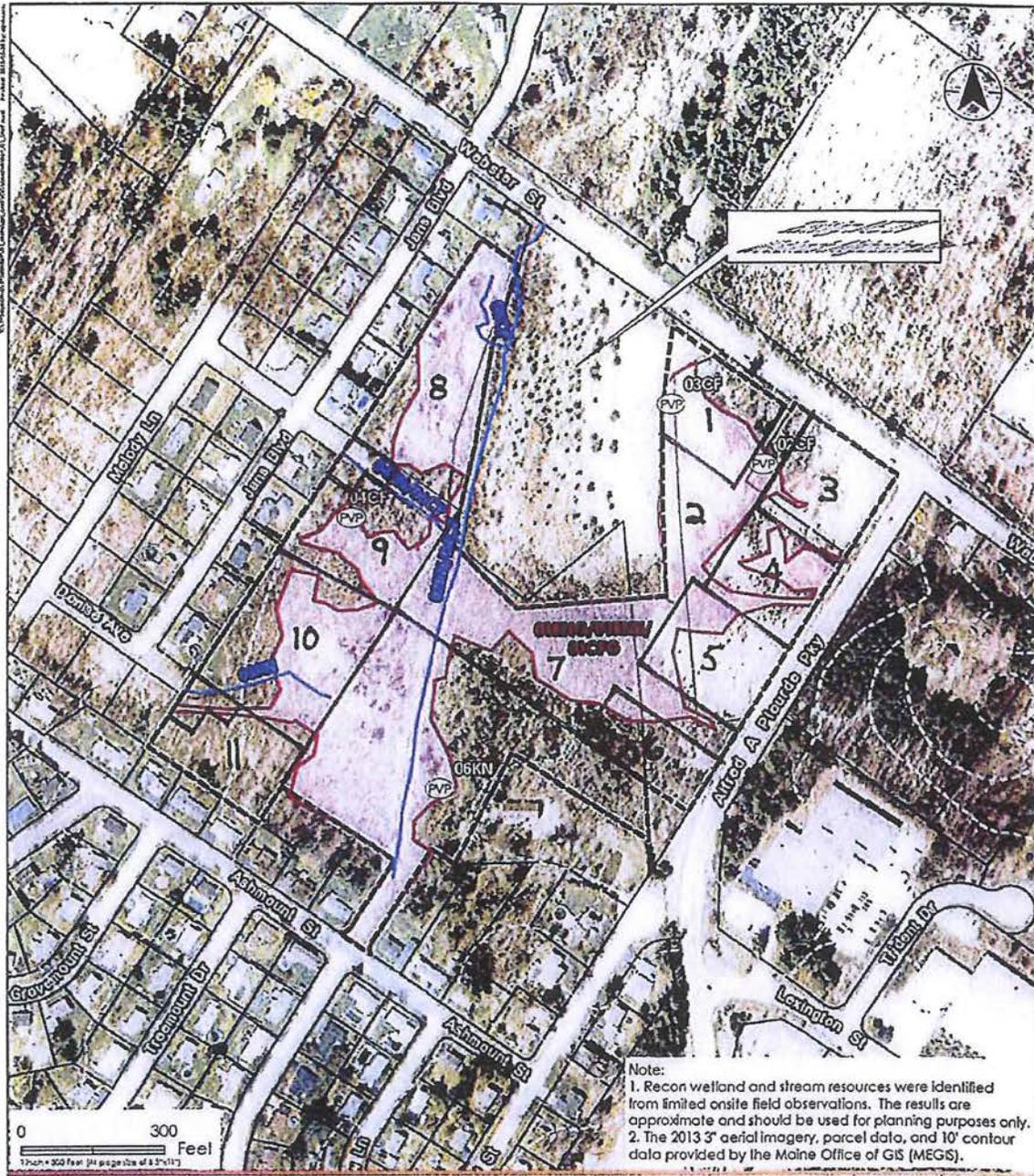
Legend



Client/Project

Prepared by DJJ on 2015-04-20
 Reviewed by DDT on 2015-04-21

Exhibit "C"



Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

Stantec
 30 Park Drive
 Topsham, ME USA 04086
 Phone (207) 729-1199

Prepared by DLJ on 2015-04-20
 Reviewed by DDI on 2015-04-21
 01069_G3_SiteF.mxd

- Legend**
- Potential Vernal Pool
 - Recon Stream
 - Recon Wetland
 - Project Site
 - Tax Map Parcel
 - 10' Contour

