

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
SEPTEMBER 19, 2017**

6:30 p.m. Workshop – Impact of Revaluation on Lewiston with or without Consolidation

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag

Moment of Silence

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 3.

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. Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 250 Merrill Road.
- * 2. Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 5 Fairlawn Avenue.
- * 3. Approval of Election Warrant Calling for the Municipal Election to be held on Tuesday, November 7, 2017; Recommendations for the City Clerk/Registrar of Voters on actions necessary to conduct the Municipal and State Election, November 7, 2017; and Authorization to hold a Mayoral Run-Off Election on Tuesday, December 12, 2017, if necessary.
- * 4. Appointment to the Lewiston Housing Authority Board of Commissioners.

REGULAR BUSINESS:

- 5. Public Hearing for approval of an Outdoor Entertainment Permit for The Dempsey Challenge.
- 6. Public Hearing and Final Passage regarding an amendment to the Streets and Sidewalks Ordinance regarding the location of poles in sidewalks.
- 7. Public Hearing and Final Passage to contractually rezone the property at 2 Central Avenue from the Office Residential (OR) District to the Neighborhood Conservation “B” (NCB) District.
- 8. Public Hearing and Final Passage for Land Use Code Amendments concerning space and bulk requirements for academic institutions.
- 9. Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding unlawful and excessive noise.
- 10. Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding nuisance parties.
- 11. Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding Sex Offender Restricted Zones.
- 12. Public Hearing on an application from Dana’s Garage, 193 Crowley Road, for an Automobile Graveyard/Junkyard permit.
- 13. Public Hearing on an application from Maine Heavy Equipment Rental, 1445 Sabattus Street, for an Automobile Graveyard/Junkyard permit.

14. Public Hearing on an application from Grimmel's Industries, 50 River Road, for an Automobile Graveyard/Junkyard permit.
15. Public Hearing on an application from the Lewiston Public Works Department, 424-482 River Road, for an Automobile Graveyard/Junkyard permit.
16. Public Hearing on an application from ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway for an Automobile Graveyard/Junkyard permit.
17. Resolve, Authorizing the City Administrator to engage in the services of Napoli Shkolnik, PLLC and Trafton, Matzen, Belleau & Frenette, LLP on behalf of the City of Lewiston with Respect to Prosecution of any Legal Claims Against Manufacturers and Distributors of Opioids Arising out of their Fraudulent and Negligent Marketing and Distribution of Opioids.
18. Potential action on personnel issue discussed in executive session prior to the meeting.
19. Update from the Lewiston School Committee Representative.
20. Reports and Updates.
21. Any other City Business Councilors or others may have relating to Lewiston City Government.

LEWISTON CITY COUNCIL
WORKSHOP AGENDA
TUESDAY, SEPTEMBER 19, 2017
6:00 PM

1. Executive Session – Personnel Matter – 30 minutes
2. Impact of Revaluation on Lewiston with or without Consolidation – 30 minutes

Councilor Lajoie has requested that information be provided to the Council on the impact of a property revaluation in Lewiston should one happen as a result of a merger. Other members of the community have sought similar information. Attached is a memo that analysis the revaluation issue, whether or not consolidation occurs.

LEWISTON CITY COUNCIL
MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. ES-1

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.

EATB/kmm

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.



EXECUTIVE

**Edward A. Barrett, City
Denis D'Auteuil, Deputy City**

September 14, 2017

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Impact of Revaluation on Lewiston with or without Consolidation

As an outgrowth of discussions regarding the merger of Lewiston and Auburn, questions have been raised regarding how this would affect the current assessment practices in both communities and whether this would require a revaluation of properties, particularly in Lewiston.

Background

By way of background, there is generally some variation between the values placed on properties for property tax purposes and the actual market value of those properties. The relationship between assessment and market value is called the sales price ratio. Currently, that ratio in Lewiston is 82%, meaning that properties, on average, are taxed at 82% of their full market value. Auburn, which implemented a more recent property revaluation, has a sales price ratio of 101%.

Under state law, communities are generally held to two standards when it comes to assessed values: first, a sales price ratio that is at or above 70% and, second, that properties are assessed equitably regardless of type. The general standard for equity is that the overall value of a class of property (such as residential or commercial) does not vary more than 10% from that of other classes of property. The State of Maine annually reviews municipal assessments to determine a community's sales price ratio and the equity of its valuations. At the present time, both communities' practices meet state standards.

However, if the two communities do merge, issues of equity will arise given the variance in sales price ratios. While recent trends in Lewiston indicate that it will be necessary to undertake a revaluation at some point in the near to mid-term future, a merger will require some adjustments to Lewiston's assessed values and perhaps a minor tweak to Auburn's.

Effect and Implementation

The CGR, the consultants hired by the Joint Charter Commission, have submitted a report that provides a useful summary of the fiscal impact of the proposed consolidation on the overall tax rates in Auburn and Lewiston. That information is available on pages

72-80 of the report (attached) and is based on each community's 2016¹ adopted budgets. The following table summarizes this information:

	Lewiston	Auburn
Unadjusted Assessed Value	\$1,895,408,000	\$1,976,187,978
Equalized Assessed Value	\$2,203,000,000 ²	\$1,960,000,000
FY16 Tax Rate	\$27.37	\$21.44
Consolidated Tax Rate (w/o debt)	\$21.37	\$16.76
Consolidated Tax Rate	\$23.26	\$21.94
Percentage Effect on Tax Rate	-15.0%	+2.3%

The significant drop in Lewiston's tax rate is primarily due to the impact of adjusting Lewiston's assessed values to the actual market. Note that the figures above do not take into account the budgetary savings estimated in the CGI report. Using the savings developed by the CGI working groups, the tax rate for Lewiston would fall to \$22.70 (-17.1%); Auburn to \$21.37 (-0.3%). At the maximum savings level projected in the report, the rates would fall to \$22.26 (-18.7%) and \$20.94 (-2.3%) respectively.

The proposed charter calls for consolidation to take place in 2020. Adjusting the City's assessed value should take place prior to adopting the first combined budget under the consolidated government in order to ensure that the initial tax assessments are fair and equitable.

Effect of Revaluation on Lewiston

The volume of sales and sale prices has increased in Lewiston over the past several years. The City's current sales price ratio for residential properties is 82%. The ratio for commercial/industrial properties is 91% and utilities 95%. Lewiston's level of assessment quality is 12%, indicating Lewiston overall assessments are generally equitable.

If current trends continue, a revaluation may be required in Lewiston regardless of a merger with the City of Auburn. The last revaluation in Lewiston took place in 1988; a revaluation in 2006 was substantially completed but never implemented.

If all property types had a similar sale price ratio, a revaluation would reduce the City's tax rate without, all things being equal, an impact on individual property tax bills. As values go up, the tax rate falls proportionately. The situation is more complicated, however, when different property classes have different sale price ratios.

¹ For comparative and consistency purposes, all data and analysis is based on the adopted municipal budgets for Fiscal Year 16, ending June 30, 2016. As a result, the specific numbers shown would not be the actual numbers that would go into effect after consolidation. This approach is intended to show the order of magnitude impact of assessing and revaluation impacts and should not be assumed to show the actual outcomes.

² Please note that the state's adjusted valuation lags actual values, so the value shown is generally represents the value from about two years ago.

The following chart summarizes assessment ratios by property class:

Class	% of Tax Base	Ratio
Residential (1-3 family)	54%	82%
Commercial (Inc. 4+ family)	26%	91%
Industrial	10%	91%
Utilities	10%	95%

As you can see, a revaluation would shift a portion of the tax burden from commercial to residential properties.

Effect of Revaluation Without Consolidation

The following is based on the FY16 tax rate and budget and shows what the effect would have been if Lewiston’s values had been adjusted to 100% in that year. Note that the use of a past fiscal year isolates the impact of a revaluation from other factors such as changes in spending or the addition of new value to the tax base.

Such a revaluation would have resulted in a 13.7% reduction in the tax rate, lowering it from \$27.37 to \$23.61. Given the variable adjustments to different property types, however, the percentage change³ in each property class would be different:

Property Class	Percentage Change in Tax Bill
Residential	5.2%
Commercial	-5.2%
Industrial	-5.2%
Utilities	-9.2%

In summary, a revaluation implemented in FY16 would have resulted in the average residential property seeing a tax bill increase of 5.2%; industrial and commercial properties would have seen 5.2% lower bills; and utilities would have seen a 9.2% decrease.

Effect of Revaluation and Consolidation

To advance the analysis one step further, it may be useful to look at the potential impact if a Lewiston revaluation was implemented in the first budget year of a consolidated Lewiston Auburn. CGI has estimated, again based on the FY16 budget, that consolidation would result in a Lewiston tax rate of \$23.26 without taking into

³ Note that these figures represent the average for each class. There will also, however, be variations within each class based on the particular circumstances of a given property. As an example, lower valued homes may be increasing more rapidly in value than expensive properties. Owners should not, therefore, assume that a revaluation would have the percentage impact on their property as shown here.

account the impact of the savings recommended by the working groups. This is a slightly lower tax rate than the estimated full value rate of \$23.61 based on a 100% sales price ratio for a stand-alone City of Lewiston. Assuming that consolidation would not result in savings, the average percentage change in tax bills by property type would be:

Property Class	Percentage Change in Tax Bill
Residential	3.6%
Commercial	-6.6%
Industrial	-6.6%
Utilities	-10.5%

While the overall picture remains fairly similar, the residential increase would be somewhat smaller (3.6% vs 5.2%) and the increase in the other categories would be larger.

The CGI report also projected the fiscal impact of consolidation based on the savings estimated by the working groups that reviewed various municipal functions as well as the maximum savings the consultants projected to be possible. Taking the working groups' estimated savings into account, Lewiston's tax rate after consolidation and a revaluation to 100% would fall to \$22.70 and result in the following tax bill impacts by property class, again using FY16 data as the base:

Property Class	Percentage Change in Tax Bill
Residential	1.1%
Commercial	-8.9%
Industrial	-8.9%
Utilities	-12.7%

CGI also provided a maximum savings model projected to provide Lewiston with a \$22.26 tax rate. Under that scenario, the effect of consolidation and revaluation by property class would be:

Property Class	Percentage Change in Tax Bill
Residential	-0.8%
Commercial	-10.6%
Industrial	-10.6%
Utilities	-14.4%

The following summarizes the percentage change in property tax bills estimated for the four cases presented above.

SUMMARY – ESTIMATED IMPACT OF REVALUATION AND CONSOLIDATION BY PROPERTY CLASS – PERCENTAGE CHANGE IN ESTIMATED PROPERTY TAX BILL.

Property Class	Revaluation Only	Consolidation and Revaluation No Savings	Consolidation and Revaluation Working Group Savings	Consolidation and Revaluation Maximum Savings
Residential (1-3 family)	5.2%	3.6%	1.14%	-0.82%
Commercial (Inc. 4+ family)	-5.2%	-6.6%	-8.86%	-10.63%
Industrial	-5.2%	-6.6%	-8.86%	-10.63%
Utilities	-9.2%	-10.5%	-12.70%	-14.39%

Logistics of a Revaluation

A revaluation in Lewiston could potentially be undertaken by in-house staff given that we have maintained all of the data that was developed for the revaluation that was done in 2006, at about the same time as Auburn’s, but which was not implemented. This would likely require some outside assistance from the City’s software vendor to efficiently utilize the data from the 2006 revaluation and to adjust it to current market conditions.

Alternatively, the City could contract for a full revaluation⁴ with an outside firm. Generally, the cost would be in the \$40 to \$50 range per parcel. Lewiston has 11,682 taxable parcels, so a contracted revaluation would likely be in the range of \$450,000 to \$585,000. In addition, city staff would still be required to allocate some time toward this effort for items like answering citizen inquiries, conducting hearings, and doing field reviews. The City Assessor estimates that reviews and hearings would likely be required for about 10% of property owners and would take about six weeks of work for five staff members.

Auburn’s sales price ratio is currently so close to 100% that minimal changes would be required and could easily be undertaken in house.

⁴ Some of the state’s municipalities have gone to annual updates of value in order to keep their assessment ratio relatively close to market value. This is a preferable way of maintaining municipal assessments, assuring equity as the market changes and evolves, and avoiding the need for periodic disruptive and potentially expensive revaluations.

Conclusions

Based on the foregoing, a number of conclusions can be reached:

1. Lewiston faces the need to undertake a revaluation at some point in the near to mid-term.
2. In order to ensure equity in property taxation, a revaluation will be required for the first year of a consolidated budget if the two communities merge.
3. A Lewiston revaluation will lower the City's tax rate substantially (13.7%).
4. The current distribution of the tax burden will, however, be shifted to some degree from non-residential property to residential property.
5. The average residential property, without consolidation, would see about a 5.2% increase in its tax bill.
6. Consolidation with no savings would result in a slightly smaller impact on residential properties, reducing the increase to 3.6%.
7. Consolidation, if the savings estimated by CGI's working groups was achieved, would further reduce the average increase in the average residential property tax bill to 1.09%.
8. If greater savings than those estimated by the working groups are achieved, the impact on residential property tax bills could be further reduced with the potential of an actual decrease.

One again, a final caveat. All data and conclusions are based on using actual FY16 budgets. Between FY16 and today, let alone when the City's might consolidate, these numbers will change as the individual circumstances change. This analysis, therefore, should be seen as an effort to evaluate general order of magnitude impacts, not as firm projections.

Calculating the Fiscal Impact

Calculating the fiscal impact of consolidation is an iterative process based on current spending levels and tax levels, and certain assumptions about future costs. Here are the steps we took:

1. **Laying Out Current State.** Calculate the “current state” in both cities, based on the FYE 2016 budget, property tax levies and assessed valuations.
2. **Adjusting Property Valuations.** Adjust current valuations to be equalized against state valuation levels. Presently Lewiston’s tax rate is considerably higher than Auburn’s, but this compensates for Lewiston’s properties being assessed at a level below market value (and below comparable Auburn values). Incorporating the equalized state valuation ensures that we are able to compare property tax levels and assessments in Lewiston and Auburn on an “apples to apples” basis.
3. **Separating Pre-Existing Debt Service.** Separate the proportion of property taxes that get allocated to current debt, since in the event of merger Lewiston’s pre-existing debt service would remain in the former Lewiston, and Auburn’s would remain in the former Auburn.
4. **Summarizing Current State but Excluding Current Debt.** Restate the current state excluding debt service.
5. **Applying Projected Cost Impacts.** Apply projected cost impacts using two models:
 - Citizen Workgroup Recommended Model: This model incorporates the collective recommendations made by the four workgroups presented earlier in this report.
 - Max Savings Model: This model incorporates the most financially-beneficial alternative developed by CGR during the review process.

As noted earlier in this report, the workgroups did not always endorse the most financially-beneficial alternative because the participants focused on reviewing both financial and service impacts. In several instances the recommendation was one that did not generate the maximum savings. In some cases, the recommendation resulted in modest cost increases. Clearly, the workgroup process was not focused exclusively on saving money, but

rather balancing savings with the perceived service needs of the merged community.

Step 1: The Current State

At present, the average residential property owner in Lewiston pays \$4,036 in municipal and school taxes, and the average residential property in Auburn pays \$3,292. These figures are derived from two basic numbers: First, the 2016 property tax levy (i.e. the amount of money the governing bodies decide to generate through property taxes to fund their respective budgets), and second, the 2016 taxable assessed valuation (i.e. the assessed value of all taxable properties within each municipality). Dividing the levy into the assessed valuation determines a tax rate. In Lewiston, the 2016 tax rate was \$27.37 per \$1,000 of assessed value; in Auburn, it was \$21.44 per \$1,000 of assessed value. That rate is then applied to individual properties to determine the property tax bill for each.

Table 1: Current State	Lewiston	Auburn
Property Tax Levy		
Municipal (including overlay)	\$30,388,232	\$23,789,979
School	\$19,107,966	\$16,444,036
County	\$2,372,745	\$2,142,268
Total	\$51,868,943	\$42,376,283
Taxable Assessed Value (unadjusted)	\$1,895,408,000	\$1,976,187,978
Municipal Rate (including overlay)	\$16.03	\$12.04
School Rate	\$10.08	\$8.32
County Rate	\$1.25	\$1.08
Total	\$27.37	\$21.44
Median Home Value	\$147,500	\$153,500
Average Property Tax Bill	\$4,036	\$3,292

Step 2: Adjust to Equalized State Valuation

As noted, a truly direct comparison of budgeted tax rates requires additional adjustment. This is because Lewiston and Auburn actually assess at different levels of market value. For property taxes to be a truly equitable form of allocating costs, all properties within a particular jurisdiction must be valued at a common level. Within Lewiston, all properties are valued commonly; such is the case in Auburn. However,

allocating property taxes across jurisdictions that have different levels of assessment requires an “equalization” process. In Maine, as in other states where assessments are determined by local jurisdictions, the state modified local assessments in a way that standardizes the different levels and enables fairer and more equitable allocations of property tax liability.³

When we adjust to the equalized state valuation, the true taxable assessed value of Lewiston increases (because it is currently assessed below market level), while the value of Auburn remains roughly the same (because it is currently assessed close to market value).

The equalized state valuation number for Lewiston is \$2.203 billion, and for Auburn \$1.960 billion. The combination of these two “apples to apples” numbers (or \$4.163 billion) would serve as the assumed new taxable value for the merged city.

Step 3: Separate out Pre-Existing Debt Service

In the event Lewiston and Auburn were to merge, state law provides that the pre-existing debt obligation of the two cities not be combined. Rather, Lewiston’s pre-existing debt would remain in the former City of Lewiston, paid by taxpayers there; similarly, Auburn’s pre-existing debt would remain in the former City of Auburn, paid by taxpayers there. No pre-existing debt would be intermingled. Any debt assumed after the effective date of consolidation would be assumed by the new combined city, and would be shared by all taxable properties in the new city. But because pre-existing debt would be kept separate, the consolidated city would end up having a different tax rate based on whether a property is in the former Lewiston or former Auburn.

To account for this, our analysis identifies the portion of the 2016 tax rate in Lewiston and Auburn that is attributable to general debt service and separates it out. We then add that component back in at the end of the analysis, with the Lewiston share applying only to properties in the former Lewiston, and the Auburn share applying only to properties in the former Auburn.

In 2016, Lewiston paid \$13.212 million in municipal and school debt service; Auburn paid \$9.167 million. In the context of each city’s equalized state valuation, that results in a debt service tax rate of \$6.00 in Lewiston (i.e. \$3.76 municipal plus \$2.24 school), and a debt service tax rate of \$4.68 in Auburn (i.e. \$3.23 municipal and \$1.45 school).

³ For a complete discussion of the issue of state equalization, readers are encouraged to review the baseline document, available on the Charter Commission’s website at <http://newlacherter.ning.com/reference>.

So on an equalized valuation basis, Lewiston's debt service burden is approximately 28 percent higher. That difference would be reflected in a higher post-consolidation tax rate in the former Lewiston, but only until pre-consolidation debt is fully retired.

Step 4: Combined Current State

With the debt service costs removed, we can now show what tax rates in a merged Lewiston and Auburn would look like before any changes attributable to consolidation are applied. The following table combines the 2016 property tax levies of the two municipalities (minus debt service); combines their state equalized assessed value; and derives a combined tax rate.

Table 2: Current Combined State	Combined
Property Tax Levy (excluding debt service)	
Municipal (including overlay)	\$39,577,116
School	\$27,773,805
County	\$4,515,013
Total	\$71,865,934
Taxable Assessed Value (state valuation)	\$4,163,100,000
Municipal Rate (including overlay)	\$9.51
School Rate	\$6.67
County Rate	\$1.08
Total	\$17.26

As shown in the table, combining Lewiston and Auburn *before* applying any impacts of consolidation would result in a base tax rate of \$17.26. To this figure we add back in the debt-related portion referenced above in **Step 3**.

In the former Lewiston, a debt rate of \$6.00 is applied, resulting in a total tax rate of \$23.26.

In the former Auburn, a debt rate of \$4.68 is applied, resulting in a total tax rate of \$21.94.

Step 5: Direct Tax Impacts of Consolidation

In this step we apply the projected impacts that could be provided by consolidation. Two models are used:

- **Citizen Workgroup Recommended Model:** This model incorporates the collective recommendations made by the four workgroups presented earlier in this report.
- **Max Savings Model:** This model incorporates the most financially-beneficial alternative developed by CGR during the review process.

The following summarizes the differences, by service area, between the Citizen Workgroup Model and the Max Savings Model. Where there is no difference between the Citizen Workgroup Model and the Max Savings Model, "no difference" is noted. Where there are differences and specific models are referenced under the Max Savings column, they refer to an option detailed in the section of this report addressing that particular service.

	Citizen Workgroup Model	Max Savings Model
Administrator	Savings of \$319,400	No difference
Planning, Permitting, Code	Savings of \$18,600	Savings of \$245,000 (see Model 3)
Social and Gen Assistance	Savings of \$78,000	Savings of \$103,200 (see Model 3)
Econ / Cmty Development	Cost of \$23,300	Savings of \$197,200 (see Model 2)
Library	Savings of \$120,000	No difference
Finance and Operations	Cost of \$21,600	No difference
Accounting	No change	No change
Tax Collection	Savings of \$24,100	No difference

City Clerk	Savings of \$54,000	Savings of \$98,800 (see Model 3)
Assessing	Savings of \$66,100	Savings of \$122,000 (see Model 3)
Human Resources	Savings of \$80,200	Savings of \$111,300 (see Model 3)
Information Technology	No change	No change
Fire and EMS	Savings of \$349,000	Savings of \$750,000 (see Model 2 with assumed net reduction on personnel, insurance, EMS supplies, fuel, capital outlay and billing administration, netted against lost EMS revenue)
Police	Savings of \$770,000	Savings of \$1,000,000 (with assumed net reduction of up to 4 road patrol elements to align with service demand)
Public Works Admin	No change	Savings of \$120,000 (see Model 1)
Arborist	No change	Savings of \$49,240 (see Model 1)
Building Maintenance	No change	No change
Electrical	No change	No change
Engineering	No change	Savings of \$49,300 (see Model 1)
Recreation	Savings of \$62,400	No difference

Solid Waste and Recycling	No change	No change
Stormwater Operations	No change	No change
Streets and Highways	No change	Savings of \$73,200 (see Model 1)
Vehicle Maintenance	No change	No change
Utilities	No change	No change
Education	Savings of \$455,000	Savings of \$750,000 (with assumed net savings from bringing at least one out-of- district SPED classroom in- district)

Direct Tax Impacts: Citizen Workgroup Recommended Model

Table 3a: Direct Tax Impacts of Consolidation <i>As recommended by workgroups</i>	Combined
Starting Combined Property Tax Levy	
Municipal (including overlay)	\$39,577,116
School	\$27,773,805
County	\$4,515,013
Total	\$71,865,934
<i>Apply Net Recurring Restructuring Impacts</i>	
Administrator	(\$319,400)
Planning, Permitting and Codes	(\$18,600)
Social and General Assistance	(\$78,000)
Economic and Community Development	\$23,300
Library	(\$120,000)
Finance and Operations	\$21,600

Accounting	\$0
Tax Collection	(\$24,100)
City Clerk	(\$54,000)
Assessing	(\$66,100)
Human Resources	(\$80,200)
Information Technology	\$0
Fire and EMS	(\$349,000)
Police	(\$770,000)
Public Works	-
Administration	\$0
Arborist	\$0
Building Maintenance	\$0
Electrical	\$0
Engineering	\$0
Recreation	(\$62,400)
Solid Waste and Recycling	\$0
Stormwater Operations	\$0
Streets and Highways	\$0
Vehicle Maintenance	\$0
Utilities	\$0
Education	(\$455,000)
<i>Apply Recurring Efficiency Impact</i>	(\$2,351,900)
Revised Combined Property Tax Levy	\$69,514,034
Revised Combined Property Tax Rate	\$16.70
Full Differential Tax Rate (including debt svc)	
Former Lewiston	\$22.70
Former Auburn	\$21.37
Projected Savings on Median Value Home	
Former Lewiston	(\$125)
Former Auburn	(\$37)

Direct Tax Impacts: Max Savings Model

Table 3b: Direct Tax Impacts of Consolidation	Combined
<i>With max-level potential savings</i>	
Starting Combined Property Tax Levy	
Municipal (including overlay)	\$39,577,116
School	\$27,773,805
County	\$4,515,013
Total	\$71,865,934
<i>Apply Net Recurring Restructuring Impacts</i>	
Administrator	(\$319,400)
Planning, Permitting and Codes	(\$245,000)
Social and General Assistance	(\$103,200)
Economic and Community Development	(\$197,200)
Library	(\$120,000)
Finance and Operations	\$21,600
Accounting	\$0
Tax Collection	(\$24,100)
City Clerk	(\$98,800)
Assessing	(\$122,000)
Human Resources	(\$111,300)
Information Technology	\$0
Fire and EMS	(\$750,000)
Police	(\$1,000,000)
Public Works	-
Administration	(\$120,000)
Arborist	(\$49,240)
Building Maintenance	\$0
Electrical	\$0
Engineering	(\$49,300)
Recreation	(\$62,400)
Solid Waste and Recycling	\$0
Stormwater Operations	\$0
Streets and Highways	(\$73,200)
Vehicle Maintenance	\$0
Utilities	\$0
Education	(\$750,000)
<i>Apply Recurring Efficiency Impact</i>	<i>(\$4,173,540)</i>

Revised Combined Property Tax Levy	\$67,692,394
Revised Combined Property Tax Rate	\$16.26
Full Differential Tax Rate (including debt svc)	
Former Lewiston	\$22.26
Former Auburn	\$20.94
Projected Savings on Median Value Home	
Former Lewiston	(\$190)
Former Auburn	(\$105)

Summary of Fiscal Impacts

Recommendations made by the workgroups could generate \$2.3 million in direct net savings (i.e. a 2.5 percent reduction off current tax levies) and would translate into annual recurring property tax savings for the median property in both Lewiston (\$125/yr) and Auburn (\$37/yr). At the max-level savings values, CGR estimates that total savings could rise to nearly \$4.2 million (i.e. a 4.4 percent reduction off current tax levies), generating tax savings amounts for the median Lewiston property of \$190 and the median Auburn property of \$105.

Reflexively, residents and officials often look at the potential impacts of consolidation on a "snapshot" point-in-time basis. But it is important to note that the impacts shown above are, in each case, **recurring** and would be expected to continue forward. Thus, we can translate the above savings into multi-year terms.

Table 4: Ten-Year Tax Impacts

Aggregate Savings, Scenario 1 (based on workgroup recommendations)	\$23,469,000
Savings on median property in Lewiston	\$1,250
Savings on median property in Auburn	\$370
Aggregate Savings, Scenario 2 (higher-level potential savings)	\$41,735,430
Savings on median property in Lewiston	\$1,900
Savings on median property in Auburn	\$1,050

Review of Revenue Impacts

Based on a review of current revenue streams in both cities, CGR finds that there is no reason to expect material changes in the event of consolidation. Major revenue elements such as property tax and state revenue sharing will continue to be available, as will the state subsidy for a combined school department. Where certain revenues are subject to eligibility criteria, both cities currently receive them. For example, both are enterprise communities and therefore receive federal Community Development Block Grants. A combined city would therefore remain eligible. Such is the case with federal Title I education funds. Though not all school buildings are Title I buildings within the two departments, both are Title I *districts* and would therefore remain eligible if combined.

Additional Fiscal Impacts

As noted earlier, there are likely to be fiscal impacts in addition to those direct effects identified above. While real and potentially material, they are indeterminate at the present time. For example:

- **Capital Equipment:** While we would not expect significant adjustments in the current capital equipment portfolio of a combined Lewiston-Auburn, acting as a single merged community may offer the opportunity to “stagger” capital equipment purchases across fiscal years. For example, where separate Departments of Public Works may each have to purchase a truck in the same year under the current structure, a single community may be able to space those purchases over multiple fiscal years, operating as a larger overall fleet.

Based on a review of city budgets, CGR estimates that Lewiston and Auburn (cities only) currently spend between ½ and 1 percent of their annual appropriations on *operating* capital outlay items (i.e. not bonded items). In total, this amounts to \$0.4 to \$0.8 million. If consolidation were to enable even a 5 percent reduction (or staggering) of those costs, it would result in an impact of as much as \$50,000. A similar opportunity would exist in a combined school department. Applying the same percentages as in the cities, a 5 percent reduction would result in savings or deferral of \$75,000.

- **Purchasing:** The cities and school departments of Lewiston and Auburn utilize many common supplies and pieces of equipment. However, under the current structure the two communities largely procure those items independently of one another. Blending the two into a single procurement framework may offer economy of scale benefits that drive down unit costs.

Based on a review of city budgets, CGR estimates that Lewiston and Auburn (cities only) currently spend between 3 and 6 percent of their annual appropriations on supplies and materials (i.e. items that are not personnel, capital outlay, contractual or fixed charge-related). In total, this amounts to \$3.2 to \$4.9 million. Bulking larger purchases for a combined city may offer an opportunity to drive down unit costs. At even a 5 percent reduction, this would result in savings of nearly \$250,000. A similar opportunity would exist within a combined school department. Applying the same percentages as in the cities, a 5 percent reduction would result in savings of approximately \$500,000.

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 250 Merrill Road.

INFORMATION:

One of the most powerful collection tools in a municipality's arsenal is the ability to lien properties for delinquent taxes (real and special only), water and sewer balances, and most recently stormwater balances. Once a lien is recorded, eighteen months must lapse without payment before the lien matures. Prior to maturity, the City Council may waive the right to foreclose on a maturing lien as you have done in the past. If the lien is permitted to mature, the municipality may elect to foreclose on the property or, if subsequent payment is received, return the property to its owner via a quitclaim deed.

At this time, the Finance Director is asking the Council to approve a municipal quitclaim deed for the property located at 250 Merrill Road. The quitclaim deed will release any interest the City may have by virtue of undischarged real estate tax liens or utility liens on this property. Payments due for this property have all been received in full. Should the Council approve this Order, the quitclaim will be issued to the owners.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EA/BK/mm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 250 Merrill Road.



COUNCIL ORDER

Order, Authorizing Execution of a Municipal Quitclaim Deed – Real Estate Located at 250 Merrill Road.

WHEREAS, the owner, Timothy Kivus, failed to pay his bill on a timely basis for 250 Merrill Road (Tax Map 137, Lot 6, Parcel 00-000776); and

WHEREAS, a storm water lien was filed on December 6, 2013 (Book 8830 Page 289) and matured on June 6, 2015 in the amount of \$104.78; and

WHEREAS, payment was received in full;

NOW, THEREFORE, BE IT ORDERED by the CITY COUNCIL of the CITY of LEWISTON,

That a quitclaim deed is hereby authorized to release the City's interest in the property located at 250 Merrill Road to the new owner.

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Order Authorizing execution of a Municipal Quitclaim Deed for Real Estate located at 5 Fairlawn Avenue.

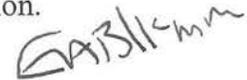
INFORMATION:

One of the most powerful collection tools in a municipality's arsenal is the ability to lien properties for delinquent taxes (real and special only), water and sewer balances, and most recently stormwater balances. Once a lien is recorded, eighteen months must lapse without payment before the lien matures. Prior to maturity, the City Council may waive the right to foreclose on a maturing lien as you have done in the past. If the lien is permitted to mature, the municipality may elect to foreclose on the property or, if subsequent payment is received, return the property to its owner via a quitclaim deed.

At this time, the Finance Director is asking the Council to approve a municipal quitclaim deed for the property located at 5 Fairlawn Avenue. The quitclaim deed will release any interest the City may have by virtue of undischarged real estate tax liens or utility liens on this property. Payments due for this property have all been received in full. Should the Council approve this Order, the quitclaim will be issued to the owners.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the Order authorizing execution of a municipal quitclaim deed for real estate located at 5 Fairlawn Avenue.



COUNCIL ORDER

Order, Authorizing Execution of a Municipal Quitclaim Deed – Real Estate Located at 5 Fairlawn Avenue.

WHEREAS, the owners, David J. and Rachel L. Larrivee, failed to pay their bills on a timely basis for 5 Fairlawn Avenue (Tax Map 146, Lot 119, Parcel 00-007568); and

WHEREAS, a storm water lien was filed on December 6, 2013 (Book 8830 Page 122) and matured on June 6, 2015 in the amount of \$104.90; and

WHEREAS, a storm water lien was filed on December 28, 2015 (Book 9282 Page 181) and matured on June 28, 2017 in the amount of \$92.18; and

WHEREAS, payment was received in full;

NOW, THEREFORE, BE IT ORDERED by the CITY COUNCIL of the CITY of LEWISTON,

That a quitclaim deed is hereby authorized to release the City's interest in the property located at 5 Fairlawn Avenue to the owners.

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Approval of Election Warrant Calling for the Municipal Election to be held on Tuesday, November 7, 2017; Recommendations from the City Clerk/Registrar of Voters on actions necessary to conduct the Municipal and State Election, November 7, 2017; and Authorization to hold a Mayoral Run-Off Election on Tuesday, December 12, 2017, if necessary.

INFORMATION: Under the Maine State Statutes, the municipal officers shall issue an election warrant calling for a municipal election. The City Clerk will be conducting the city election on November 7, 2017 for the following positions: Mayor - citywide; seven City Council seats - Wards 1 - 7; School Committee - at large and seven School Committee seats - Wards 1-7. In addition, there will be a Referendum Question regarding the Consolidation of the Cities of Lewiston and Auburn.

Recommendations on election related issues:

A. That the hours for acceptance of registrations in person only, prior to the Nov. 7th election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:30am to 4:00pm, Oct. 18 through Nov. 6, 2017.

B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B, except the day prior to the election when they shall be recorded in accordance with subsec. 7A.

C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the central polling place at 8:00am, 2:00pm, 6:00pm and any and all remaining shall be processed at 8:00pm, if necessary.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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Please see the attached Vote Sheet

ORDER
Approvals Necessary to Conduct the November 7, 2017 Election
September 19, 2017 City Council Meeting

Be It Ordered by the City Council that the Election Warrant be issued for the Municipal Election to be held on Tuesday, November 7, 2017 for the purposes of electing the positions of Mayor, City Councilor and School Committee, as well as a Referendum Question pertaining to the Consolidating of Lewiston and Auburn; and

To approve the following recommendation from the City Clerk/Registrar of Voters on actions necessary to conduct the Municipal and State Election to be held on Tuesday, November 7, 2017:

A. That the hours for acceptance of registrations in person only, prior to the November 7th election, as required by MRSA Title 21A, sec. 122, 6A(2), be set at 8:30am to 4:00pm, Oct. 18 through Nov 6, 2017.

B. That the names of those persons who register during the closed session for registration shall be recorded in accordance with MRSA Title 21A, sec. 122, subsec. 7B, except the day prior to the election when they shall be recorded in accordance with subsec. 7A.

C. Pursuant to Title 21A, sec 759(7), absentee ballots will be processed at the polling place at 8:00am, 2:00pm, 6:00pm and any and all remaining shall be processed at 8:00pm, if necessary, and

To authorize the City Clerk to conduct the Mayoral Run-Off election on Tuesday, December 12, 2017, if necessary, based upon the results of the November 7, 2017 city election.

WARRANT FOR REGULAR MUNICIPAL ELECTION

CITY OF LEWISTON

County of Androscoggin, SS.

To Brian O'Malley, a constable of Lewiston, Maine: You are hereby required in the name of the State of Maine to notify the voters of the City of Lewiston of the election described in this warrant.