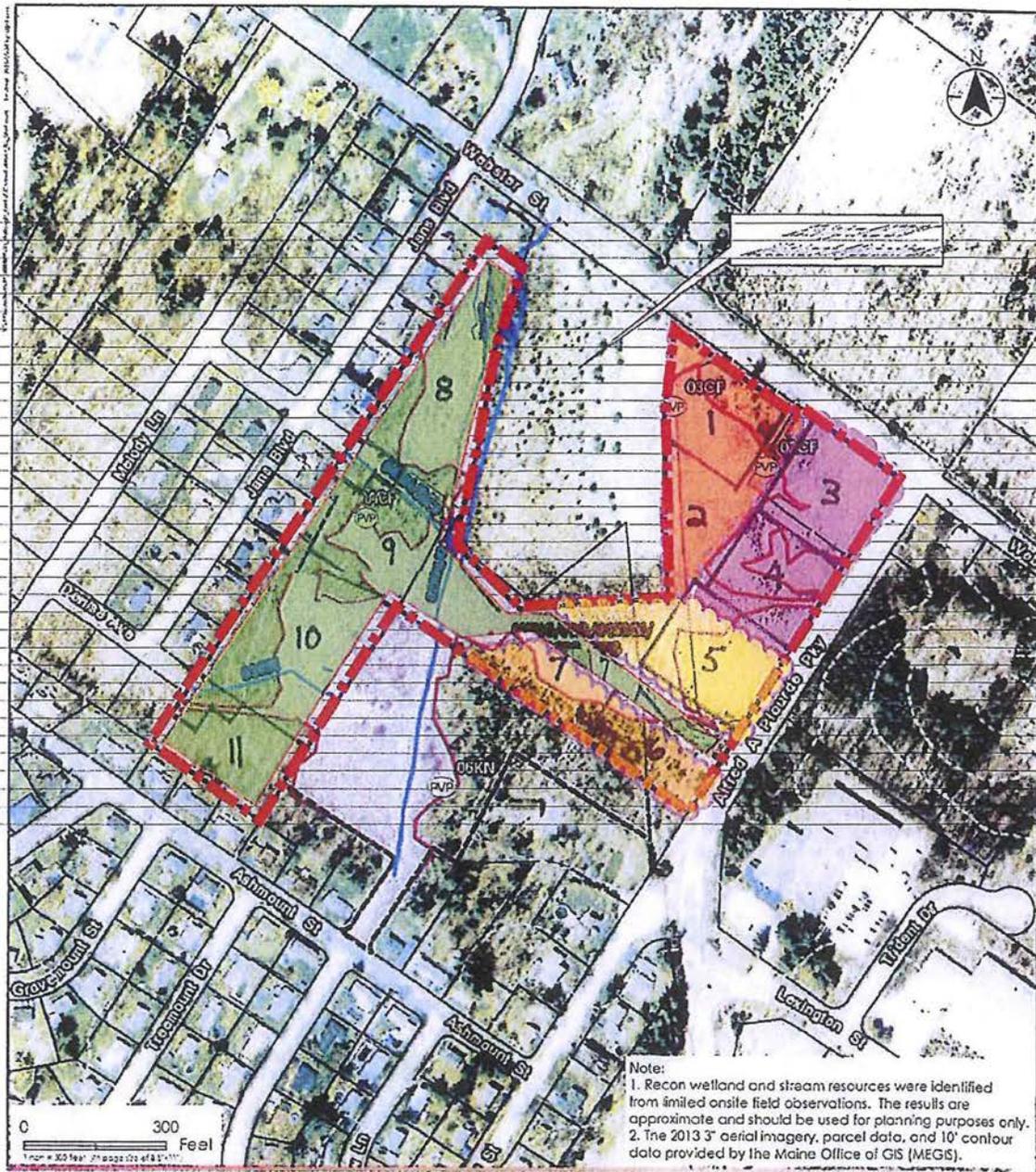
Client/Project
 Lewiston Public Schools
 Lewiston, Maine

Figure No.
 3

Title
 Site F (Tax Parcels 123-23, 123-13,
 and 122-2) Reconnaissance Survey
 5/28/2015

195601069

Exhibit "D"



Note:
 1. Recon wetland and stream resources were identified from limited onsite field observations. The results are approximate and should be used for planning purposes only.
 2. The 2013 3" aerial imagery, parcel data, and 10' contour data provided by the Maine Office of GIS (MEGS).

Disclaimer: Stantec assumes no responsibility for data supplied in electronic format. The recipient accepts full responsibility for verifying the accuracy and completeness of the data. The recipient releases Stantec, its officers, employees, consultants and agents, from any and all claims arising in any way from the content or provision of the data.

Stantec
 30 Park Drive
 Topsham, ME USA 04086
 Phone (207) 729-1199

Prepared by DLJ on 2015-04-20
 Reviewed by DD1 on 2015-04-21
 01c69_C0_SiteF.mxd

- Legend**
- Potential Vernal Pool
 - Recon Stream
 - Recon Wetland
 - Project Site
 - Tax Map Parcel
 - 10' Contour

Client/Project
 Lewiston Public Schools
 Lewiston, Maine

Figure No.
 3

Title
 Site F (Tax Parcels 123-23, 123-13,
 and 122-2) Reconnaissance Survey
 5/28/2015

195601069

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Order Authorizing the City Administrator to Apply for and Accept a Grant from the Maine Historic Preservation Commission for Roof Improvements to the Clough Meeting House.

INFORMATION:

The Clough Cemetery Association owns the Clough Meeting House, a historic structure near the intersection of Old Lisbon Road and South Lisbon Road. There are grant funds available from the state to pay for the work needed for the roof of the Meeting House. The grant funds are from the Maine Historic Preservation Commission and must be applied for and administered through a local government. Since preservation of this historical building is in the best interest of the property, city staff is recommending the City assist the Association with the grant application and administration.

Please see the memorandum from Gil Arsenault, Director of Planning and Code Enforcement, for additional information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Order Authorizing the City Administrator to Apply for and Accept a Grant from the Maine Historic Preservation Commission for Roof Improvements to the Clough Meeting House.