To all voters of the City of Lewiston: You are hereby notified that the Regular Municipal Election in this municipality will be held on November 7, 2017, at your respective voting place:

Ward 1 Lewiston Armory, 65 Central Ave.

Ward 2 Montello School Gym, 407 East Ave.

Ward 3 Lewiston Armory, 65 Central Ave.

Ward 4 Longley Elementary School, 145 Birch St.

Ward 5 Longley Elementary School, 145 Birch St.

Ward 6 The Green Ladle - LHS Campus, 156 East Ave.

Ward 7 Longley Elementary School, 145 Birch St.

Said election being held for the purpose of electing one Mayor, one School Committee member at large, one Councilor, and one School Committee member in his/her respective Ward, and

For the purpose of voting on the following Referendum Question:

“Do you approve the charter and consolidation agreement as recommended by the Lewiston Auburn Joint Charter Commission?”

The polls shall be opened at 7:00 a.m. and closed at 8:00 p.m.. Absentee ballots will be processed at the City Hall Central Voting Precinct at 8:00A.M., 2:00P.M., 6:00P.M. and any and all remaining at 8:00 P.M., if necessary.

Dated at Lewiston, Maine on September 19, 2017.

ATTEST: _____
Kathleen M. Montejo, MMC
City Clerk

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET: **AGENDA ITEM NO.** 4

SUBJECT:

Appointment to the Lewiston Housing Authority Board of Commissioners.

INFORMATION:

There is one opening on the Lewiston Housing Authority Board of Commissioners. The Mayor is recommending the following reappointment to the Lewiston Housing Authority Board of Commissioners:

- 1) Marc A. Pellerin, 22 Pond Ridge Road, term to expire Sept. 17, 2022

This is a five year appointment by state statute.

James Dowling, Executive Director of the Housing Authority, endorses this appointment. These appointments do require Council confirmation.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

Appointments to Boards and Committees are a policy decision of the Council.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To confirm the Mayor's nomination and to appoint the following resident as a member of the Board of Commissioners of the Lewiston Housing Authority:

Marc A. Pellerin, 22 Pond Ridge Road, term to expire Sept. 17, 2022

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

Public Hearing for approval of an Outdoor Entertainment Permit for The Dempsey Challenge.

INFORMATION:

The Dempsey Challenge is an annual event in Lewiston and this year's event will be held on October 7-8 (Saturday - Sunday). As part of the athletic events, the function will also have live musical entertainment. As such, the organizers are required to obtain an Outdoor Entertainment permit from the city.

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 conduct a public hearing on an application from The Dempsey Challenge Committee for outdoor musical concerts to be held at Simard-Payne Memorial Park on October 7th and 8th, as part of The Dempsey Challenge, and to authorize a permit for an Outdoor Entertainment Event, as required by the City Code of Ordinances, Chapter 10, Article 1, Section 10-3, to the organizing committee for the outdoor music concerts, contingent upon positive recommendations from the Police Department, Fire Department, Code/Land Use Officer and Code/Health Officer regarding compliance with all regulations, and compliance with all City ordinances.

CITY OF LEWISTON - APPLICATION for EVENTS from 7/1/17- 6/30/18



- EVENT (25+ participants)
- SPECIAL EVENT (over 1,000 expected)
- EVENT SPECIFICATIONS -check one
 - First-Time Event
 - Repeat Event
- PARK USE ONLY (see page 3)
- GAZEBO/AMPHITHEATER ONLY (special application required contact Admin)

Application Date: 2/10/17

Event Application must be submitted no later than *90 days prior* to the event.

Event Name: Dempsey Challenge

✓ Requested Date: 10/2 - 10/9 Rain Date (if applicable): _____

Event Location: Simard Payne Park

Type of Event: (Walk/Run, Festival, Concert, Etc.) Run/Walk, Bike Ride, Festival

Contact Name: Aimee Labbe Telephone: 207-330-7719

Email: labbeai@cmhc.org

Host Organization: Dempsey Center

Mailing Address: 29 Lowell St City: Lewiston

NON-PROFIT (NP) Documentation Required; check one below and include with application

- 501(c)(3)
 IRS Form 990
 IRS Letter

FOR-PROFIT ORGAGNIZATION

Processing Fee: \$50 -non-refundable and due at the time application is submitted.

- Check
 Credit Card
 Cash

#1110074748 T.R. 129705

Processing Fee: <u>paid \$50</u>	col: <u>✓ - will renew 4-6 wks prior to event</u>	Staff Use Only
Park Fees: <u>\$216 Due</u>	NP Documentation: <u>W-9 OK</u>	Event Number: <u>FY180010</u>
Other Fees:	Fundraising Documentation: <u>Yes/</u>	

Maps Included / Brochure

CITY OF LEWISTON - APPLICATION for EVENTS from 7/1/17- 6/30/18

GENERAL INFORMATION Event and/or Park Use (Section 1)

Person Responsible for Event: Aimee Labbe | Cheryl Ramsay Title: Development Mgr

Daytime Phone: 207-330-7719 Cell: _____ Cell During Event: 1-678-640-9003

Type of Event (Walk/Run, Festival, Concert, Etc.): Walk/Run, Bike Ride, Festival

Event Start Time: 7am Event End Time: 5pm Estimated Attendance: 5000

Set-up Start Time: 10/2 Clean-up End Time: 10/9

*Chris
Reed
MEDALIST
SPORTS*

- Open to the Public
- Invitation Only
- Age Restriction

PARK USE ONLY – Provide Overview

Event Location: Simard Payne Park

(If you will utilize a park, please check ALL that apply below)

FEES APPLY

- Simard-Payne Park \$ 27 x 8 days
- Dufresne Plaza \$ _____ x _____ days

NO FEE ASSESSED

- Kennedy Park
- Marcotte Park
- Mark Paradis Park
- Pettingill School Park
- Potvin Park
- Raymond Park
- Sunnyside Park
- Veterans Park

Location Other Than Parks:

Street(s) Oxford, Beech, Lincoln streets

Sidewalk(s) _____

Other _____

PARK FEES & APPLICABLE DISCOUNTS

SIMARD-PAYNE PARK (check one)

- Full Price: \$135 day
- Lewiston-based NP
(80% discount): \$27 day
- Out-of-Town, NP Fundraisers
(50% discount): \$67.50 day
- Out-of-Town, NP Event
(34% discount): \$89.10 day

DUFRESNE PLAZA (check one)

- Full Price: \$265 day
- Lewiston-based NP
(80 discount): \$53 day
- Out-of-Town, NP Fundraisers
(50% discount): \$132.50 day
- Out-of-Town, NP Event
(34% discount): \$174.90 day

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing and Final Passage regarding an amendment to the Streets and Sidewalks Ordinance regarding the location of poles in sidewalks.

INFORMATION:

Under Maine State Law, public utilities have free right of access to City right of ways for utility installations, including utility poles. Recently, a number of situations have arisen where a utility or its contractor have installed poles in a City sidewalk at a location that results in violations of the Americans with Disabilities act, which requires that sidewalks provide a minimum of 48 inches of unobstructed width. In addition, the City's sidewalk plow units need about 60 inches of clearance to operate effectively. Further, while we can require that inappropriately installed poles be relocated, this often results in damage to the sidewalk that, even when repaired, may require future maintenance at a more frequent interval than an intact sidewalk.

This ordinance would prohibit installing utility poles in our sidewalks that results in less than 60" of clear sidewalk width. This clearance could be reduced to 48" by our Public Works Director upon a showing that there exists no practicable alternative in order to provide utility service to adjacent properties.

If this ordinance is approved at first reading, a policy amendment will be prepared for the October 17 meeting establishing a \$1,000 fine for a violation.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to the City Code of Ordinances, Chapter 66 "Streets and Sidewalks", Section 66-8 "Alterations in sidewalks; installing posts, poles or trees", receive final passage by a roll call vote.



COUNCIL RESOLVE

Ordinance, Amending Section 66-8 of the Code of Ordinances – Poles in Sidewalks.

Whereas, under Maine law, public utilities have the right to install utility poles in the City's right-of-way at no charge, subject to approval of a permit to do so by the City; and

Whereas, from time to time, such utilities have installed poles in such a way as to partially block sidewalks by reducing the clear area below forty-eight inches in violation of the requirements of the Americans with Disabilities Act; and

Whereas, in addition, the City's sidewalk plowing equipment generally requires a sixty inch sidewalk without obstructions in order to effectively plow; and

Whereas, inappropriate pole locations result in damage to the City's infrastructure and reducing the ability of some or all residents to use our sidewalks;

Now, therefore, Be it Ordained by the City Council of the City of Lewiston that Section 66-8 of the Code of Ordinances is hereby amended as follows:

Sec. 66-8. Alterations in sidewalks; installing posts, poles, or trees.

- (a) No person shall tear or make any alteration in any sidewalk, or set up any posts, poles, or trees on any of the sidewalks, or any part of the street, without the consent of the director of public works.
- (b) Poles associated with public utilities may only be placed within a sidewalk if such placement maintains a minimum 60 inches of unobstructed sidewalk width. An applicant for a pole permit may seek a waiver from this requirement upon a showing to the Public Works Director that there exists no practicable alternative that would allow for maintaining utility services to adjacent properties. Upon such a showing, the Director may reduce the minimum width of unobstructed sidewalk to no less than 48 inches. Any guide wires or other appurtenances associated with utility poles and extending over any sidewalk must provide for a minimum 7 feet of clearance above the sidewalk. A violation of this section shall be subject to a minimum fine as established by a policy adopted by the City Council in addition to a requirement to relocate any object violating these standards and repairing any damage done to the sidewalk.

Additions are underlined.

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Public Hearing and Final Passage to contractually rezone the property at 2 Central Avenue from the Office Residential (OR) District to the Neighborhood Conservation "B" (NCB) District.

INFORMATION:

The Planning Board voted 7-0 to send a favorable recommendation to the City Council to contractually rezone the property at 2 Central Avenue from the Office Residential (OR) District to the Neighborhood Conservation "B" (NCB) District, subject to the contract rezoning agreement.

The property owner has submitted a petition to request the rezoning of this property to allow the establishment of a women's shelter limited to 10 beds.

Please see the enclosed memorandum from City Planner David Hediger for additional information as well as a site map and other background information.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve Final Passage of the amendment to the Zoning and Land Use Code and Map to contractually rezone the property at 2 Central Avenue from the Office Residential (OR) District to the Neighborhood Conservation "B" District, subject to a contractual agreement.



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Mayor and City Council
FROM: David Hediger, City Planner
DATE: August 30, 2017
RE: Planning Board action: 2 Central Ave contract rezoning

The Planning Board took the following action at their meeting held on August 28, 2017 regarding a request by St. Martin de Porres Residence, Inc. to contract zone the property at 2 Central Avenue from the Office Residential (OR) district to Neighborhood Conservation "B" (NCB) to operate a women's shelter limited to ten beds:

MOTION: by **Paul Madore** pursuant to Article VII, Section 4 and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation to the City Council to contract rezone the property at 2 Central Avenue from Office Residential (OR) to Neighborhood Conservation "B" (NCB).
Second by **Norm Ancil**.

VOTED: 7-0 (Passed)



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Planning Board
FROM: David Hediger, City Planner
DATE: August 25, 2017
RE: August 28, 2017 Planning Board Agenda Item IV (a)

A request by St. Martin de Porres Residence, Inc. to contract zone the property at 2 Central Avenue from the Office Residential (OR) district to Neighborhood Conservation "B" (NCB) to operate a women's shelter limited to ten beds.

St. Martin de Porres Residence, Inc. has submitted a petition to contract rezone the property at 2 Central Ave to Neighborhood Conservation "B" (NCB) to operate a women's shelter limited to ten beds pursuant to Article XVII, Section 5(b) of the Zoning and Land Use Code. This property of .27 acres consists of a single-family dwelling located on the corner of Central Avenue and Sabattus Street and is currently zoned Office Residential (OR). At one time, it operated as a group care facility for unwed mothers before returning to its current use a single-family dwelling.

The petitioner is requesting the property be contract zoned to NCB to operate a shelter. Article II, Section 2 defines a shelter as a charitable facility operated by a not-for-profit corporation or a religious organization providing free temporary overnight housing in a dormitory-style, barrack-style, or per-bed arrangement to homeless individuals. The contract rezoning is specific in that a shelter at this property shall not exceed 10 beds. The contract is not specific other aspects of its operation as a shelter. However, the applicant's intent is to limit the facility to women only, open from 5:00 PM to 7:00AM every day, providing breakfast and dinner to guests only. All guests will be admitted through referrals, screened by area social service agencies and other facilities and organizations. The petitioner currently operates an all-male shelter at 23 Bartlett Street, St. Martin de Porres Residence with the same rules and policies as proposed for 2 Central Avenue.

The contract rezoning is specific as to which uses shall be allowed, some of which are currently allowed in the OR district and others specific to the NCB district. New uses to be allowed as part of the rezoning include arts and craft studios, neighborhood retail stores, and shelters (in this case, not to exceed 10 beds). With respect to space and bulk standards, all NCB requirements are proposed for the property with the following exceptions which shall remain unchanged from the current underlying OR requirements: minimum frontage shall remain 100'; maximum height shall remain 35'.

The applicant has referenced conformance with the comprehensive plan, noting the property is located in and abutting Infill Growth Sectors that encourage growth and development and redevelopment of properties, that the use provides and expands housing choices, and the facility provides a safe haven for women to sleep in effort to be better prepared to enter the workforce

and grow the economy.

A neighborhood meeting was held on August 21, 2017 to provide an opportunity of the petitioner and city staff to explain and answer questions about the proposed contract rezoning. None of the abutters notified attended the meeting.

Staff is supportive of the petitioner's request. The abutting neighborhood to the north and west of this property is currently zoned NCB where a shelters are already an allowed use with no occupancy limits other than those imposed by building or fire codes. In this case, the petitioner is specifically limiting the number of occupants as part of the contract rezoning. The property is located within walking distance of various services, amenities, and is located along the citylink bus route. There are a limited number of homeless shelters in Lewiston/Auburn and there is an apparent need for more assistance. While this contract rezoning is not specifically limited to St. Martin de Porres operation of a shelter facility at 2 Central Ave, they currently have a very well run and respected facility on Bartlett Street of which the same should be expected for this site.

ACTION NECESSARY

Make a motion pursuant to Article VII, Section 4 and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation to the City Council to contract rezone the property at 2 Central Avenue from Office Residential (OR) to Neighborhood Conservation "B" (NCB).

LAW OFFICES OF JOHN M. WHALEN, P.A.

John M. Whalen, Esq.

August 10, 2017

David R. Hediger
Deputy Director/City Planner
City Hall
27 Pine Street
Lewiston, ME 04240

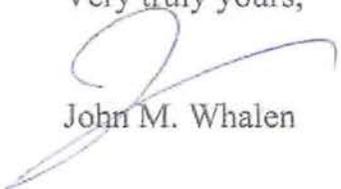
Re: St. Martin de Porres Residence, Inc.

Dear Mr. Hediger;

Enclosed you will please find my client's letter requesting the zoning change along with a petition, chart of the zoning ordinance and changes, a copy of the deed.

Thank you for all the help you have provided.

Very truly yours,



John M. Whalen

JMW/djm

150 East Avenue, P. O. Box 1230, Lewiston, ME 04243-1230

Tel: (207) 786-0346

Fax (207) 786-6589

john@whalenlawoffice.net

1991

St. Martin de Porres Residence, Inc.

2017

P.O. Box 7227

Lewiston, Maine 04243-7227

August 10, 2017

City of Lewiston Planning Board
Lewiston City Council
27 Pine Street
Lewiston, Maine 04240

Dear Lewiston Planning Board & City Council Members,

My name is Brother Irénée' Richard, I am the Executive Director of the Saint Martin de Porres Residence, Inc. where I have been employed since June 21, 1990. Our nonprofit corporation has served the area population of homeless, both men and women, since September 9, 1991. We have 10 beds available for guests of St. Martin's residence. We are attempting to expand our population base and separate our men and women by placing into service a property situated at 2 Central Avenue in Lewiston.

The property on Central Avenue was formerly owned by St. Andre's Group Home. It served the needs of unwed mothers for years, many of whom were homeless. It is basically the perfect fit for us. Over the years, we have found issues arise when men and women are housed in the same facility. The Central Street property, to be known as the Catherine of Siena Residence will be open solely to women. This will allow us to restrict the St. Martin de Porres residence to males. Like St. Martin's residence, it will only be open from 5:00 pm until 7:50 am every day. Lodging is provided to our guests along with the breakfast and dinner meals. Guests will be expected to vacate the premises by 7:50 AM and not to return before 5:00 PM which is how St. Martin's residence operates. St. Catherine's residence will be able to accommodate ten guests which will allow us to double our total available beds to 20. St. Catherine's residence will be open to all women referred to us who are over the age of eighteen years. Our guests do not come directly to us. They are screened and referred to us for admission by appropriate social service agencies, clergy, mental health agencies, hospitals, law enforcement, probation and rehabilitation/detoxification facilities. Before being allowed admission, each guest must agree in writing to be sober and free of drugs. We work hard to insure our facility is safe for our guests and our neighbors, and we have a long history of success. We also hope this property will allow for administration and small meeting space which currently is an allowed use. Finally, while we do not intend to remain a home for unwed mothers, we will have accommodations to address such women in need.

Although the proposed use is very similar to its past use, St. Catherine's residence will be serving an expanded population. Any woman over the age of eighteen years who is in need of temporary shelter, not just unwed mothers, will be served. Such women often are identified as "homeless."

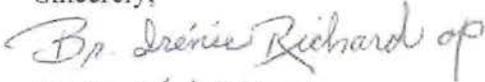
Article II, Section 2 of the Zoning and Land Use Code and Chapter 22, Section 22-2 of the Code of Ordinances defines a shelter as "charitable facility operated by a not-for-profit corporation or a religious organization providing free temporary overnight housing in a dormitory-style, barrack-style, or per-bed arrangement to homeless individuals".