COUNCIL ORDER

Order, Authorizing the City Administrator to Apply for and Accept a Grant from the Maine Historic Preservation Commission for Roof Improvements to the Clough Meeting House

Whereas, the Clough Meeting House, owned by the Clough Cemetery Association, is an historic structure located in the Clough Cemetery near the intersection of Old Lisbon Road and South Lisbon Road; and

Whereas, the Cemetery Association desires to undertake certain improvements to the roof of the structure; and

Whereas, funding for this project is potentially available through a grant from the Maine Historic Preservation Commission; and

Whereas, to be eligible for grant funding, the grant must be applied for by a Certified Local Government such as the City of Lewiston; and

Whereas, the proposed grant is in the amount of \$9,000 and will be matched by the Cemetery Association in the amount of \$6,000; and

Whereas, the City will be responsible for accounting for these grant funds and insuring that they are used appropriately in accordance with the grant's conditions should it be awarded; and

Whereas, preservation of this structure is in the best interest of the City and its goal of retaining important historic properties;

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

The City Administrator is authorized to apply for and accept a grant from the Maine Historic Preservation Commission in the amount of \$9,000 for the purpose of undertaking certain roof improvements to the Clough Meeting House, such grant to be matched by the Clough Cemetery Association in the amount of \$6,000, and to take such other steps as may be necessary to meet the conditions required by the grant.

MEMORANDUM

TO: Mayor Robert E. Macdonald
Members of the City Council
FR: Gildace J. Arsenault, Director of Planning and Code Enforcement
RE: Historic Preservation Fund Grants for the Clough Meeting House
DT: December 9, 2015

Peter J. Mendall, Treasurer of the Clough Cemetery Association, contacted me recently regarding the Clough Meeting House which is located at 32 South Lisbon Road at the intersection of Old Lisbon Road and South Lisbon Road. The Clough Cemetery Association is in the process of developing an application that they respectfully request the City submit to the Maine Historic Preservation Commission to undertake rood repairs and to install a new roof covering on the Clough Meeting House. The cost to undertake these improvements is estimated at \$15,000.

The Maine Historic Preservation Commission anticipates awarding approximately \$70,000 in Federal (i.e. Department of the Interior) grants in FY 2016 to Certified Local Governments (CLG's). These grants must be matched on a 60% Federal, 40% non-Federal basis. The proposed grant is for \$9,000 and, if awarded, the Clough Cemetery Association will provide cash in the amount of \$6,000. In order to be eligible for grant funds, the Clough Meeting House must either be eligible for or be listed on the National Register of Historic Places. The Clough Meeting House is listed on the Register.

Lewiston is a CLG as the City takes affirmative steps to preserve, protect, and enhance buildings and areas which represent or reflect distinctive and important elements of the city's architectural, archaeological, cultural, social, economic, ethnic, and political history; to safeguard the city's historic and cultural heritage; to provide procedures for local review of changes to significant structures and for new construction, reconstruction, building alteration, and demolition within designated historic districts; and to provide demolition delay provisions for designated historic, contributing, and other important buildings and structures. The Lewiston Historic Preservation Review Board is charged with carrying out the duties identified in Appendix A, Article XV, Significant Buildings and Districts of the Zoning and Land Use Code to achieve the above stated purposes.

In that these funds are earmarked for CLG's, the City Council must provide authorization to Administrator Ed Barrett in order for the application to be submitted to the Maine Historic Preservation Commission. The application for the grant must be signed by Administrator Barrett and the City must ensure that the project is carried out according to Federal and State Requirements. Therefore, if your authorization is given and if the grant is awarded, staff will work closely with the Maine Historic Preservation Commission and the Clough Cemetery Association to ensure that the project meets all applicable regulations. As mentioned above, the Association will pay for 40% of the project cost, and, once the project is complete and all requirements have been met and satisfied, the City will request the Maine Historic Preservation Commission to release the grant funds.

Peter Mendall plans to attend your December 15th meeting to answer any questions that you may have regarding this important preservation project.

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Resolve Receiving the Report of the Downtown Building Task Force.

INFORMATION:

Earlier this year, Mayor Macdonald appointed a Downtown Building Task Force with the charge of addressing fire and code compliance and related issues in the City's downtown residential neighborhood. The Committee was specifically charged with reviewing the City's current compliance efforts, the need for additional compliance staff, and identifying other steps that the City might take to address building condition and safety concerns. The Task Force was composed of City staff, several City Councilors, and representatives of downtown property owners.

The Task Force recently completed its work and has provided the attached report. The attached Resolve would formally receive the report.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action and anticipates that this report will be the subject of a Council workshop early in the next calendar year.

EAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Resolve receiving the Report of the Downtown Building Task Force.

REPORT OF THE DOWNTOWN BUILDING TASK FORCE NOVEMBER 2015

BACKGROUND

Mayor Robert Macdonald appointed a Downtown Building Task Force in September 2015 with the charge of addressing fire and code compliance and related issues in the City's downtown residential neighborhood. The Committee was specifically charged with reviewing the City's current compliance efforts, the need for additional compliance staff, and identifying other steps that the City might take to address building condition and safety concerns.