Because of this definition, we see a need to amend the zoning and land use code for the premises located at 2 Central Avenue to allow the homeless use zoning definition to apply to our property. The area right next door is zoned in that manner which would allow for homeless shelter, but our property, 2 Central Avenue, is located in a zone which does currently not allow this use. We do not anticipate off street parking will be an issue for several reasons. First, guests will be encouraged not to have vehicles, if possible. Second, we intend to alter the driveway and back yard to provide space for the two attendants and up to five vehicles. Third, we have made arrangements with the parish to allow cars to be parked in the St. Peter and Paul Church parking lot. Finally, our guests are not encouraged to have visitors. This is a temporary evening facility; so we do not expect visitor parking will be an issue.

We are petitioning you, the City of Lewiston Planning Board to amend the zoning of our property from the current office/residential (OR zone) to neighborhood conservation B (NCB zone) zone

Thank you for your consideration of our zoning amendment request.

Sincerely,

A handwritten signature in cursive script that reads "Bp. Irénée Richard of".

Brother Irénée Richard

**PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE**

Pursuant to Appendix A, Article XVII, Section 5 "Amendments" of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) years of age or older, do hereby petition the City of Lewiston to establish a contract rezoning of the property at 2 Central Avenue to allow for the establishment of a shelter as a conditional use as described and shown in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1		Donna McDell	203 Ash Street	8/10/17
2		James Cutting	169 Horton St #14	8/10/17
3		Melissa Leclair	203 Ash st 3rd fl	8/10/17
4		Daniel Leclair	203 Ash St. 3rd Fl.	8/10/17
5		RAOUL RICHARD	418 Sabattus St.	8/11/2017
6		Pauline Delorme	78 Bartlett St	8/11/17
7		Rodney Hurris JR	31 CENTRAL ST	8/11/17
8		Patience Baker	33 Central St	8/11/17
9		JAMES J. HARKINS	39 CENTRAL ST	8-11-17
10		CARMEN CLIFFORD	37 Central Ave.	8-11-17
11		DAVID CLIFFORD	37 CENTRAL AVE	8-11-17
12		Clayton Saucier	43 CENTRAL AVE	8-11-17
13		Paula Drawin	47 Central Ave	8-11-17
14		Betty Ames	44 Central Ave	8-11-17
15		Vincent Inglieri	30 Gagin St.	8-11-17
16		Kendra Bean	75 prospect	8-12-17
17		William Engle	10 CENTRAL AVE	8-12-17
18		CYRTIS ARNOLD	7 FRANKLIN ST	8-12-17
19		Cathryn Egan-Arnold	7 Franklin St	8-12-17
20		Larissa Dycis	3 Bayberry Ln	8/12/17

CIRCULATOR'S VERIFICATION

I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.

Signature of Circulator

SCOTT M. CLELLAND
Printed Name of Circulator

8/12/17
Date

REGISTRAR'S CERTIFICATION

I hereby certify and verify that the names of all the petitions listed as valid appear on the voting list of registered voters in the City of Lewiston.

Total Valid: 16

Total Invalid 4

Evan Bisset
Signature of Registrar/Deputy Registrar

Date: 8/15/17

PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE

Pursuant to Appendix A, Article XVII, Section 5 "Amendments" of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) year of age or older, do hereby petition the City of Lewiston to establish a contract rezoning of the property at 2 Central Ave to allow for the establishment of a shelter as a conditional use as described and shown in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1	<i>Alice Petersen</i>	Alice Petersen	15 Franklin St	8/12/17
2	<i>Reginald Gonzalez</i>	Reginald Gonzalez	157 Sabalet St	8-12-17
3	<i>Trevor Boyce</i>	Trevor Boyce	17 Webster St.	8-12-17
4	<i>Rossanna Boyce</i>	Rossanna Boyce	17 Webster St AS	8/12
5	<i>Eugene R. Holm</i>	Eugene Holm	50 Windings Way	8/13/17
6	<i>Deborah F. Allen</i>	Deborah F. Allen	50 Windings Way	8/13/17
7	<i>Louise F. Allen</i>	Louise F. Allen	292 Webster St.	8/13/17
8	<i>Margaret Marcollo</i>	11 Champlain Ave	Margaret Marcollo	8/13/17
9	<i>Ray Clouton</i>	895 College Rd	Ray Clouton	8/13/17
10	<i>Cherie J. Gervin</i>	378 College St	Cherie J. Gervin	8/13/17
11	<i>Ramona Lachance</i>	Ramona Lachance	27 Autumn Lane	8/13/17
12	<i>Gail Baillargeon</i>	Gail Baillargeon	24 Allen Ave	8/13/17
13	<i>Robert M. Gilbert</i>	Robert M. Gilbert	23 Fortin Way	8/13/17
14	<i>Pauline J. Gilbert</i>	PAULINE J. GILBERT	23 Fortin Way	8/13/17
15	<i>Ineke Akervik</i>	P.O. Box 853		17
16	<i>Ann C. Celeste</i>	ANN C. CELESTE	190 College St #3	8/13/17
17	<i>Diane S. Doyon</i>	DIANE S. DOYON	31 ARKWRIGHT AVE	8-13-17
18	<i>Charles Doyon</i>	Charles Doyon	31 Arkwright Ave	8-13-17
19	<i>Jerome Castaldi</i>	Jerome Castaldi	190 College St #3	8/13/17
20	<i>Sheila Patrick</i>	SHEILA PATRICK	11 Champlain Ave	8/13/17

CIRCULATOR'S VERIFICATION

I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.

Scott McClelland
 Signature of Circulator

SCOTT McCLELLAND
 Printed Name of Circulator

8/13/17
 Date

PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE

Pursuant to Appendix A, Article XVII, Section 5 "Amendments" of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) year of age or older, do hereby petition the City of Lewiston to establish a contract rezoning of the property at 2 Central Ave to allow for the establishment of a shelter as a conditional use as described and shown in the exhibits attached hereto:

	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1	<i>Leo Baillargeon</i>	LEO BAILLARGEON	24 ALLEN AVE.	8-13-17
2	<i>Richard B. Jensen</i>	Richard B. Jensen	85 St. Croix St. Apt. 3	8-13-17
3	<i>Barbara Moran</i>	Barbara Moran	23 Orchard Cir	8.13/17
4	<i>Joseph Mailhot</i>	Joseph Mailhot	27 Marten Dr.	8-13-17
5	<i>Shara Mailhot</i>	Shara Mailhot	27 Marten Dr	8/13/17
6	<i>Oscar Perkins</i>	Oscar Perkins	17 Ash ST	8-13-17
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CIRCULATOR'S VERIFICATION

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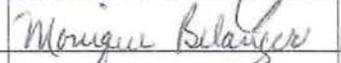
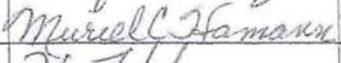
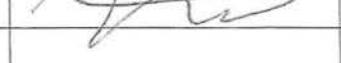
Scott McClelland
Signature of Circulator

Scott McClelland
Printed Name of Circulator

8/13/17
Date

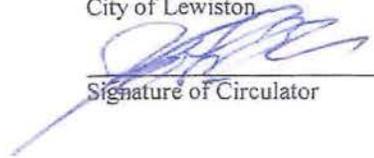
PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE

Pursuant to Appendix A, Article XVII, Section 5 "Amendments" of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) years of age or older, do hereby petition the City of Lewiston to establish a contract rezoning of the property at 2 Central Avenue to allow for the establishment of a shelter as a conditional use as described and shown in the exhibits attached hereto:

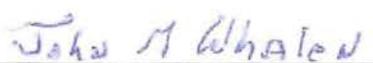
	SIGNATURE	PRINTED NAME	PHYSICAL STREET ADDRESS (No PO Boxes)	DATE
1		Bernadette Marquis	49 Jones Ave ^{low}	8/10/17
2		MONIQUE BELANGER	123 Summit Ave	8-10-17
3		MURIEL C HAMANN	36 Ackmeant St	8-10-17
4		Kevin Wheeler	7 Franklin St	8-12-17
5		Nathan Faucher	33 Garrison St	8/13/17
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CIRCULATOR'S VERIFICATION

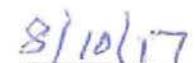
I hereby verify that I am the Circulator of this petition that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston



 Signature of Circulator



 Printed Name of Circulator



 Date

AN ORDINANCE PERTAINING TO ZONING BOUNDARIES

THE CITY OF LEWISTON HEREBY ORDAINS:

Appendix A of the Code of Ordinances of the City of Lewiston, Maine hereby amended as follows:

APPENDIX A

ZONING AND LAND USE CODE

ARTICLE IV. ESTABLISHMENT OF DISTRICTS

Sec. 1. Zoning Map

The City of Lewiston hereby ordains that the Official Zoning Map of the City of Lewiston be amended by establishing a contract zone for the property at 2 Central Avenue as recorded in the Androscoggin Registry of Deeds Book 9390 Page 285 as described in Exhibit "A" and depicted on Exhibit "B", both of which are attached hereto as follows, said property to remain conditionally rezoned from the current office/residential (OR Zone) zone to neighborhood conservation B (NCB Zone) zone.

REASONS FOR THE PROPOSED AMENDMENT

The reasons for the proposed amendment include allowing the premises situated in the Municipality of Lewiston County of Androscoggin County, State of Maine, located at 2 Central Avenue (see Exhibit A, Registry of Deeds Book 9390. Page 285) be allowed to operate residential homeless shelter. The property was operated for years as a home for unwed mothers. Although the proposed use may include unwed mothers, its use will be expanded to include women in need of a temporary shelter who would otherwise be homeless. The property (see Exhibit B) will be known as "St. Catherine of Siena Residence." It will need no internal modification to allow this use. Presently, it can house up to ten (10) individuals with accommodations for the newborn. We intend to create additional on-site parking spaces in the rear of the building which will be accessed by the existing driveway on the right side of the building. The facility may also be used for administrative and professional office space and meeting space which currently are permitted use.

CONFORMANCE WITH COMPREHENSIVE PLAN

The City Council of the City of Lewiston hereby determines that the change to the Zoning maps is in conformance with the Comprehensive Plan for the following reasons:

- (1.) The property is located in a G-4 Infill Growth Sector and abuts a G-5 Infill Growth Sector. "Additional growth and development in these areas is desirable due to the presence of existing infrastructure. The plan envisions that most residential and non-residential development over the next ten years will occur in this growth sector. This sector includes the City's current Urban Enterprise and Neighborhood Conservation "B" zones. (Conservation & Growth Map, Growth Sectors, page 125).
- (2.) Strengthen Neighborhoods & Expand Housing Choice: Encourage creative investment strategies that help to reinforce positive neighborhood identities and provide employment, recreational, and civic opportunities within walking distances of homes. The use of the premises will allow women to have a safe place to rest as they transition to a long term residence that is close to medical and social services. (Vision Statement & Guiding Principles, Guiding Principles, page 116.)
- (3.) Grow The Economy: Promote a healthful and sustainable business environment by investing actively in efficient infrastructure, providing favorable incentives, and building a community that is attractive to employers and their workers. Allowing women a safe place to sleep will enable them to be better prepared to enter the work force. (Vision Statement & Guiding Principles, Guiding Principles, page 116.)
- (4.) Encourage infill and redevelopment within the downtown, existing service area and designated growth areas. The prior use was as a home for unwed mothers. The proposed use will allow the property to continue a similar mission while assisting women in need as they transition into the work force. (Prioritize Economic Vitality, Market Shifts, page 164.)

CONDITIONAL REZONING AGREEMENT

The proponent requests that the official zoning map for the City be amended by modifying the existing Office/Residential (OR) zoning of the subject property by contractually rezoning the subject property to Neighborhood Conservation B, subject to the limitations more fully described below.

In compliance with the provisions of the Code, Article XVII, Section 5(g), the proponent hereby proposes the following conditions:

- (a) Land Use Table: Allowed uses of the property shall include those uses as are necessary to allow the use of the property, in addition to those uses allowed under existing zoning, Office/Residential (OR) to allow for a homeless shelter under Neighborhood Conservation B (NCB) zoning

Land Use Table	Proposed Contract Rezoning to NCB 2 Central Avenue
USES (15)(33)	
Accessory use or structure	P
Commercial-Service	
Veterinary facilities excluding kennels and humane societies	
Veterinary facilities including kennels and humane societies	
Small day care facilities	P
Day care centers	
Day care centers accessory to public schools, religious facilities, multifamily or mixed res. Developments, and mobile home parks	
Business and professional offices including research, experimental, testing laboratories, engineering, research, management and related services	C(31)
Restaurants	
Drinking places	
Adult business establishments	
Hotels, motels, ins	
Movie theaters except drive-in theaters	
Places of indoor assembly, amusement or culture	
Art and crafts studios	C
Personal Services	P
Retail stores	
Neighborhood retail stores	P
Lumber and building materials dealer	
Gasoline service stations	
Gasoline service stations which are a part of and subordinate to a retail use	
New and used car dealers	
Recreational vehicle, mobile home dealers	
Equipment dealers and equipment repair	
Automotive services including repair	
Registered dispensary (27)	
Registered primary caregivers engaged in the cultivations of medical marijuana for two to five registered patients	
Tattoo establishments	
Industrial	
Light industrial uses	
Industrial uses	
Building and construction contractors	
Fuel oil dealers and related facilities	

Wholesale sales, warehousing and distribution facilities and self-storage facilities	
Self storage facilities	
Commercial solid waste disposal facilities	
Junkyards and auto graveyards	
Recycling and reprocessing facilities	
Private industrial/commercial developments (23)	
Transportation	
Airports or heliports	
Commercial parking facilities	
Transit and ground transportation facilities	
Transportation facilities	
Public and Utility	
Pumping stations, standpipes or other water supply uses involving facilities located on or above the ground surface and towers for municipal use	
Power transmissions lines, substations, telephone exchanges, microwave towers or other public utility or communications use	
Municipal buildings and facilities	
Preservation of historic areas; emergency and fire protection activities; bridges and public roadways	
Dams	
Institutional	
Religious facilities	
Cemeteries	
Congregate care/assisted living facilities, institutions for the handicapped, nursing or convalescent homes, group care facilities	
Hospitals, medical clinics	
Museums, libraries, and non-profit art galleries and theaters	
Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and accessory to the foregoing permitted principal buildings or structures	
Civic and social organizations	
Public community meeting and civic function buildings including auditoriums	
Residential	
Single-family detached dwellings on individual residential lots	P
Mobile homes on individual residential lots	
Two-family dwellings	
Multi-family dwellings in accordance with the standards of Article XIII	
Single-family attached dwelling in accordance with the standards of Article XIII	

Mixed single-family residential developments in accordance with the standards of Article XIII	
Mixed use structures	
Lodging houses	
Home occupations	
Bed and breakfast establishments as a home occupation	P
In-law apartments in accordance with the standards of Article XII	
Single family cluster development	
Family day care home	
Shelters	P (Limited to 10 Beds)
Natural Resource	
Agriculture	
Farm Stands	
Forest management and timber harvesting activities in accordance with the standards of Article XIII	
Earth material removal	
Community gardens (20)	P
Water dependent uses, e.g. docks and marinas	
Non-residential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet	
Recreation	
Campgrounds	
Public or private facilities for non-intensive outdoor recreation	
Commercial outdoor recreation and drive-in theaters	
Fitness and recreational sports centers as listed under NAICS Code 713940	

Applicable footnotes:

(15) Buildings, structures and uses accessory to permitted or conditional uses are allowed in all districts.

(33) The performance standards of Article XII shall apply, unless otherwise specified.

(b) Space and Bulk Table: Allowed space and bulk standards on the property shall include those standards which are presently permitted in the UE district as listed below, subject to the conditions contained herein:

Space and Bulk Table	
Dimensional Requirements (13)	Proposed Contract Rezoning to NCB - 2 Central Avenue

Minimum lot size with public sewer	
Single family detached (24)	
Single family attached	
Two-family dwelling	
Single family cluster development	
Mixed single family residential development (14)	
Mixed residential development (14)	
Multi-family dwellings	
Mixed use structures	
Agriculture	
Religious facilities	
Veterinary facilities	
Other uses	
All permitted uses	None
Minimum lot size without public sewer (3)	
Single family detached, mobile homes on individual lots (24)	
Single family attached	
Two-family dwellings	
Single family cluster development (1)	
Mixed residential development (14)	
Multi-family dwellings	
Mixed use structures	
Agriculture	
Religious facilities	
Veterinary facilities	
Other uses	N/A
Minimum net lot area per d.u. with public sewer	
Single family detached	
Single family attached	
Two-family dwellings	
Mixed residential developments (14)	
Multi-family dwellings	
Mixed use structures	
All permitted residential uses	(26)
Minimum net lot area per d.u. without public sewer	
Single family detached, mobile homes on individual lots	
Single family attached	
Two-family dwellings	
Mixed single family residential development (14)	(N/A)
Mixed residential development (14)	
Multi-family dwellings	
Mixed use structures	
All permitted residential uses	

Minimum frontage	
Single family detached, mobile homes -	
Single family attached	
Two-family dwellings	
Single family cluster development (with multiple vehicular accesses)	
Mixed single family residential development (with multiple vehicular accesses)	
Mixed use structures	
Agriculture	
Religious facilities	
Veterinary facilities	
Other uses	
All permitted uses	100'
Minimum front setback	
Single family detached, mobile homes on individual lots	
Single family attached	
Two-family dwellings	
Single family cluster development	
Mixed single family residential development (14)	
Mixed residential development (14)	
Multi-family dwellings	
Mixed use structures	
Religious facilities	
Veterinary facilities	
Other uses	
All permitted uses	10'
Minimum front yard	(21, 22)
Single family detached, mobile homes on individual lots	
Single family attached	
Two-family dwellings	
Single family cluster development	
Mixed single family residential development (14)	
Mixed residential development (14)	
Multi-family dwellings	
Mixed use structures	
Religious facilities	
Veterinary facilities	
Other uses	
All permitted uses	10' (21, 22)
Minimum side and rear setback	
Single family detached, mobile homes on individual lots	
Single family attached	
Two-family dwellings	

Single family cluster development	
Mixed single family residential development (14)	
Mixed residential development (14)	
Multi-family dwellings	
Religious facilities	
Mixed use structures	
Veterinary facilities	
Farm structures for keeping of animals	
Other uses	
All permitted uses	5'
Minimum side and rear yard	
Single family detached, mobile homes on individual lots	
Single family attached	
Two-family dwellings	
Single family cluster development	
Mixed single family residential development (14)	
Mixed residential development (14)	
Multi-family dwellings	
Mixed use structures	
Religious facilities	
Veterinary facilities	
Farm structures for keeping of animals	
Other uses	
All permitted uses	5' (16, 21)
Maximum height	
Agriculture	
Other permitted uses	35'
Hospital, nursing homes and medical offices	
Ratios	
Maximum lot coverage	0.65
Maximum impervious coverage	0.85

Applicable footnotes:

(10) Any required side or rear yard area located within fifty (50) feet of a lot containing a dwelling not in a residential zoning district shall be maintained as a buffer area meeting the standards of Article XIII. In the Industrial district, buffer areas may not be reduced by modification or variance.