The Committee was composed of the following members:

- Mayor Robert Macdonald
- Councilor Shane Bouchard
- Councilor Kristen Cloutier
- City Administrator Ed Barrett
- Fire Chief Paul LeClair
- Police Chief Michael Bussiere
- Planning and Code Enforcement Director Gil Arsenault
- Assistant Fire Chief Bruce McKay
- Fire Captain Rick Cailler representing the Lewiston Fire Fighters Association
- Landlord Representative Rick Lachapelle
- Landlord, Property Manager Steven Labreque

The following report was drafted by City Administrator Ed Barrett with the assistance of Fire Chief Paul LeClair and attempts to summarize the views and recommendations of the members of the Committee.

THE PROBLEM

Lewiston's downtown residential neighborhood originally developed to provide housing for the workforce employed in the mills located adjacent to downtown along the Androscoggin River. The result was a dense neighborhood of multi-story apartment buildings on small lots with minimal separation and open space. Primarily built of wood between the 1880s and 1930s, these structures are old, require significant maintenance, and were not constructed to today's fire and code requirements. The vast majority of these structures have interior and exterior lead paint, creating a potential health issue, particularly for children.

In and of themselves, the nature of construction and the high density of this neighborhood pose a higher risk of loss, injury, and death due to fires.

In total, Lewiston has about 9,450 residential buildings providing 16,774 dwelling units. Of, these, we have about 7,300 single family homes and 9,456 apartments in roughly 2,157 separate buildings. The majority of Lewiston’s residents rent. This includes the vast majority of low income residents.

The declining condition of this housing stock is the City’s most pressing problem. Many of these properties have been or are in a cycle of decline. As owner occupancy rates have gone down, many properties have been purchased by investors, sometimes with an initial investment that could not be supported by relatively low rents, high vacancy rates, and increasing maintenance and utility costs. In some instances, this has led to lack of maintenance and investment, resulting in further vacancies or renting to inappropriate tenants who may worsen the situation by poor housekeeping, vandalism, and failure or inability to pay rent. When these properties can’t cover expenses, their condition worsens and they may eventually be abandoned.

This has, unfortunately, been a recurrent cycle, frequently in conjunction with economic recessions that stress both landlords and tenants. This was seen most recently in the great recession of 2008, the effects of which continue today.

In response, the City has frequently taken steps to condemn and demolish the worst structures. Since 2012, when the most recent series of demolitions began, the City has demolished 58 buildings with 195 residential units. In addition, the arson fires of 2012-2013 added 9 buildings with 58 units to the total. Overall, and excluding other private demolitions, this totals 67 buildings with 253 units, or roughly 2.7% of our total rental units.

While the pace of demolitions has slowed recently, it is likely that they will continue for some time as additional buildings fail and are vacated and if currently vacant buildings are not renovated and placed back into service.

RENTAL PROPERTY INCOMES ARE TOO LOW

Underlying these problems are our low market rents. The following chart presents the General Assistance Maximums for monthly rent on a one or two bedroom heated apartment for various Maine urban areas as provided by the State Department of Health and Human Services.

COMMUNITY	1 BEDROOM	2 BEDROOM
Bangor	664	834
Lewiston/Auburn	580	767
Portland	886	1,099
Kittery York	902	1,163

In reality, we also know that some landlords will rent below these rates.

In comparison with Portland, our nearest metropolitan neighbor, our fair market rents are 30 to 35% lower.

While on the surface low rents seem to be a benefit to those who rent, particularly low-income families and individuals, rents that cannot support building operating and basic maintenance costs, let alone cover mortgages and capital improvements, are self-defeating, leading to deterioration, vacancies, and, worst case, eventual demolition.

Given these low rents, building new, market rate rental units to replace those that are being eliminated is also not supported. Notably, no new rental units have been constructed in the downtown neighborhood for many years, perhaps dating back to the 1980s, without considerable state and local funding and incentives. As a result, those units that have been built are generally subsidized and limited to low income residents.

The values set on many older multi-family buildings in the downtown are based on the income they produce and the property value that such income can support. Some of these buildings are valued in the \$25 per square foot range. Since new construction costs are generally \$125 per square foot or more, it is obvious that new construction simply cannot be supported today.

CURRENT HOUSING POLICIES

The City's overall housing policy has not been clearly defined or set forth. In general, however, its major elements are:

- Pursuing demolition of the buildings in worst repair which pose a hazard to surrounding structures;
- Focusing the City assistance that is available (almost totally through federal funding) on existing buildings that can be successful, either due to owner occupancy, relative size, limited debt, and acceptable cash flow;
- Given the current \$3.2 million Green and Healthy Homes grant, supporting efforts to eliminate lead and other environmental issues from downtown properties, recognizing that these efforts can continue only to the extent that federal funding is and remains available;
- Supporting the development of non-subsidized market rate units in the main commercial corridors and mill and riverfront districts;
- Improving the area's public spaces and infrastructure to enhance its appearance and add amenity value;
- Focusing law enforcement efforts to improve both the reality and perception of neighborhood safety; and
- Support for the current federal Section 8 housing voucher program and its expansion. Under this program, low income individuals are provided vouchers to

subsidize rent payments that can be used for any apartment that meet's the program's condition standards. The vouchers usually carry a higher rent than the local market provides, giving landlords with a higher and more dependable revenue stream.