(13) Modifications (i.e. relaxation of standards) of setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, and maximum building height as contained in district space and bulk standard may be granted by the board of appeals,

planning board, staff review committee and the code enforcement official pursuant to Articles V, VII, VIII, IX, and XIII of this Code.

(16) Any required side or rear yard area for uses other than residential located within fifty (50) feet of a residential zoning district or dwelling shall be maintained as a buffer area meeting the standards of Article XIII.

(21) Notwithstanding, applicable setback and yard requirements and the provisions of Article XII, section 17(f)(3), the area between the required front yard and the front wall of the portion of the building or structure closest to the street and running the full width of that portion of the building shall be maintained as a yard area, except that only one (1) of the two (2) following options may be instituted: a. Access roads or drives in this area are permitted only when a minimum of twenty (20) feet of front yard area can be maintained (forty (40) feet in the NCA District); or b. No more than one (1) parking space shall be created in this area.

(22) In areas where the existing buildings have an established uniform setback relationship to the street, any new building or modification to an existing building shall maintain this established relationship notwithstanding the setback provisions of that district. An established uniform setback relationship is deemed to exist when the distances between the front face of the building and the edge of the travel way in the adjoining street for the two adjacent parcels fronting on the same street on each side of the subject parcel are within +/- five (5) feet of mean of this distance for the four (4) parcels. For the purposes of this provision, lots shall be deemed to be adjacent even if separated by a street or public easement.

(23) Fifty (50) percent of the area between the required front yard and the front wall of the portion of the building or structure closest to the street and running the full width of that portion of the building shall not be used for parking and shall be maintained as additional yard area, except that access roads or drives and sidewalks are permitted in this area.

(26) The required minimum lot area per dwelling unit for any residential use in the neighborhood conservation "B" district shall be the average lot area per dwelling unit of impacted properties. The maximum number of dwelling units that can be placed on a parcel in the district shall be figured by the following procedures: The total lot area of all developed impacted properties shall be calculated. In determining the total area of the impacted properties, the tax records of the City of Lewiston shall be used unless the applicant or the owner of an impacted property presents definitive evidence to the contrary. The total number of legally existing dwelling units shall be calculated. The total lot area shall be divided by the total number of dwelling units existing on the impacted properties. This figure divided into the lot area of the subject parcel yields the total dwelling units

which can be placed on the lot. If less than 50 percent of the impacted properties are in residential use, the minimum lot area per dwelling unit shall be the greater of: (1) One thousand five hundred square feet per dwelling unit; or (2) The minimum area derived by the procedure outlined above.

- (c) Violations of any of the conditions herein will constitute a violation of the Code.
- (d) The conditions described herein shall bind the proponent, its successors and assigns, and any person in possession or occupant of the subject premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City.
- (e) The proponent shall, at their own expense, record in the Androscoggin County Registry of Deeds a copy of the conditions within thirty (30) days following final approval of this proposal by the City. Such form of recording is to be in a form satisfactory to the City.
- (f) The conditions described herein shall run with the subject premises.
- (g) In addition to other remedies to which the City may be entitled under applicable provisions of statute or ordinance, if any party in possession of use of the subject premises fails or refuses to comply with any of the conditions imposed, any rezoning approved by the City in accordance with the conditions shall be of no force or effect. In that event, any use of the subject premises and any building or structures developed pursuant to the rezoning shall be immediately abated and brought into compliance with all applicable provisions of the Code with the same effect as if the rezoning had never occurred.
- (h) If any of the conditions are found by a court of competent jurisdiction to be invalid, such determination shall not invalidate any of the other conditions.
- (i) Any rezoning approved by the City conditionally shall be of no force or effect if the proponent fails or refuses to comply with conditions imposed.
- (j) Any allowed proposed use, addition, or expansion of the property deemed applicable to Article XIII, Section 2 of the Zoning and Land Use Code shall be subject to the applicable sections of Article XIII of the Zoning and Land Use Code, Development Review and Standards.
- (k) By submitting this proposal, the proponent agrees in writing to the conditions described herein.

The Proponent hereby respectively submits this Proposal as of the _____ day of _____ 2017.

Brother Irene' Richard, Executive Director
Saint Martin de Porres Residence, Inc.

Androscoggin, SS
Lewiston, Maine

_____, 2017

Personally appeared the above named Brother Irene' Richard, individually and in his capacity as Executive Director, Saint Martin de Porres Residence, Inc. and acknowledged the foregoing to be his free act and deed.

Notary Public _____
Commission Expires:

EXHIBIT A
COPY

This document was e-recorded by M. Clamish
Book 9390, Page 285
Recorded on: 6/21/16 at: 9:25
Androscoggin County Registry of Deeds
State of Maine

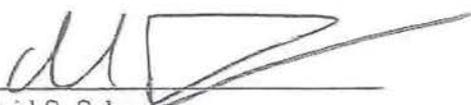
WARRANTY DEED
(Maine Statutory Short Form)

ST. ANDRE HOME, INC., a Maine non-profit corporation with a mailing address of 283 Elm Street, Biddeford, Maine 04005 (the "Grantor"), for consideration paid, grants to **ST. MARTIN DE PORRES RESIDENCE, INC.**, a Maine non-profit corporation having a mailing address of P.O. Box 7227, Lewiston, ME 04243 (the "Grantee"), with Warranty Covenants, certain real estate and the improvements thereon situated in the City of Lewiston, County of Androscoggin and State of Maine, being more particularly described in Exhibit A attached hereto and made a part hereof.

IN WITNESS WHEREOF, St. Andre Home, Inc. has caused this instrument to be executed by Reid S. Scher, its duly authorized Executive Director, this 20th day of June, 2016.

WITNESS:

ST. ANDRE HOME, INC.



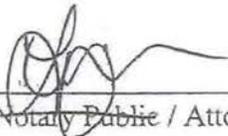
Reid S. Scher
Its Executive Director

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

June 20, 2016

Personally appeared before me the above named Reid S. Scher, Executive Director of St. Andre Home, Inc. and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of St. Andre Home, Inc.

Before me,



Notary Public / Attorney At Law

Lisa R. Magnacca, Esq.

Print name

My commission expires: _____

EXHIBIT A

A certain lot or parcel of land with the buildings thereon situated at the intersection of Sabattus Street and Central Avenue in the City of Lewiston, County of Androscoggin and State of Maine, bounded and described as follows:

Commencing at the intersection of the Northeasterly line of Sabattus Street, with the Northwesterly line of Central Avenue; thence running Northeasterly by the Northwesterly line of said Central Avenue one hundred (100) feet; thence Northwesterly and parallel to Sabattus Street one hundred five (105) feet to land now or formerly of Perlstein; thence Southwesterly by the Southeasterly line of Perlstein's land one hundred fifteen (115) feet to Sabattus Street; thence Southeasterly by the Northwesterly line of Sabattus Street one hundred ten (110) feet to the point of beginning.

Excepting and reserving all interests in said premises taken by the State of Maine through its Department of Transportation by virtue of a Notice of Layout and Taking dated September 4, 1979 and recorded in said Registry of Deeds in Book 1426, Page 279.

Reference is made to deeds exchanged by and between the Servants of the Immaculate Heart of Mary and Jeanne Bilodeau, dated April 13, 1992 and recorded in said Registry in Book 2843, Page 61; and dated April 14, 1992 and recorded in Book 2843, Page 63, to establish and confirm their common boundary line.

Being a portion of the premises conveyed to the Grantor by deed of the Servants of the Immaculate Heart of Mary dated March 29, 2011 recorded in said Registry in Book 8142, Page 85, which parcel was referred to as Parcel 2 in said deed.



Proposed
2 Central Avenue
Contract Rezoning

April 2017

Land Use Table: All Zoning Districts	Office Residential (OR)	Neighborhood Conservation "B" (NCB)	Proposed NCB Contract Rezoning for 2 Central Ave
USES(15)(33)			
Accessory use or structure	P	P	P
Commercial-Service			
Veterinary facilities excluding kennels and humane societies	P		
Veterinary facilities including kennels and humane societies			
Small day care facilities	P	P	P
Day care centers	P		
Day care centers accessory to public schools, religious facilities, multifamily or mixed res. developments, and mobile home parks		C(22)	
Business and professional offices including research, experimental, testing laboratories, engineering, research, management and related services	P(9)	C(31)	C(31)
Restaurants			
Drinking places			
Adult business establishments			
Hotels, motels, inns			
Movie theaters except drive-in theaters			
Places of indoor assembly, amusement or culture			
Art and crafts studios		C	C
Personal Services	P	P	P
Retail stores			
Neighborhood retail stores		P	P
Lumber and building materials dealer			
Gasoline service stations			
Gasoline service stations which are a part of and subordinate to a retail use			
New and used car dealers			
Recreational vehicle, mobile home dealers			
Equipment dealers and equipment repair			
Automotive services including repair			

Registered dispensary(27)			
Registered primary caregivers engaged in the cultivations of medical marijuana for two to five registered patients.			
Tattoo Establishments			
Industrial			
Light industrial uses			
Industrial uses			
Building and construction contractors			
Fuel oil dealers and related facilities			
Wholesale sales, warehousing and distribution facilities and self-storage facilities			
Self storage facilities			
Commercial solid waste disposal facilities			
Junkyards and auto graveyards			
Recycling and reprocessing facilities			
Private industrial/commercial developments(23)			
Transportation			
Airports or heliports			
Commercial parking facilities		C	
Transit and ground transportation facilities			
Transportation facilities			
Public and Utility			
Pumping stations, standpipes or other water supply uses involving facilities located on or above the ground surface and towers for municipal use	P	P	
Power transmission lines, substations, telephone exchanges, microwave towers or other public utility or communications use	C	C	
Municipal buildings and facilities	C	C	
Preservation of historic areas; emergency and fire protection activities; bridges and public roadways			
Dams			

Institutional			
Religious facilities	P	P	
Cemeteries		P	
Congregate care/assisted living facilities, institutions for the handicapped, nursing or convalescent homes, group care facilities	P	C	
Hospitals, medical clinics,	P	C	
Museums, libraries, and non-profit art galleries and theaters			
Academic institutions, including buildings or structures for classroom, administrative, laboratory, dormitories, art, theater, dining services, library, bookstores, athletic facilities and student recreational uses, together with buildings accessory to the foregoing permitted principal buildings or structures,	C	C(13)	
Civic and social organizations	P	C	
Public community meeting and civic function buildings including auditoriums			
Residential			
Single-family detached dwellings on individual residential lots	P	P(2)	
Mobile homes on individual residential lots			
Two-family dwellings	P	P	
Multifamily dwellings in accordance with the standards of Article XIII	P	P	
Single-Family attached dwelling in accordance with the standards of Article XIII	P	P	
Mixed single-family residential developments in accordance with the standards of Article XIII		P	
Mixed residential developments in accordance with the standards of Article XIII	P	P	
Mixed use structures	P	P	
Lodging houses		P	
Home occupations	P	P	

Bed and breakfast establishments as a home occupation	P	P	
In-law apartments in accordance with the standards of Article XII	P	P	
Single family cluster development			
Family day care home	P	P	
Shelters		C	P (Limited to 10 Beds)
Dormitories			
Natural Resource			
Agriculture			
Farm Stands			
Forest management and timber harvesting activities in accordance with the standards of Article XIII	P	P	
Earth material removal			
Community gardens(20)	P	P	
Water dependent uses, e.g. docks and marinas			
Non-residential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet			
Recreation			
Campgrounds			
Public or private facilities for non-intensive outdoor recreation	C	C	
Commercial outdoor recreation and drive-in theaters			
Fitness and recreational sports centers as listed under NAICS Code 713940	P		

Space and Bulk Table: All Zoning District Dimensional Requirements (13)	Office Residential (OR)(12)	Neighborhood Conservation B (NCB)	Proposed Contract NBC Rezoning for 2 Central Ave
Minimum lot size with public sewer			
Single family detached (24)	7,500 sf		
Single family attached	12,000 sf		
Two-family dwellings	10,000 sf		
Single family cluster development			
Mixed single family residential development (14)			
Mixed residential development (14)	5 ac		
Multifamily dwellings	20,000 sf		
Mixed use structures	7,500 sf		
Agriculture			
Religious facilities			
Veterinary facilities			
Other uses	7,500 sf		
All permitted uses			None
Minimum lot size without public sewer (3)			
Single family detached, mobile homes on individual lots (24)	20,000 sf		
Single family attached	60,000 sf		
Two-family dwellings	40,000 sf		
Single family cluster development (1)			
Mixed single family residential development (14)			
Mixed residential development (14)	5 ac		
Multifamily dwellings	60,000 sf		
Mixed use structures	60,000 sf		
Agriculture			
Religious facilities			
Veterinary facilities			
Other uses	20,000 sf	N/A	N/A
Minimum net lot area per d.u. with public sewer			
Single family detached			
Single family attached			
Two-family dwellings			
Mixed single family residential development (14)			
Mixed residential development (14)			
Multifamily dwellings			

Mixed use structures			
All permitted residential uses	3,000 sf	(26)	(26)
Minimum net lot area per d.u. without public sewer			
Single family detached, mobile homes on individual lots			
Single family attached			
Two-family dwellings			
Mixed single family residential development (14)			
Mixed residential development (14)			
Multifamily dwellings			
Mixed use structures			
All permitted residential uses	20,000 sf	N/A	N/A
Minimum frontage			
Single family detached, mobile homes -			
Single family attached	100ft (50ft)		
Two-family dwellings			
Single family cluster development (with multiple vehicular accesses)			
Mixed single family residential development (with multiple vehicular accesses)			
Mixed residential development (with multiple vehicular accesses) (14)	100ft (50ft)		
Multifamily dwellings (with multiple vehicular accesses)	100ft (50ft)		
Mixed use structures			
Agriculture			
Religious facilities			
Veterinary facilities			
Other uses			
All permitted uses	100 ft	50 ft	100 ft
Minimum front setback			
Single family detached, mobile homes on individual lots			
Single family attached			
Two-family dwellings			
Single family cluster development			
Mixed single family residential development (14)			
Mixed residential development (14)			
Multifamily dwellings			
Mixed use structures			
Agriculture			

Religious facilities			
Veterinary facilities			
Other uses			
All permitted uses	20 ft (22,23)	10ft(21,22)	10 ft (21,22)
Minimum front yard			
Single family detached, mobile homes on individual lots			
Single family attached			
Two-family dwellings			
Single family cluster development			
Mixed single family residential development (14)			
Mixed residential development (14)			
Multifamily dwellings			
Mixed use structures			
Religious facilities			
Veterinary facilities			
Other uses			
All permitted uses	10 ft (23)	10 ft (21,22)	10ft (21,22)
Minimum side and rear setback			
Single family detached, mobile homes on individual lots			
Single family attached			
Two-family dwellings			
Single family cluster development			
Mixed single family residential development (14)			
Mixed residential development (14)			
Multifamily dwellings			
Religious facilities			
Mixed use structures			
Veterinary facilities			
Farm structures for keeping of animals			
Other uses			
All permitted uses	15 ft (23)	5ft	5 ft
Minimum side and rear yard			
Single family detached, mobile homes on individual lots			
Single family attached			
Two-family dwellings			
Single family cluster development			
Mixed single family residential development (14)			

Mixed residential development (14)			
Multifamily dwellings			
Mixed use structures			
Religious facilities			
Veterinary facilities			
Farm structures for keeping of animals			
Other uses			
All permitted uses	10 ft (16,23)	5A (16,21)	5 ft (16,21)
Maximum height			
Agriculture			
Other permitted uses	35 ft	65 ft	35 ft
Hospital, nursing homes and medical offices			
Ratios			
Maximum lot coverage	0.30	0.65	0.65
Maximum impervious coverage	0.60	0.85	0.85

Applicable Space and Bulk Table footnotes:

(10) Any required side or rear yard area located within fifty (50) feet of a lot containing a dwelling not in a residential zoning district shall be maintained as a buffer area meeting the standards of Article XIII. In the Industrial district, buffer areas may not be reduced by modification or variance.

(13) Modifications (i.e. relaxation of standards) of setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, minimum open space ratios, and maximum building height as contained in district space and bulk standard may be granted by the board of appeals, planning board, staff review committee and the code enforcement official pursuant to Articles V, VII, VIII, IX, and XIII of this Code.

(16) Any required side or rear yard area for uses other than residential located within fifty (50) feet of a residential zoning district or dwelling shall be maintained as a buffer area meeting the standards of Article XIII.

(21) Notwithstanding, applicable setback and yard requirements and the provisions of Article XII, section 17(f)(3), the area between the required front yard and the front wall of the portion of the building or structure closest to the street and running the full width of that portion of the building shall be maintained as a yard area, except that only one (1) of the two (2) following options may be instituted: a. Access roads or drives in this area are permitted only when a minimum of twenty (20) feet of front yard area can be maintained (forty (40) feet

in the NCA District); or b. No more than one (1) parking space shall be created in this area.

(22) In areas where the existing buildings have an established uniform setback relationship to the street, any new building or modification to an existing building shall maintain this established relationship notwithstanding the setback provisions of that district. An established uniform setback relationship is deemed to exist when the distances between the front face of the building and the edge of the travel way in the adjoining street for the two adjacent parcels fronting on the same street on each side of the subject parcel are within +/- five (5) feet of mean of this distance for the four (4) parcels. For the purposes of this provision, lots shall be deemed to be adjacent even if separated by a street or public easement.

(23) Fifty (50) percent of the area between the required front yard and the front wall of the portion of the building or structure closest to the street and running the full width of that portion of the building shall not be used for parking and shall be maintained as additional yard area, except that access roads or drives and sidewalks are permitted in this area.

(26) The required minimum lot area per dwelling unit for any residential use in the neighborhood conservation "B" district shall be the average lot area per dwelling unit of impacted properties. The maximum number of dwelling units that can be placed on a parcel in the district shall be figured by the following procedures: The total lot area of all developed impacted properties shall be calculated. In determining the total area of the impacted properties, the tax records of the City of Lewiston shall be used unless the applicant or the owner of an impacted property presents definitive evidence to the contrary. The total number of legally existing dwelling units shall be calculated. The total lot area shall be divided by the total number of dwelling units existing on the impacted properties. This figure divided into the lot area of the subject parcel yields the total dwelling units which can be placed on the lot. If less than 50 percent of the impacted properties are in residential use, the minimum lot area per dwelling unit shall be the greater of: (1) One thousand five hundred square feet per dwelling unit; or (2) The minimum area derived by the procedure outlined above.

LEWISTON CITY COUNCIL
MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Public Hearing and Final Passage for Land Use Code Amendments concerning space and bulk requirements for academic institutions.

INFORMATION:

Representatives of Bates College have submitted a petition to the Planning Board for an amendment to the Land Use Code for amendments to the space and bulk requirements in the Industrial Office district as they apply to academic institutions.

At their August 28 meeting, the Planning Board voted 4-3 to send a favorable recommendation to the City Council for the adoption of the proposed amendment to the Land Use Code.

Please see attached information from City Planner David Hediger regarding this request.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to Appendix A, Article XI "District Regulations", Section 10, "Institutional Office", of the City Zoning and Land Use Code, concerning regulations for space and bulk requirements in this district, receive final passage by a roll call vote.

**AN ORDINANCE PERTAINING TO SETBACKS IN THE INSTITUTIONAL OFFICE
(IO) DISTRICT**

THE CITY OF LEWISTON HEREBY ORDAINS:

Appendix A of the code of ordinances of the City of Lewiston, Maine is hereby amended as follows:

**APPENDIX A
ZONING AND LAND USE CODE
ARTICLE XL DISTRICT REGULATIONS**

Sec. 23. Space and Bulk Requirements

Space and Bulk Table Notes

(27) The minimum front setback and front yard requirements for hospitals, nursing homes, ~~and~~ medical offices **and academic institutions** are zero provided the lot directly across the street is in the institutional-office (IO) district.

REASONS FOR PROPOSED AMENDMENT

- I. Implications: The proposed change will allow a reduction in the front yard setback from 30 feet to zero for academic buildings in the IO district where the IO district is also on the other side of the street from the proposed building. The front yard setback in the case of corner lots applies to any street frontage on a lot with multiple frontages as stated in Article V Section 3(f). Figure 1 highlights the lots within the IO district where the proposed amendment would change the required front yard setback for academic institutions.
- II. The Zoning and Land Use Code, Article V(3)(f), as quoted below, applies the front yard setback to all street frontage on a lot even if there are multiple frontages, as for a corner lot. In the IO district the front yard setback is 30 feet.

"On a corner lot in any district, a building or structure may face either street, and the front setback and yard shall be between the principal building or structure and the street on which the building or structure is to be numbered. The side setback and yard, between the building and side street, shall meet front setback and yard requirements of the applicable district. Additionally, the rear setback and yard, between the principal building and the abutting property on the side street, shall meet side setback and yard requirements of the applicable district."
- III. The Bates College campus is constrained in area by previously developed land uses surrounding the original campus. Over time, Bates College has acquired additional properties adjoining the campus to allow reuse of the properties and for future expansion. The focus of

much of the property acquisition has been in the residential neighborhood south of Campus Avenue.

- IV. The surrounding neighborhoods were developed in a residential scale street and lot pattern from the early and mid-1900s, with many of the lots being 50 to 100 feet wide and 100 feet deep. The resulting street layout is in a grid pattern with approximately 200 feet of developable land between the streets.
- V. Under common ownership, the residential parcels can be combined to create larger overall lots for redevelopment as academic uses. Applying the 30-foot front yard setback to the combined lots with frontage on three streets, as is the case with several of the ends of blocks along Campus Avenue, creates a narrow, 140' wide building window.
- VI. The narrow building window is very restrictive for academic scale development, especially when trying to create a building that relates to and integrates into the existing campus north of Campus Avenue.
- VII. Restrictions caused by the narrow building window can drive the academic buildings into "L" or "T" shaped buildings, which are less efficient than rectangular shaped buildings. The narrow building window could also lead to the need for taller buildings to accommodate the required programming space within the narrow building window. The additional height would not be compatible with the scale of the existing campus buildings.
- VIII. Turning the short end of a building toward Campus Avenue could lead to parking and other ancillary building functions being accessed and visible from Campus Avenue, which could detract from the presentation of the College to the general traveling public.
- IX. Recent development of the residence halls in this area required relief from the front yard setback along the side streets, which was previously granted by the Planning Board as part of the site plan review process. The College has been advised by Lewiston's Planning and Code Enforcement Department that the City's mechanism to grant modifications of space and bulk standards that do not meet the dimensional standards otherwise required through the development review process may not be available in the future.
- X. The existing residential structures in the area south of Campus Avenue in the IO district have existing setbacks on the order of 10 feet, which is significantly less than the required 30-foot front yard setback for new structures in the IO district.
- XI. Having as little as a zero setback will allow for building projections and vestibules that extend to the sidewalks, and will add greater functionality and design interest to the structures.
- XII. As mentioned, the College currently owns many, but not all, of the properties within the IO district that are outside the hospital and Lewiston Middle School and Armory properties. The change in the required front yard setback will not harm neighboring properties because the side and rear yard setbacks will remain as they currently exist. Also, development proposals will

need to obtain site plan approval from the Lewiston Planning Board, and the process will provide the opportunity to mitigate any potential impacts from a reduced setback.

- XIII. The reduction in front yard setback would apply to areas that are primarily internal to the campus and not along the perimeter of the campus. The impacts to neighboring properties is limited by the restriction that both sides of the street need to be in the IO district in order for the setback reduction to apply.
- XIV. The origin of Note 27, which includes the zero front yard setback for certain uses in the IO district, was a desire in 2009 to accommodate the expansion of St Mary's Hospital on Campus Ave. St. Mary's Health System petitioned to amend the zoning and Land Use Code on October 15, 2009 and the amendment was approved by the City Council by a 5-0 roll call vote on December 1, 2009. Note 27 was structured to apply only to hospitals, nursing homes, and medical office buildings, which are existing uses along Campus Avenue within the IO district. Note 27 has provided St Mary's with flexibility over the years as it pursued the building expansion for updating surgical and surgical support facilities. Applying the zero setback to academic institutions in the district is consistent and fair, given this history, because academic institutions do not have any more intensive impact than hospitals, nursing homes, and medical office buildings. It also would allow for the flexibility to develop a consistent relationship between academic buildings and the street within the district, while fitting into the academic campus as well.

CONFORMANCE WITH COMPREHENSIVE PLAN

- I. The recently adopted Comprehensive Plan, Legacy Lewiston, addresses a range of development issues and future growth opportunities and directions for the City and includes discussions related specifically to Bates College.

The plan suggests that a form-based code should be developed to accommodate the unique requirements of a campus design and setting to address future development within the Bates portion of what is now the IO zoning district and what is designated as the SD-CM Bates Campus Special District. The language from the plan is listed below:

SD-CM Bates Campus Special District

Bates College, because of its function and design, requires a unique set of standards to accommodate large detached buildings, buildings that face onto internal greens, and other aspects seen in a campus environment. This Special District is assigned to Bates College. It includes the City's current Institutional Office zone, which would be rezoned as a form-based Special District.

- II. The recommendation to develop a form-based ordinance for this targeted area, to address the specific needs of Bates College, has not yet been implemented. For projects to move forward prior to the adoption of a form-based code the College is left with working within the existing

ordinances. As an interim step between the existing code and the form-based code we are proposing an amendment to the existing code to better address Bates College's specific needs.

- III. The proposed amendment is in conformance with the recommendations in the comprehensive plan, in that the uses within the proposed SD-CM Bates Campus Special District require consideration unique to a college campus and the scale of academic buildings and a campus development. The amendment seeks flexibility of the zoning ordinance to better accommodate the academic scale buildings within the existing street layout.
- IV. The Comprehensive Plan recognizes the value of colleges in the City as a source for "fresh ideas, youthful energy, and potential new residents and entrepreneurs." (2017 Comprehensive Plan, Page 7). In addition, Bates College brings significant cultural resources and economic benefits to the community. Supporting the flexibility for expansion of the academic programs and college campus enhances the viability of the institution and has beneficial impacts on the community.



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Mayor and City Council
FROM: David Hediger, City Planner
DATE: August 30, 2017
RE: Planning Board action: Front setback amendment in the Institutional-office (IO) district

The Planning Board took the following action at their meeting held on August 28, 2017 regarding a request by Bates College to Appendix A – Zoning & Land Code, Article XI. District Regulations, Section 23. Space and Bulk Requirements to add academic institutions to the allowed uses for which the minimum front setback and front yard requirements are zero provided the lot directly across the street is in the Institutional-office (IO) district:

MOTION: by **Pauline Gudas** pursuant to Article VII, Section 4 and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation to the City Council to amend Article XI. District Regulations, Section 23. Space and Bulk Requirements to add academic institutions to the allowed uses for which the minimum front setback and front yard requirements are zero provided the lot directly across the street is in the Institutional-office (IO) district.
Second by **Norm Anctil**.

VOTED: 4-3 (Passed. John Butler, Paul Madore, Michael Marcotte opposed)

Note: The opposing votes were in part to concerns of Bates College not contributing to property taxes, the potential impacts of a building constructed at a zero front setback preventing the city from widening existing city street right-of-ways, and not knowing whether the relaxation of setbacks may facilitate development that would remove taxable properties without a specific project to consider.



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: Planning Board
FROM: David Hediger, City Planner
DATE: August 25, 2017
RE: August 28, 2017 Planning Board Agenda Item IV (b)

An amendment initiated by Bates College to Appendix A – Zoning & Land Code, Article XI. District Regulations, Section 23. Space and Bulk Requirements to add academic institutions to the allowed uses for which the minimum front setback and front yard requirements are zero provided the lot directly across the street is in the Institutional-office (IO) district.

Bates College has submitted a petition to amend the space and bulk requirements of the Institutional Office (IO) district to add academic institutions to the allowed uses for which the minimum front setback and front yard requirements are zero provided the lot directly across the street is in the IO district pursuant to Article XVII, Section 5(b) of the Zoning and Land Use Code. The proposed amendment is being made in effort to support future expansions on the campus.

The front setback in the IO district is 30'. The front yard requirement is 10'. At the request of St. Mary's Hospital, these requirements were amended in 2009 to allow a zero front yard and setback applying only to hospital and medical uses within the IO district in effort accommodate a proposed expansion at the hospital. The specific language adopted as part of Article XI, Section 23, Space and Bulk Table Note 27 states "the minimum front setback and front yard requirements for hospitals, nursing homes and medical offices are zero provided the lot directly cross the street is in the institutional-office (IO) district".

Bates is proposing to extend this same provision to include academic institutions. As with the other uses currently allowed to have a zero yard and setback, the reduction would apply to areas that are primarily internal to the campus and not along the perimeter of the campus. The impacts to neighboring properties will be limited by the restriction that both sides of the street need to be in the IO district in order for the setback/yard reduction to apply

Applying the zero setbacks and yards to academic institutions in the IO district is consistent with the amendment approved in 2009 for hospitals, nursing homes, and medical offices. The size and scale of academic institutions can be very similar and likely not any more intense as a use than hospitals, nursing homes, and medical office buildings. As with the original amendment, this proposed amendment provides flexibility to develop a consistent relationship between academic buildings and the street within the district, while fitting into the academic campus.

The petitioner has referenced the comprehensive plan. Specifically, the plan identifies this area of the IO district, outside of the medical uses, to be rezoned to a form-based Special District called the SD-CM Bates Campus Special District. As the petitioner has noted, form-based regulations have not yet been developed, so the college is left with the existing IO requirements. Notwithstanding hospitals, nursing homes, and medical offices which already have flexibility with respect to setbacks and yards, the proposed amendment is very much in-line with form based codes. The amendment assists in placing greater emphasis on the relationship between building facades and the street, the size and scale of buildings in relation to one another, and the scale and types of streets and blocks. As the college continues to expand and improve existing infrastructure, there is a desire to have buildings along Campus Avenue and others streets designed to relate to the rest of the campus and to encourage connectivity to other uses and buildings across city streets. Given the difference in scale of the area's original development on the north side of Campus Avenue and the proposed redevelopment of other properties in the IO district as academic institutional uses, the proposed amendment will provide the ability to greater flexibility for these development patterns and relationships to occur until a form-based code is adopted.

Staff is supportive of the petitioner's request. As previously noted, the ability to have setbacks and yards reduced to zero already exists for a number of specific uses in the IO district. Furthermore, the reductions are limited within the IO district provided the lot directly cross the street is also in IO district, thereby limiting the potential for adverse impact to abutting properties.

ACTION NECESSARY

Make a motion pursuant to Article VII, Section 4 and Article XVII, Section 5 of the Zoning and Land Use Code to send a favorable recommendation to the City Council to amend Article XI. District Regulations, Section 23. Space and Bulk Requirements to add academic institutions to the allowed uses for which the minimum front setback and front yard requirements are zero provided the lot directly across the street is in the Institutional-office (IO) district.

August 8, 2017
W-P Project No. 13829A

Mr. David Hediger
Deputy Director/City Planner
City Building
27 Pine Street, 3rd Floor
Lewiston, ME 04240

Subject: Proposed Zoning Amendment IO District Petition
For Bates College

Dear David:

Wright-Pierce is working with Bates College to request a zoning amendment to provide flexibility in the ordinance's front yard setback requirements for the IO district. As Bates College seeks to make investments in new buildings and campus amenities, we anticipate the focus of new development will be in the area south of Campus Avenue. Over time, Bates College has acquired many of the residential properties in the neighborhood adjacent to the existing campus for reuse as housing and other administrative and operational functions and as areas for future growth of the campus. The ordinance has recognized this transformation by including the area within the IO district and by designating the area as SD-CM Bates Campus District in the recently revised Comprehensive Plan.

Included in this rezoning petition is the petition form signed by citizens of Lewiston who support consideration of the proposed amendment. We have prepared an Exhibit A that outlines the proposed change to the ordinance, along with a plan showing the applicability to street frontages that would be affected by the change. Exhibit B sets out the justification for the proposed change, and Exhibit C explains how the proposed change aligns with the Comprehensive Plan.

The IO district front yard setback was amended in 2009 to allow a zero front yard setback that would apply only to hospital and medical uses within the district, to accommodate the expansion of St Mary's Hospital. We are proposing to extend this same provision to include academic institutions as well.

The IO district requires a 30-foot front yard setback from all street frontages of a lot. In order to redevelop the area into academic scale development, some existing residential lots will be combined to create larger parcels to accommodate the academic scale buildings. One limiting factor for academic scale redevelopment is that the existing street layout limits the width of lots to the distance between the residential street grid of approximately 200' between streets. Because the 30-foot setback applies to all frontages, the building development window is too narrow to accommodate the larger academic building layouts without relief of the front yard setbacks, or by creating inefficient building layouts or taller buildings that are out of character with the area.

{W6266921.1}



The principal reason for the change is to allow Bates more flexibility and effectiveness in their future expansion of the campus into what had been a residentially scaled area, to accommodate the academic buildings. The buildings along Campus avenue will need to be designed to relate to the rest of the campus and to encourage a connection with the campus across a public street, Campus Avenue.

The comprehensive plan identifies that the IO district, outside of the medical uses, should be rezoned to a form-based Special District called the SD-CM Bates Campus Special District. The form-based special district regulations have not yet been developed, so the College is left with the existing IO requirements. Given the uniqueness of the academic needs of the campus, the difference in scale of the area's original development, and the proposed redevelopment as academic institutional uses, the amendment is necessary as an interim step until the form-based code is developed.

We look forward to your review of this petition and presentation to the Planning Board for review.