The City currently does not have a definitive policy regarding support for 100% low income, subsidized housing developments. In the past, the City has supported such projects. However, recent controversies surrounding the St. Laurent Pierce Street project (which is intended to replace prior units lost as a result of a fire) have called this support into question given that the Council's vote to support it was subjected to a citizen initiated referendum and over-turned. Given this, it may be unlikely that the City would support any similar such projects in the near-term future, although support may be possible for mix income projects with both market and subsidized units. The Council to take office in January should consider clarifying the City's overall policy in this regard.

FIRE AND CODE ENFORCEMENT APPROACH

The City has traditionally taken an approach that emphasizes working with property owners to rectify problems and eliminate violations, not fining or penalizing them, actions which could potentially worsen the situation and add to vacancy and abandonment. In many instances, this has been successful; in others, it has not.

Recently, the City has tightened its enforcement efforts to distinguish between property owners who are cooperative and those who are unresponsive. For example, engine company multi-family inspections historically were only conducted after an appointment had been made with an owner and all tenants had been notified so that the entire building, both public and private areas, could be inspected. This system works well for owners who are cooperative. Too often, however, other owners have been unresponsive – delaying or refusing to schedule inspections; cancelling them at the last minute; or failing to show up as scheduled.

Our current policy is to conduct inspections, even when the owner has been unresponsive. These inspections focus on the public areas of the building and, where tenants are present and allow entry, individual apartments. Identified violations are noted and pursued, up to and including court action to force compliance. This approach directly targets those owners who prevaricate and delay and underscores the message that we need to work together and cooperate to address problems.

SOME POSITIVES

While the housing issues facing this area are daunting, some positives should also be noted. These include:

- The removal of the worst of the dilapidated buildings

- Improving vacancy rates
- An apparent slight uptick in rental rates
- Some properties undergoing renovations and improvements
- The successful effort to address security and safety through focused police efforts
- A generally improved appearance

OVERARCHING RECOMMENDATIONS

In the sections that follow, the task force will provide specific recommendations addressing individual issues. The recommendations below, however, are more sweeping in their scope, speaking directly to the larger policy issues involved.

1. Allow buildings to fail. Some of the buildings in the area are simply no longer economically viable and have far exceeded their useful lives. These buildings should be allowed to stand or fall on their own. The City should not invest resources in a building unless it is clear that the building can survive economically, nor should it "live with" inadequate efforts to eliminate violations just to "keep it going."
2. Continue to demolish dangerous buildings. As buildings deteriorate and become vacant, the City should continue to condemn and demolish them. Their presence poses an inherent safety risk and is a negative influence on the neighborhood.
3. Maintain and strengthen the recently adjusted enforcement approach of working with those who cooperate and taking firm action against those who do not, even if such action leads to building abandonment.
4. Recognizing that firmer enforcement will result in complaints, the City's elected officials must stand together to support enforcement staff.
5. To the greatest extent possible, City aid and assistance should be limited to buildings that can stand on their own economically; to do otherwise is to put a band aid on a gaping wound and misuse limited resources.
6. The newly elected Council should clearly define the City's policy toward subsidized housing and the extent to which the city will/will not support future such projects.
7. Address the negative impact of vacant lots. The presence of vacant lots in an area speaks to its desirability (or lack thereof), even when they are relatively clean and free of debris. When they are weed covered and trash filled, the impression is immeasurably worse. Lots that the City owns should be well maintained and, given Public Works' staff limitations, the City should consider hiring contractors to maintain them. Trash and weed ordinances should be strictly enforced on private lots. Where possible, the City should work to either return properties to private owners where they would support the viability of existing buildings or manage these lots as amenities to the area through the development of pocket parks, gardens, or other uses.

8. Continue to develop and emphasize a close working relationship between Code and Fire Prevention in identifying and addressing code and life safety issues.

SPECIFIC RECOMMENDATIONS

1. Staffing Recommendations

The consensus of the Committee is that staff reductions in the area of Fire Prevention have reduced the ability of the department to complete multi-family inspections. Similarly, while an additional position has been added to the Code Enforcement Department, additional staffing in that area could also enhance inspections. Higher staffing levels would also allow for devoting more time and attention to compliance efforts. In many ways, identifying code issues is a relatively straightforward process. Working to bring properties into compliance is often more time consuming and difficult. The committee recommends that the following three positions be added in the priority in which they are presented. The committee also recommends that these positions be included in the Administrator's base budget recommendation for FY17, not separately as an additional program or service. This will force the Council to choose to eliminate these positions from the budget proposal rather than simply fail to consider including them.

1. Full Time Fire Inspector assigned to the Fire Department.
2. Full Time Fire Prevention Clerk position (Current Position is Part Time).
3. Full Time Staff Position for Code Enforcement.¹

Legal and Mandatory Action options associated with a Notice of Violations:

City Staff enlisted the assistance of the City Attorney's office to develop a recommendation to establish an effective, succinct, and legally sound process for Fire Department and Code Enforcement Staff to follow when faced with critical life safety issues and those issues that do not create an imminent danger. The Committee worked through potential enforcement limitations attributable to current City Code and Ordinances and requested City Attorney assistance in the review of said codes so the City Council may consider revisions intended to provide City Staff with the ability to take action to correct unsafe conditions. Based on these conversations, the following is recommended:

¹ The Committee notes that the Director of Planning and Code recommended that an additional planning position be created on the basis that this would free up more of his time to devote to Code Enforcement efforts while increasing staffing to deal with planning issues, particularly in light of the work that will soon be required to begin implementing the new comprehensive plan.

2. Implement variable time limits for correcting notices of violation

The Fire Department's current practice is to provide a notice of violation when problems are identified and to allow the property owner a thirty day period to correct. The Committee recommends that variable times to correct be adopted with the time correlated to the nature of the violations. Those that involve an immediate life safety issue should be addressed immediately or within 24 hours. Other serious but less immediate threats should be corrected within a seven to ten day period, while items not creating an imminent danger could remain at thirty days. Code Enforcement currently uses such a variable time approach. Fire Prevention staff should review the nature of frequent violations and assign an appropriate time limit for correction in the notice of violation.

3. Use of Optional enforcement Procedures

A variety of enforcement options are available to address situations where property owners fail to make corrections within the time period specified in a notice of violation.

Option #1: 80 K Process. Historically, the City has primarily relied on the 80K process. Rule 80K provides a simpler, speedier, and less costly procedure for the prosecution of violations in District Court. Under Rule 80K, the District Court can order violators to pay fines and to stop or correct a violation. Unfortunately, this process can be quite time consuming depending upon the workload of the District Court and, although the Court can impose fines and order corrections, continued monitoring to ensure compliance is required.

Option #2: 80K Process with a Temporary Restraining Order. This option can be used if immediate action is required (i.e. under the 80K rule). If the enforcement official finds a violation which must be stopped quickly before a full court hearing can be scheduled on whether a violation legally exists, the court can be asked to issue a Temporary Restraining Order (TRO) or Preliminary Injunction that requires that the violation be immediately addressed. This brings the weight of the Court and the potential for sanctions such as contempt of court to come into play.

Option #3: Citation with a fine structure as provided in Chapter 50 of the City Code of Ordinances. A number of minor violations require significant staff time that could be better utilized in addressing more serious issues. One example is trash/debris on private property. As currently structured, enforcing a violation in this area may require a lengthy and time consuming 80K action. The City currently has the option of citing and fining violations involving trash and debris left on the city's right of way adjacent to a property. This option could be extended to other minor but time

consuming violations such as the accumulation of trash and debris on private property.

Option #4: Summons which triggers a court date. This is similar to a police officer issuing a moving violation ticket. Once ticketed, violators are assigned a court date. They can avoid appearing in court by paying the fine specified for the offense. A similar process can be followed for code and fire violations. The Summons process could be applied to those situations where the property owner has demonstrated clear intent "TO NOT" cooperate with the Fire Department and Code Staff.

Given these alternative enforcement options, the City Attorney should be requested to review the Code of Ordinances and provide recommendations for any changes necessary to strengthen the City's enforcement capabilities or to amend the language of the Code to improve the guidance it provides to city enforcement personnel. Both Code and Fire staff should also work to take a similar approach to enforcement whenever possible.

4. Removal of Debris.

When an accumulation of debris near the exterior of a property is identified and if the debris is not removed within twenty-four hours, the City Administrator should be authorized to direct the Public Works Department to remove this debris if the Fire Chief or Director of Planning and Code determine that the location and nature of the debris constitutes a significant threat to adjacent properties if the debris were to catch fire. The responsible property owner should be fined and all costs associated with debris removal should be charged to that owner. The City Attorney should be requested to draft an ordinance providing the necessary authority.

5. Authorizing Additional Staff to Issue Notices of Violations and Citations

The necessary steps should be taken to authorize designated Fire Department staff to issue citations and notices of violation. Specifically, the Fire Prevention Officer should be authorized to issue citations and Company Officers supervising fire company property inspections should be authorized to issue 24 hour notices of violations for issues that pose an extreme risk to the public.

6. Legal Review of Enforcement Paperwork

The City attorney should review the forms currently used by various personnel including the notice of violation, citations, and Fire Department Order to Comply to ensure that they meet all legal requirements. In addition, staff should review this paperwork to identify any changes required to add greater clarity to the violations and compliance requirements.

7. Fire Department Smoke Detector Loan Program

The Fire Department should be authorized to install "loaner" smoke detectors when Departmental personnel, during an inspection or as a result of a call for service, find detectors to be removed or inoperative. At the same time, a notice of violation should be issued to the property owner with a requirement that an operating detector be in place and the loaned unit returned to Central Fire within 24 hours.

8. Resetting Fire Alarms

It is not unusual for the Department to respond to calls where a building's fire alarm system is sounding but there is no fire. Current practice is to attempt to contact the building owner to reset the alarm. If the owner cannot be contacted or fails to respond in a timely fashion, the alarm continues to sound posing issues for tenants who must either remain outside the building or contend with the continuing alarm. This creates a hazard should a fire occur while the alarm is already sounding and residents have returned to the building. If the owner cannot be contacted or fails to respond in a reasonable time, the Fire responders should be authorized to silence and or reset fire alarms. In addition, property owners should be allowed to authorize the Department to silence and reset alarm systems as an alternative to avoid the necessity of traveling to the site and delaying action. A fee should be established when owners request such a service. In instances where the owner cannot be contacted or fails to respond, City ordinances should be amended to institute a fine. This will also allow fire units to return more quickly to service and provide an incentive for property owners to respond to problems.