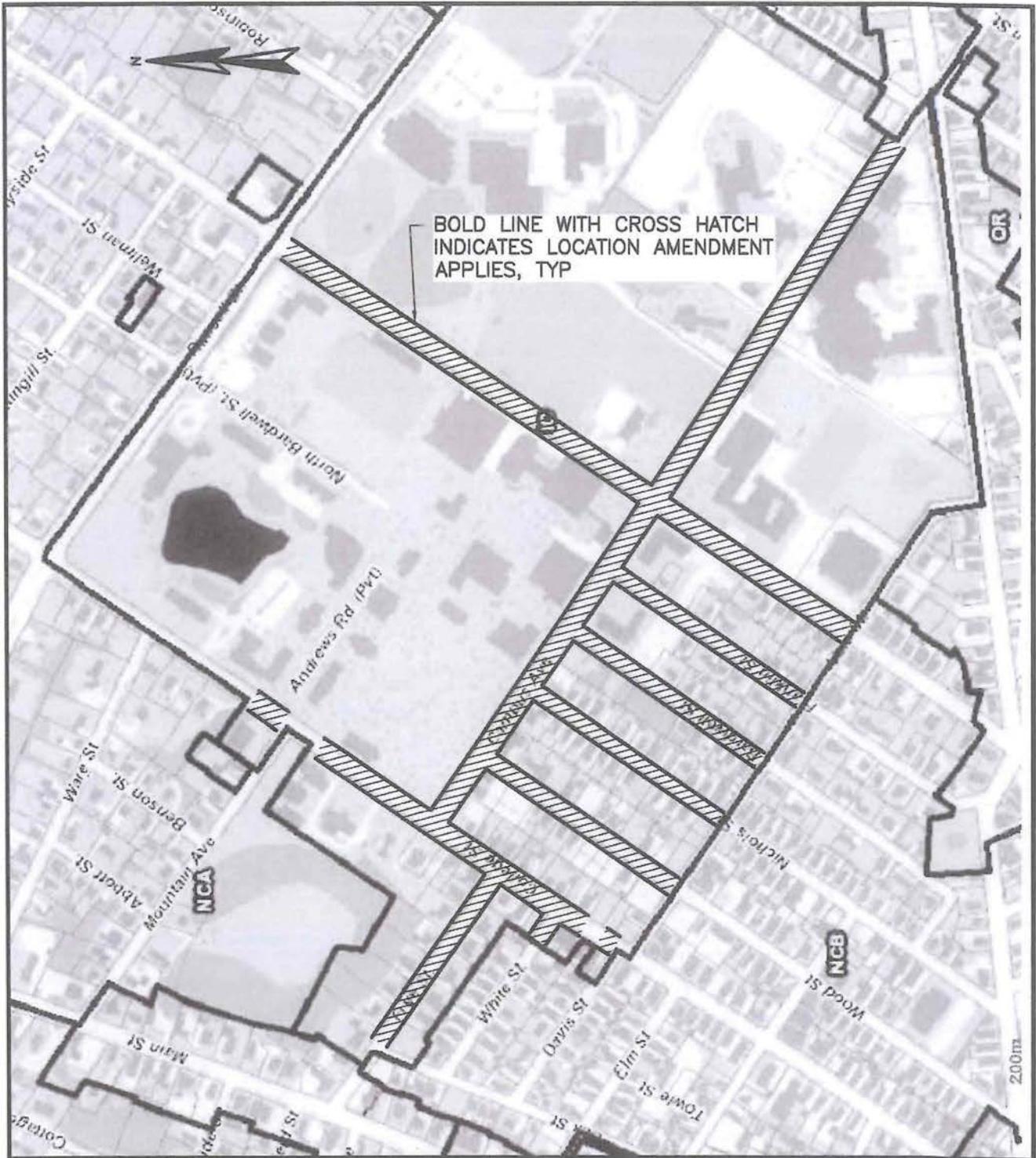
Sincerely,
WRIGHT-PIERCE

A handwritten signature in black ink, appearing to read 'Jan B. Wiegman', written over a horizontal line.

Jan B. Wiegman, PE
Project Manager
Jan.wiegman@wright-pierce.com

Enclosures

cc: Pam Wichroski
Chris Streifel

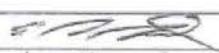
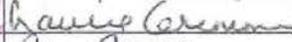
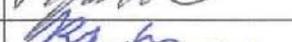
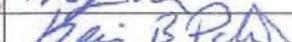
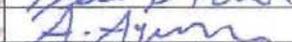
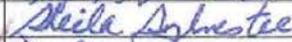
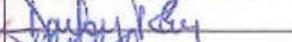
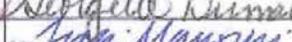
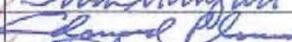
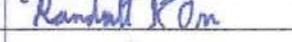


BOLD LINE WITH CROSS HATCH INDICATES LOCATION AMENDMENT APPLIES, TYP

BATES COLLEGE LEWISTON, MAINE 04240		NO.	REVISIONS	APP'D
PROJ NO: 13829A	DATE: AUGUST 2017			
			PROPOSED IO ZONING AMMENDMENT APPLICABILITY	FIGURE: 1

**PETITION TO AMEND THE CITY OF LEWISTON
ZONING AND LAND USE CODE**

Pursuant to Appendix A, Article XVII, Section 5(b)(1)(b) Amendments of the City of Lewiston Zoning and Land Use Code, we the undersigned residents of the City of Lewiston, being eighteen (18) years of age or older, do hereby petition in the City of Lewiston to amend its Zoning and Land Use Code, Article XI, Section 23, Space and Bulk Requirements, to add academic institutions to Space and Bulk Table Note 27, as presented in Exhibit A and as described in Exhibit B, attached hereto:

	Signature	Printed Name	Physical Street Address (No PO Boxes)	Date
1		Edward Tswol	45 Goggin	7-26-17
2		Laurie Grimmel	30 Cassell St.	7-26-17
3		JANE JAWOR	45 Goggin St	7-26-17
4		Zane Orshundre	308 Montello St.	7/26/17
5		Ryan Odia	5 School St.	7/27/17
6		Kevin B Poland	117 Goggin st	7/27/17
7		Sauger Sylvester	82 Franklin St	7/27/17
8		SHEILA SYLVESTER	82 Franklin St	7/27/17
9		Darby Roy	15 Beattie Ave	7/27/17
10		Laurie Hoverson	31 BOWLE STREET	7/27/17
11		Georgette Dumais	5 McKinley Dr	7/27/17
12		TINA MANGIERI	64 MONTELLO STREET	27 JULY 17
13		EDOUARD PLOURAC	25 COBURN ST	7-27-17
14		Stephen T. Bowdoin	114 Steeper Rd	7-27-17
15		John Jasper	895 College Rd Apt #2	7-27-17
16		Randall K Orr	33 Bushey Cir	7-27-17
17				
18				
19				
20				

CIRCULATOR'S VERIFICATION

I hereby verify that I am the Circulator of this petition, that all the signatures to this petition were made in my presence, and to the best of my knowledge and belief, each signature is that of the person it purports to be, and each person is a resident of the City of Lewiston.

 _____
Signature of Circulator

CHRISTOPHER STREIFEL _____
Printed Name of Circulator

8/10/17 _____
Date

REGISTRAR'S CERTIFICATION

I hereby certify and verify that the names of all the petitioners listed as valid appear on the voting list as registered voters in the City of Lewiston.

Total Valid: 15 _____ Total Invalid: 1 _____

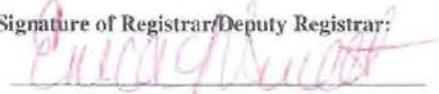
Date: 8/15/17 _____ Signature of Registrar/Deputy Registrar:  _____

Exhibit A

Proposed Zoning Amendment

- I. The section of the Zoning and Land Use Code (Appendix A) that we propose to be amended is under Article XI District Regulations, Section 23 Space and Bulk Requirements, Space and Bulk Table, Note 27 which is a note to the front yard setback distance in the table that states the front yard setback for all permitted uses in the IO district is 30 feet with the following exception in note 27:

(27) The minimum front setback and front yard requirements for hospitals, nursing homes and medical offices are zero provided the lot directly across the street is in the institutional-office (IO) district.

- II. We propose to modify Article XI District Regulations, Section 23 Space and Bulk Requirements, Space and Bulk Table Note 27 to read as follows with the changes noted in bold and underlined:

The City of Lewiston hereby ordains:

Appendix A, Article XI, Sec. 23, Space and Bulk Requirements, Space and Bulk Table Notes, Note 27 of the Code of Ordinances of the City of Lewiston, Maine is hereby amended as follows:(27) The minimum front setback and front yard requirements for hospitals, nursing homes, ~~and~~ **medical offices and academic institutions** are zero provided the lot directly across the street is in the institutional-office (IO) district.

- III. Implications: The proposed change will allow a reduction in the front yard setback from 30 feet to zero for academic buildings in the IO district where the IO district is also on the other side of the street from the proposed building. The front yard setback in the case of corner lots applies to any street frontage on a lot with multiple frontages as stated in Article V Section 3(f). Figure 1 highlights the lots within the IO district where the proposed amendment would change the required front yard setback for academic institutions.

Exhibit B

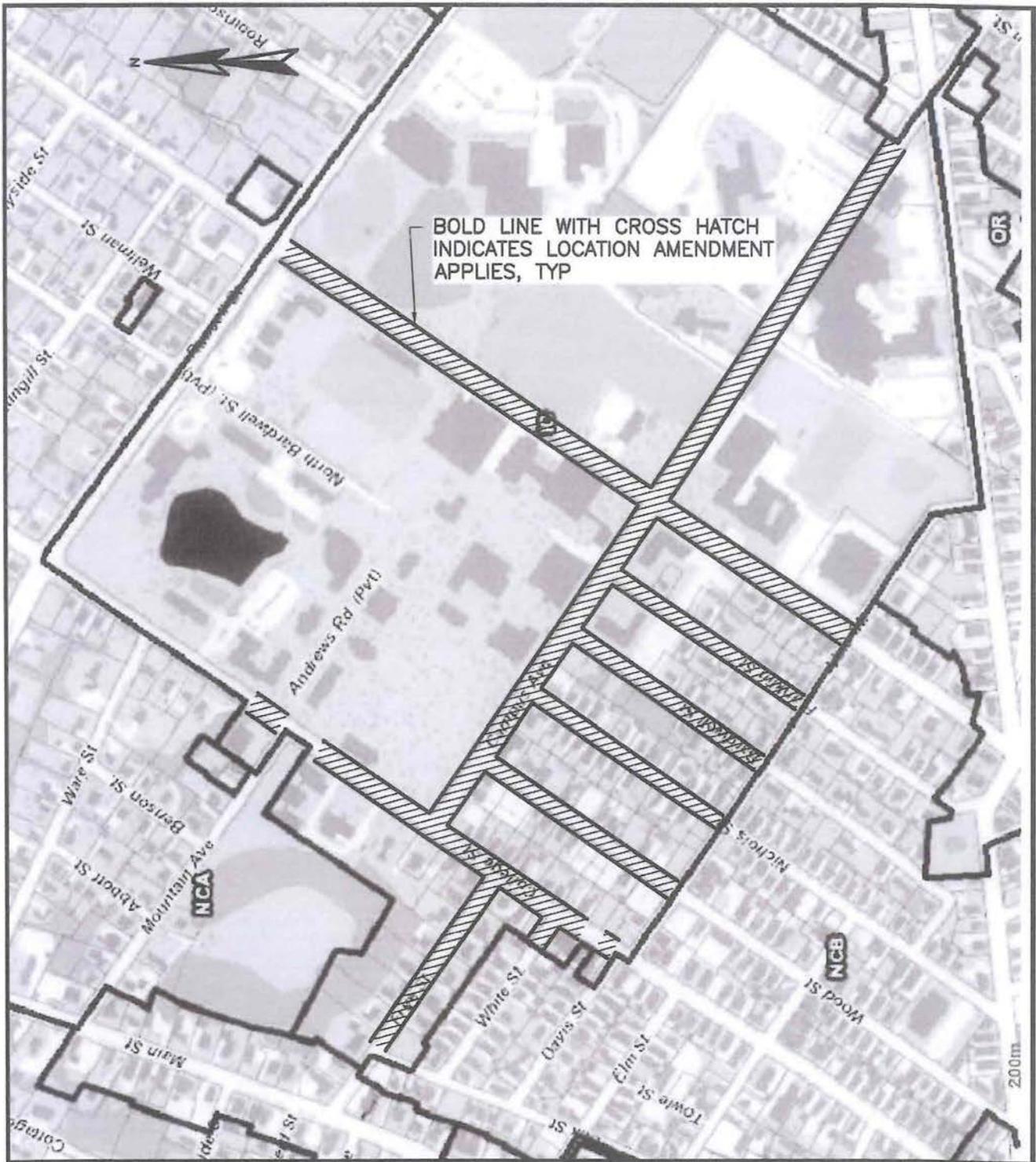
Justification for Proposed Ordinance Amendment

- I. The Zoning and Land Use Code, Article V(3)(f), as quoted below, applies the front yard setback to all street frontage on a lot even if there are multiple frontages, as for a corner lot. In the IO district the front yard setback is 30 feet.

"On a corner lot in any district, a building or structure may face either street, and the front setback and yard shall be between the principal building or structure and the street on which the building or structure is to be numbered. The side setback and yard, between the building and side street, shall meet front setback and yard requirements of the applicable district. Additionally, the rear setback and yard, between the principal building and the abutting property on the side street, shall meet side setback and yard requirements of the applicable district."

- II. The Bates College campus is constrained in area by previously developed land uses surrounding the original campus. Over time, Bates College has acquired additional properties adjoining the campus to allow reuse of the properties and for future expansion. The focus of much of the property acquisition has been in the residential neighborhood south of Campus Avenue.
- III. The surrounding neighborhoods were developed in a residential scale street and lot pattern from the early and mid-1900s, with many of the lots being 50 to 100 feet wide and 100 feet deep. The resulting street layout is in a grid pattern with approximately 200 feet of developable land between the streets.
- IV. Under common ownership, the residential parcels can be combined to create larger overall lots for redevelopment as academic uses. Applying the 30-foot front yard setback to the combined lots with frontage on three streets, as is the case with several of the ends of blocks along Campus Avenue, creates a narrow, 140' wide building window.
- V. The narrow building window is very restrictive for academic scale development, especially when trying to create a building that relates to and integrates into the existing campus north of Campus Avenue.
- VI. Restrictions caused by the narrow building window can drive the academic buildings into "L" or "T" shaped buildings, which are less efficient than rectangular shaped buildings. The narrow building window could also lead to the need for taller buildings to accommodate the required programming space within the narrow building window. The additional height would not be compatible with the scale of the existing campus buildings.
- VII. Turning the short end of a building toward Campus Avenue could lead to parking and other ancillary building functions being accessed and visible from Campus Avenue, which could detract from the presentation of the College to the general traveling public.

- VIII. Recent development of the residence halls in this area required relief from the front yard setback along the side streets, which was previously granted by the Planning Board as part of the site plan review process. The College has been advised by Lewiston's Planning and Code Enforcement Department that the City's mechanism to grant modifications of space and bulk standards that do not meet the dimensional standards otherwise required through the development review process may not be available in the future.
- IX. The existing residential structures in the area south of Campus Avenue in the IO district have existing setbacks on the order of 10 feet, which is significantly less than the required 30-foot front yard setback for new structures in the IO district.
- X. Having as little as a zero setback will allow for building projections and vestibules that extend to the sidewalks, and will add greater functionality and design interest to the structures.
- XI. As mentioned, the College currently owns many, but not all, of the properties within the IO district that are outside the hospital and Lewiston Middle School and Armory properties. The change in the required front yard setback will not harm neighboring properties because the side and rear yard setbacks will remain as they currently exist. Also, development proposals will need to obtain site plan approval from the Lewiston Planning Board, and the process will provide the opportunity to mitigate any potential impacts from a reduced setback.
- XII. The reduction in front yard setback would apply to areas that are primarily internal to the campus and not along the perimeter of the campus. The impacts to neighboring properties is limited by the restriction that both sides of the street need to be in the IO district in order for the setback reduction to apply.
- XIII. The origin of Note 27, which includes the zero front yard setback for certain uses in the IO district, was a desire in 2009 to accommodate the expansion of St Mary's Hospital on Campus Ave. St. Mary's Health System petitioned to amend the zoning and Land Use Code on October 15, 2009 and the amendment was approved by the City Council by a 5-0 roll call vote on December 1, 2009. Note 27 was structured to apply only to hospitals, nursing homes, and medical office buildings, which are existing uses along Campus Avenue within the IO district. Note 27 has provided St Mary's with flexibility over the years as it pursued the building expansion for updating surgical and surgical support facilities. Applying the zero setback to academic institutions in the district is consistent and fair, given this history, because academic institutions do not have any more intensive impact than hospitals, nursing homes, and medical office buildings. It also would allow for the flexibility to develop a consistent relationship between academic buildings and the street within the district, while fitting into the academic campus as well.



BATES COLLEGE LEWISTON, MAINE 04240		NO.	REVISIONS	APP'D
		A		
PROJ NO: 13829A	DATE: AUGUST 2017	B		
WRIGHT-PIERCE Engineering a Better Environment			PROPOSED IO ZONING AMMENDMENT APPLICABILITY	FIGURE: 1

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding unlawful and excessive noise.

INFORMATION:

Noise issues have become a problem in certain neighborhoods, primarily related to social gatherings and parties. At the present time, the only noise regulations the City has in our Code are in the land development code and are intended to regulate noise generated by given uses of properties. In addition, these restrictions do not apply to residential properties. This ordinance has been requested by the Police Department as one action that would assist them in addressing this problem.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 50 "Offenses and Miscellaneous Provisions", Article VII. "Noise", receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the next regularly scheduled City Council meeting for final passage.



COUNCIL ORDINANCE

Ordinance, Amending the Code of Ordinances by Adding Sections 50-13 through 50-15 – Noise.

Whereas, the City has received numerous complaints recently regarding noise that has impacted the quiet enjoyment of residents in certain neighborhoods; and

Whereas, the City's only existing noise regulations are in the Zoning and Land Development Code and are intended to regulate noise generated by non-residential uses; and

Whereas, the Lewiston Police Department has requested that an ordinance governing other sources of excessive, unnecessary, or unusually loud noise;

Now, therefore, the City of Lewiston hereby ordains that

The following sections are hereby added to the Lewiston Code of Ordinances.