9. Re-establish a Fire Prevention Education Program.

The addition of a Fire Inspector will provide the opportunity to re-establish community based fire prevention education at the following levels:

- a. Childhood/school fire safety education
- b. Immigrant education
- c. Landlord education
- d. Tenant education
- e. Establishing a System for Community reporting of Fire Prevention issues (hotline or web site)
- f. Fire Setter program
 - i. Early outreach
 - ii. Training regarding at risk youth
- g. Firefighter Education regarding common code violations that are not necessarily a violation of a Fire Prevention inspection

10. Improve Availability of Property Owner Information

The Fire Department frequently encounters difficulty in contacting property owners when problems arise, particularly after normal business hours. The most accurate and up to date information available to the City is often found in our utility billing system. The Fire Department should be granted electronic read only access to this data base (down to the mobile units in its vehicles) or, if there are technical or cost issues with such access, the Department should be provided with a hard copy of ownership and contact information on a monthly basis.

11. Contact Information for Properties in Foreclosure.

A recently enacted state law requires financial institutions to provide an in-state contact for properties they are foreclosing. Not all institutions are aware of this requirement. A local ordinance should be adopted require the same thing. This would allow the City to issue citations and potentially fine institutions failing to provide the required notice.

12. Address Tenant Issues

Not all problems with multi-family buildings are caused by a failure of the owners to maintain them to code standards. Certain issues, such as deactivated or missing smoke alarms, blocked exits, and trash issues, are often the result of tenant actions. The City should work with landlords and their organizations to strengthen state legislative sanctions against improper behavior by tenants, including sanctions against willful damage caused by tenants to rental units.

13. Establish a Property Owner Recognition Program.

The City should consider establishing a program to recognize Landlords who are meeting their responsibilities and/or exceeding expectations. The Mayor has suggested a "gold star" property award. Committee members suggested presenting this award at a noteworthy community event.

14. Maintain a Voluntary Vacancy Registry.

Although this registry would remain voluntary, it would be an opportunity to voluntarily inform the City of buildings that are vacant and not in service. This information could be shared with the Police and Fire Departments to ensure that the properties are periodically checked to verify that they are secured.

15. Work to Change the Perception of Lewiston's In-Town Residential Neighborhoods.

A number of current initiatives should continue or be expanded in this area. The Police Department should be encouraged to continue its disorderly building,

community policing efforts, and project hot spots, all of which have already had a positive effect on crime and the quality of life in the area. The City should reach out to other organizations involved, including tenant groups, to enlist their assistance in communicating the positive aspects of Lewiston and the community's willingness to advocate for positive change.

16. Support the Expansion of the Section 8 Voucher Program.

The federal Section 8 program provides rental subsidies to low income individuals and families who otherwise might not be able to afford housing. The program requires that rental units meet code requirements, and units are periodically inspected to ensure that they do so with financial penalties assessed if they do not. In addition, Section 8 frequently pays landlords at a higher rate than other programs. On a related note, the City should review the limits on housing payments made through its General Assistance Program to verify that they are an accurate reflection of the area's fair market rents.

SUGGESTIONS CONSIDERED BUT NOT RECOMMENDED

1. Multi-Family Property Licensing.

Some jurisdictions require that the owners of multi-unit buildings be licensed. This requires the periodic payment of a licensing fee and the provision of current contact information. The Committee concluded not to recommend such a program because it would place an additional financial burden on property owners who are already frequently facing financial challenges. While such a system could be implemented without requiring a fee, the City does not have adequate staff to handle and maintain such a process and additional personnel would be required.

2. Responsible Party Ordinance.

An alternative to licensing is a responsible party ordinance that would require owners to post contact information in public areas of multi-family properties above a certain size. Landlords expressed concerns that this could result in frequent, unnecessary calls to them.

The following is the initial list of talking points/issues developed by the Downtown Building Task Force as a guide to its work.

DT Task Force Committee meeting: September 8, 2015 –Talking Points: Below is the list of talking points referenced by the committee as the guide of discussion topics for each meeting.

- Discussion on the potential of a major fire due to conditions of many in town tenement buildings.
- What can be done to demolish more of the current vacant buildings?
- What can be done to quicken the cleanup of occupied problem buildings?
- How to enforce and initiate action when staff identifies a problem with landlords who do not respond or correct the problem immediately.
- The historical impact of Fire Prevention staff cuts.
- Review of the Fire Department inspection program and how enforcement is achieved.
- Difficulty with achieving compliance and continuing a voluntary inspection program.
- Concerns the committee might villainize the landlord.
- The current market rate makes it difficult for many landlords to generate a profit.
- LHA inspects buildings on a regular basis and if not compliant rent is withheld.
- Lead Poisoning and Tax law changes have impacted landlords.
- Over 90 Buildings were torn down in the 1990's. Over the last three years the City has torn down 70 buildings with more to be demolished as City Council and Court action allow.
- Compliance requirements can come with a huge price tag.
- The general opinion of the committee is that older housing stock is not viable.
- The Government competes with the independent owner and outpaces the rent they can reasonably collect. Market housing rents are not subsidized.
- Insurance companies are also requiring compliance of the Landlords.
- It is an academic and social challenge to manage property in the downtown.
- Bad tenants have the ability to move around.
- Should there be a limit on the number of buildings so less subsidized housing is available.
- Discussion on the difficulty of operating an apartment building in the inner city.
- Landlord – Tenant issues. Many buildings are beyond their useful life.
- Discussion on how to deal with bad tenants and how to address issues with the unresponsive landlord.
- The tenant's rights association and landlord association also have raised concerns on the topics discussed at the committee meeting.

- How do we address the landlord, tenant related issues?
- Any submissions for the Legislative Session coming up the 20th? Please forward to the Mayor.
- Discussion on how to use the Committee's findings in a positive way.
- City guidelines on the number of tenants that can live in an apartment unit.
- Education for people new to our community.

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Appointment to the Board of Assessment Review.

INFORMATION:

The City Administrator is nominating Andrew Choate to serve as a member of the Board of Assessment Review. This will be a re-appointment for Mr. Choate to this position. The position is a three year term and will expire December 2018. The City Council makes the formal appointment, after receiving a nomination from the Administrator. The City Administrator is recommending Mr. Choate for this appointment and the City Assessor concurs.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAR/kmn

REQUESTED ACTION:

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To accept the City Administrator's nomination of Andrew Choate of 70 Rachel Blvd, and to appoint Mr. Choate as a member of the Board of Assessment Review, for a three year term, said term to expire December 17, 2018.

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Appointment to the Lewiston Auburn Transit Committee.

INFORMATION:

There is a current vacancy for a citizen member on the Lewiston Auburn Transit Committee (LATC). This position is a three year term which will expire June 15, 2016, so this appointment will be filling the unexpired term. A Council vote is required to make the appointment. Additional information will be presented by Deputy City Administrator Phil Nadeau, who serves as the Chairperson of LATC.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

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To make an appointment to the Lewiston Auburn Transit Committee, said term to expire June 15, 2016.

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Order authorizing the Mayor to Execute Amendment Number Five to the Employment Agreement between the City of Lewiston and Edward A. Barrett.

INFORMATION:

The City of Lewiston entered into an agreement to employ Edward A. Barrett as City Administrator on December 1, 2009 that was subsequently amended in December 2011, February 2013, December 2013 and August 2015. The attached Order would authorize the Mayor to execute an amendment to that agreement allowing for a salary adjustment in the same amount and effective at the same time as the adjustment provided during FY16 for non-unionized personnel. This will provide for a 1.5% salary adjustment effective July 1, 2015 and will increase the Administrator's base salary from \$123,109 to \$124,956.

A copy of the amendment is attached.

These changes come forward following completion by the City Council of the Administrator's annual evaluation and approval of a salary adjustment for the non-union employees.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

This is an employment contract issue handled by the City Council.

EAB/kmm

REQUESTED ACTION:

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To approve the Order authorizing the Mayor to execute Amendment Number Five to the employment agreement between the City of Lewiston and Edward A. Barrett.



COUNCIL ORDER

Order, Authorizing the Mayor to Execute the Fifth Amendment to the Employment Agreement between the City and Edward A. Barrett.

Whereas, the City entered into an agreement with Edward A. Barrett on December 1, 2009 under which he assumed the position of City Administrator; and

Whereas, in accordance with that agreement, the City Council has evaluated the performance of the City Administrator; and

Whereas, the Council wishes to adjust the Administrator's salary by 1.5% effective July 1, 2015, the same increase provided to other non-represented employees of the City;

Now, therefore, be It Ordered by the City Council of the City of Lewiston that the Mayor is authorized to execute a fifth amendment to the employment agreement with Edward A. Barrett, a copy of which is attached hereto.

FIFTH AMENDMENT TO EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF LEWISTON AND EDWARD A. BARRETT

The employment agreement dated December 1, 2009 made and entered into by and between the CITY OF LEWISTON (Androscoggin County), State of Maine, a municipal corporation sometimes referred to as "City," and Edward A. Barrett of Lewiston, State of Maine, hereinafter sometimes referred to as "Employee", is hereby amended as follows as of this the 15th day of December, 2015.

1. Section 4. Compensation, Subsection A is amended as follows:

- A. Base Salary: The City agrees to pay the Administrator an annual base salary of one hundred twenty-four thousand nine hundred and fifty-six dollars (\$124,956) payable in installments in accordance with the City's usual payroll practices and procedures for management employees. The City Administrator shall receive the same percentage adjustment in his base salary as the City's non-unionized employees received during the City's Fiscal Year 2016, such adjustment to be retroactive to payroll checks issued on July 1, 2015, the same retroactive date used for the non-union adjustment.

IN WITNESS WHEREOF, the City of Lewiston has caused this agreement to be signed and executed in its behalf by its Mayor, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

CITY OF LEWISTON

Witness

By _____
Its Mayor

Witness

By _____
Edward A. Barrett

LEWISTON CITY COUNCIL

MEETING OF DECEMBER 15, 2015

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 13

SUBJECT:

Executive Session pursuant to MRSA Title 1, section 405 (6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.

INFORMATION:

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

State statutes define the purposes for entering into an executive session.

ERB/kmm

REQUESTED ACTION:

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To enter into an Executive Session pursuant to MRSA Title 1, section 405 (6) (c) to discuss an Economic Development issue of which the premature disclosure of the information would prejudice the competitive bargaining position of the City.