Sec. 50-13. Unlawful Noise.

It shall be unlawful for any person or persons to create, assist in creating, continue or allow to continue any excessive, unnecessary, or unusually loud noise which either annoys, disturbs, injures, or endangers the reasonable quiet, comfort, repose, or the health or safety of others within the City of Lewiston. The following acts are declared to be loud, disturbing, injurious, unnecessary, and unlawful noises in violation of this section, but this enumeration shall not be exclusive:

- (a) Radio, Phonograph, Amplified Sound, Musical Instruments, Television, and other Electronically Generated Sound. The playing of any radio, phonograph, television set, amplified or musical instruments, loudspeakers, tape recorder, or other electronic sound producing devices in such a manner or with volume at any time or place so as to annoy or disturb the reasonable quiet, comfort, or repose of persons in any dwelling, hotel, hospital, or other type of residence or in any office of any persons in the vicinity.
- (b) Shouting and Singing. Yelling, shouting, hooting, whistling, singing, or the making of any other loud noises on the public streets between the hours of 11:00 pm and 7:00 am, or the making of any such noise at any time or place so as to annoy or disturb the reasonable quiet, comfort or repose of persons in any dwelling, hotel, hospital, or other type of residence or in any office or of any person in the vicinity.
- (c) Animal Noises. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the reasonable comfort or repose of any person.

- (d) Devices to Attract Attention. The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise. This section shall not apply to any person who is a participant in a school band or a duly licensed parade or who has been otherwise authorized by the City to engage in such activity or to safety devices required for the safe operation of equipment or machinery and which are operated in accordance with manufacturers' instructions.

If the person or persons responsible for the activity that violates section 50-13 cannot be determined, the person in lawful custody and/or control of the premises, including but not limited to the owner, lessee, or occupant of the property on which the activity is located, shall be deemed responsible for the violation.

Sec. 50-14. Exemptions.

None of the terms or prohibitions of the previous sections shall apply or be enforced against:

- (a) Any police or fire vehicle or any ambulance while engaged in necessary emergency business.
- (b) Necessary excavation in or repairs of bridges, streets, or highways, or any utility installation by or on behalf of the City, the State of Maine, or any public utility.
- (c) The reasonable use of amplifiers or loud speakers for public addresses for which a city permit has been granted.
- (d) Noise caused by agricultural, farm-related, or forestry-related activities including but not limited to the operation of farm equipment, sawmills, harvesting equipment, noises from farm animals, and the like.
- (e) Noise associated with non-residential uses that conform to the performance standards of Appendix A, Zoning and Land Use Code, Article XII, Section 19 (2), Noise.

Sec. 50-15. Penalties.

A violation of this section shall be subject to a minimum fine as established by a policy adopted by the City Council. For purposes of Section 50-13, each such act, which either continues or is repeated more than on-half hour after issuance of a written notice of violation, shall be a separate offense and shall be subject to escalating penalties as established by the City Council.

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding nuisance parties.

INFORMATION:

The City and the Police Department have received numerous complaints from the neighborhood near Bates College relating to noise and behavioral issues associated with parties and social gatherings. These issues have also been discussed at several workshops with the City Council and a public meeting hosted in the neighborhood by the Police Department. Among residents' complaints were inappropriate, loud, and disruptive noise from parties making it difficult for neighbors to sleep; public consumption of alcoholic beverages; outdoor urination; public indecency; littering; and vandalism.

Under existing ordinances and laws, disruptive parties are generally dealt with under disturbing the peace regulations. These require the police to first visit and warn the assemblage and, if further problems arise, return for a second visit to issue summons for a criminal violation. This process often results in a resumption of the disruptive event and a demand on police resources to return to the site. This ordinance would authorize the police department to disperse the gathering on the first visit if it is found to exhibit certain inappropriate behaviors.

The ordinance also requires the Police Department to notify the property owner of the nuisance party and to enlist that owner's support to ensure similar events do not occur within a six month period. If landlords do not cooperate, they can potentially be liable and subject to fines.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.



REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendment to the City Code of Ordinances, Chapter 50 "Offenses and Miscellaneous Provisions", Article IX . "Nuisance Parties", receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the next regularly scheduled City Council meeting for final passage.



COUNCIL ORDINANCE

Ordinance, Amending the Code of Ordinances to Adopt New Sections 50-16 through 50-18 – Nuisance Parties.

Whereas, the City and the Police Department have received numerous complaints from the neighborhood near Bates College relating to noise and behavioral issues associated with these parties; and

Whereas, at several workshops with the City Council and a public meeting hosted by the Police Department for the neighborhood, specific complaints were made about inappropriate noise from such parties making it difficult for neighbors to sleep; public consumption of alcoholic beverages; outdoor urination; public indecency; littering; and vandalism; and

Whereas, existing ordinances and laws restrict the ability of the Police Department to immediately address such issues and order that those at the party of social gathering immediately disperse; and

Whereas, many of these parties occur on properties that are leased from landlords who do not live on or near the property; and

Whereas, it is essential that property owners be notified of such disruptive behaviors associated with their tenants and visitors in order to address tenant problem behavior; and

Whereas, in instances where property owners fail to cooperate with the City in eliminating the nuisance, it is appropriate to also hold them accountable for problems associated with their property;

Now, therefore, the City of Lewiston hereby ordains that

The following sections are hereby added to the Lewiston Code of Ordinances.

Sec. 50-16. Nuisance Parties.

- (a) A nuisance party is defined as a social gathering or party which is conducted on premises within the City and which, by reason, in whole or in part, of the conduct of the persons in attendance, results in any one or more of the following conditions or events occurring at the site of the party or social gathering, or on neighboring public or private property:
- (1) disorderly conduct;
 - (2) illegal open container;
 - (3) outdoor urination or defecation in a public place;
 - (4) unlawful sale, furnishing, dispensing or consumption of beer or intoxicating liquor or controlled substance to an underage person;

- (5) illegal use of a controlled substance;
- (6) public indecency in violation of applicable laws;
- (7) unlawful deposit of litter or refuse;
- (8) damage or destruction of property without the consent of the property owner;
- (9) unlawful pedestrian or vehicular traffic;
- (10) unlawful standing or parking of vehicles that obstructs the free flow of traffic on the public streets and sidewalks or that impedes the ability to render emergency services;
- (11) unlawfully loud noise;
- (12) or any other unlawful conduct or condition that threatens injury, inconvenience, or alarm to persons or damage to property.

Such parties are hereby declared to be an unlawful public nuisance.

- (b) **Duty to Control Premises.** Any person who is an owner, occupant, tenant, or otherwise has rightful possession or possessory control, individually or jointly with others, of any premises, who either sponsors, conducts, hosts, invites, or permits a social gathering or party on said premises which is or becomes a nuisance party, as defined in part (a) of this Section, and which nuisance is either the intentional result of, or within the reasonable expectations of, the person or persons having such possessory control is deemed to be in violation of this Section.
- (c) **Order to Cease and Disperse.** A party or social gathering that is or becomes a nuisance party, as defined in part (a) of this Section, shall cease upon the order of the Police Chief, or the Police Chief's designee; and all persons not residing in the site of such social gathering or party shall leave the premises immediately. Any person who fails or refuses to obey and abide by such an order shall be guilty of a violation of this section.
- (d) **Retaliation.** No person shall direct a verbal, physical, or electronic act against the person, family, or property of any individual who complains of or witnesses a violation of the Nuisance Party regulations for the purpose of intimidating or retaliating against that person for the exercise of the right to complain or testify to a violation of this code.

Section 50-17. Owners Failure to Prevent a Second Nuisance Party.

- (a) Within ten (10) days of a nuisance party declaration, the police department shall send the premises owner a notice of nuisance party ordinance violation. The notice shall set forth the date, place, names of occupants/tenants involved, and nature of the violation and shall inform the premises owner of the necessity to take action to prevent future nuisance parties on the premises. Notice shall be given by first class mail using the premises owner's address on file with the City Assessor.
- (b) If a subsequent nuisance party is declared at the same premises within a six (6) month period and the same occupant(s)/tenant(s) are responsible for the second nuisance party, the police department shall send the premises owner a second notice of nuisance party ordinance violation within ten (10) days of the party and the premises owner shall be charged with violating this ordinance and shall be subject to a forfeiture established by the City Council.

1. If the premises owner meets with the Chief of Police or his/her designee within ten (10) days of the issuance of the second notice of nuisance party violation and presents an acceptable abatement plan to abate future nuisance party activity at the premises, the premises owner will not be subject to a forfeiture for the nuisance party that was the subject of the meeting.
- (c) If a third or subsequent party is declared at the same premises within a six (6) month period and the same occupant(s)/tenant(s) are responsible for this party, the Police Chief or his/her designee shall send the premises owner a second notice of nuisance party ordinance violations within ten (10) days of the party, and the premises owner shall be charged with violating this ordinance and shall be subject to a forfeiture as established by the City Council.
 - (d) It shall be an affirmative defense to a charge of violating Section 50-18 (b) or (c) above that the premises owner has evicted or is diligently attempting to evict all tenants and occupants of the property who were responsible for the nuisance parties and/or it can be confirmed that the premises owner was the original complainant to emergency dispatch.
 - (e) The provisions of this section are severable. If any provision of this section is held to be invalid or unconstitutional or if the application of any provision of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the City Council that this section would have been adopted had any invalid or unconstitutional provision or applications not been included herein.

Sec. 50-18. Penalty.

A violation of sections 50-16 and/or 50-17 shall be subject to minimum fines as established by a policy adopted by the City Council.

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding Sex Offender Restricted Zones.

INFORMATION:

The City of Lewiston recognizes that it has an obligation to protect the health, safety, and welfare of its children by prohibiting convicted sex offenders from residing in identified areas within the city where there is a significant concentration of children. The city recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding that certain persons convicted of sex offenses or sexually violent offenses are required to register with the state, the city finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of the ordinance is to provide such further protective measures, while balancing the interests and residential needs of sex offenders.

The Police Department is recommending that the City Council adopt the proposed ordinance.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAR/KMM

REQUESTED ACTION:

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That the proposed amendment to the City Code of Ordinances, Chapter 50 "Offenses and Miscellaneous Provisions", Article X . "Sex Offender Restricted Zone", receive first passage by a roll call vote and that the public hearing for said ordinance be continued to the next regularly scheduled City Council meeting for final passage.



COUNCIL ORDINANCE

Ordinance, Amending the Code of Ordinances by Adding Sections 50-280 through 50-285 – Sex Offender Restricted Zone

The City of Lewiston hereby ordains that

The following sections are hereby added to the Lewiston Code of Ordinances.

Article 11 Sex Offender Restricted Zone

Section 50-280: Purpose

The city of Lewiston recognizes that it has an obligation to protect the health, safety, and welfare of its children by prohibiting convicted sex offenders from residing in identified areas within the city where there is a significant concentration of children. The city recognizes that sex offenders who prey upon children may have a high rate of recidivism. Notwithstanding that certain persons convicted of sex offenses or sexually violent offenses are required to register with the state, the city finds that further protective measures are necessary and warranted to safeguard places where children congregate. The purpose of the ordinance is to provide such further protective measures, while balancing the interests and residential needs of sex offenders.

Section 50-281: Authority

This ordinance is adopted in accordance with the provisions of 30-A M.R.S.A. § 3001 and 30-A M.R.S.A. § 3014, as may be amended from time to time as outlined below.

Section 50-282: Definitions

- A) **Registered Sex Offender** – An individual convicted of a crime against a person under the age of 14 years and, as a result, is required to register pursuant to Title 34-A MRSA Chapter 15
- B) **Sex Offender Restricted Residing Zones** – The city has identified the areas of where significant concentrations of children exist under city ordinance 54-8 "Public drinking of alcoholic beverages prohibited." Also, city ordinance 54-9 "Designation of Drug-Free "Safe Zones" further identifies the locations listed in ordinance 54-8 as "Safe Zones."
- C) **School/Daycare** – Any public or private education facility that provides services to those 17 years or younger or a licensed daycare facility that is clearly marked.

- D) **Residence** – the temporary or permanent occupation or use of a place, including but not limited to a domicile, for the purpose of living, residing, or dwelling.
- E) **Domicile** - the status or attribution of being a permanent resident in a particular jurisdiction. A person can remain domiciled in a jurisdiction even after they have left it, if they have maintained sufficient links with that jurisdiction or have not displayed an intention to leave permanently
- F) **Premises** – shall mean the building structure and any accessory buildings attached to or detached from the primary structure, playground area, playing field, or courts
- G) **Radius** – distance shall be measured from the property line of the school or daycare center, as defined above, closest to a registered sex offender’s residence
- H) **Loiter**
- 1) It shall be unlawful for any person to loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to commit in or upon any public street, public highway, public sidewalk or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto. (Section 50-5)
 - 2) No person shall loiter or lurk in any of the streets or public places adjacent thereto for malicious or unlawful purposes. (Section 50-4(a))
 - 3) No person shall loiter unnecessarily in or about any private dwelling or peep into the window of any private dwelling to the discomfort or alarm of the occupants of such dwelling, the neighbors or any person going to and from such dwelling. (Section 50-4(b))

Section 50-283 Restrictions:

- A) Any person, who is a registered sex offender, as defined above, shall not reside within a 750 foot radius of the property line of a school, daycare center, “safe zone”, or premise as defined above.
- B) No lifetime registrant shall loiter within a 750 foot radius of a school, daycare center, “safe zone”, or premise as defined above.

Section 50-284 Exceptions:

- A) A designated Sex Offender maintaining a residence within the radius from a school, daycare center, "safe zone", or premise as defined above is not in violation if the residence was established and consistently maintained as a residence prior to the date of passage of this ordinance.

A designated Sex Offender is not in violation of this ordinance if the school, daycare center, "safe zone", or premise as defined above is created, moved or enlarged which results in a designated Sex Offender residing within the radius of a school, daycare center, "safe zone", or premise as defined above as long as the residence was in place and consistently maintained prior thereto.

- B) A property owner leasing or renting a residence for use by a designated Sex Offender within the radius of a school, daycare center, "safe zone", or premise as defined above is not in violation if the residence was established and consistently maintained as a residence prior to the passage of this ordinance.

A property owner is not in violation of this ordinance if the school, daycare center, "safe zone", or premise as defined above is created, moved or enlarged which results in a designated Sex Offender residing within the radius of a school, daycare center, "safe zone", or premise as defined above as long as the residence was in place and consistently maintained prior thereto.

Section 50-285 Violation; injunctive relief and penalties:

- A) A designated Sex Offender who, thirty (30) days after written notice from the city of Lewiston, is in violation of Section 4 Subsection 1 of this Ordinance shall be subject to an action brought by the city of Lewiston in District Court or Superior Court to enforce the requirements of this Ordinance.

The city of Lewiston may seek a penalty in the minimum amount of \$500 per day, for each day of violation of Section 4 Subsection 1 of this Ordinance after thirty (30) days.

In the event the city of Lewiston is the prevailing party in any action under this Ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the city of Lewiston

- B) Property Owners who, thirty (30) days after written notice from the city of Lewiston, leases or rents any residence to a designated Sex Offender within the radius of school, daycare center, "safe zone", or premise as defined above shall be subject to an action brought by the city of Lewiston in District Court or Superior Court to enforce the requirements of this Ordinance.

The city of Lewiston may seek a penalty in the minimum amount of \$500 per day, for each day of violation of Section 4 Subsection 1 of this Ordinance after thirty (30) days.

In the event the city of Lewiston is the prevailing party in any action under this Ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the city of Lewiston

- C) Any designated Sex Offender who, after verbal notice from a police officer employed by the city of Lewiston, is in violation of Section 4 Subsection 2 of this Ordinance shall be subject to an action brought by the city of Lewiston in District Court or Superior Court to enforce the requirements of this Ordinance.

The city of Lewiston may seek a penalty in the minimum amount of \$100 per violation, after a police officer or law enforcement officer has ordered that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of Section 4 Subsection 2 of this Ordinance.

In the event the city of Lewiston is the prevailing party in any action under this Ordinance, it shall be entitled to an award of its reasonable attorney's fees, court costs and the costs of any expert witness fees incurred by the city of Lewiston

To: Chief O'Malley
From: Joe Philippon
Subject: Supplemental Sex Offender Proposed Ordinance Report

Chief,

Below is summary of Lewiston Sex Offender data from December 11, 2015 to May 3, 2017 (1 year, 4 months, and 22 days):

- 1) Lewiston has added an additional 39 sex offenders since December 11, 2016
 - a) December 11, 2016 = 147
 - b) May 3, 2017 = 186
 - i) This represents a 26.53% increase in sex offenders residing in Lewiston
- 2) In total, 27 sex offenders were removed from our records between December 11, 2016 to May 3, 2017
- 3) In total, since December 11, 2015 a total of 66 sex offenders have been added to our records
- 4) 45 sex offenders have changed their addresses from December 11, 2016 to May 3, 2017
 - a) 24.19% of Lewiston's sex offenders have changed address between December 11, 2017 to May 3, 2017
- 5) Of the 186 sex offenders as of May 3, 2017:
 - a) 178 had been convicted one offense
 - b) 6 had been convicted of two separate offenses
 - c) 2 had been convicted of three separate offenses
 - i) 4.3% of the sex offenders as of May 3, 2017 had committed more two or more separate offenses

Possible cause for increase of sex offenders in Lewiston:

The city of Auburn passed a Sex Offender Residency Restriction Ordinance on February 27, 2017 and its impact on Lewiston has not been determined, due in part that it has only been in effect for a few months. According to Det. Brochu he believes only one or two offenders from Auburn have moved to Lewiston since the ordinance was enacted.

Legal:

Based on national review Sex Offender Residency Restricted Zones *are constitutional*, but courts have found laws too vague and too restrictive which has resulted in the courts forcing laws to be changed.

Proposed ordinance writing information:

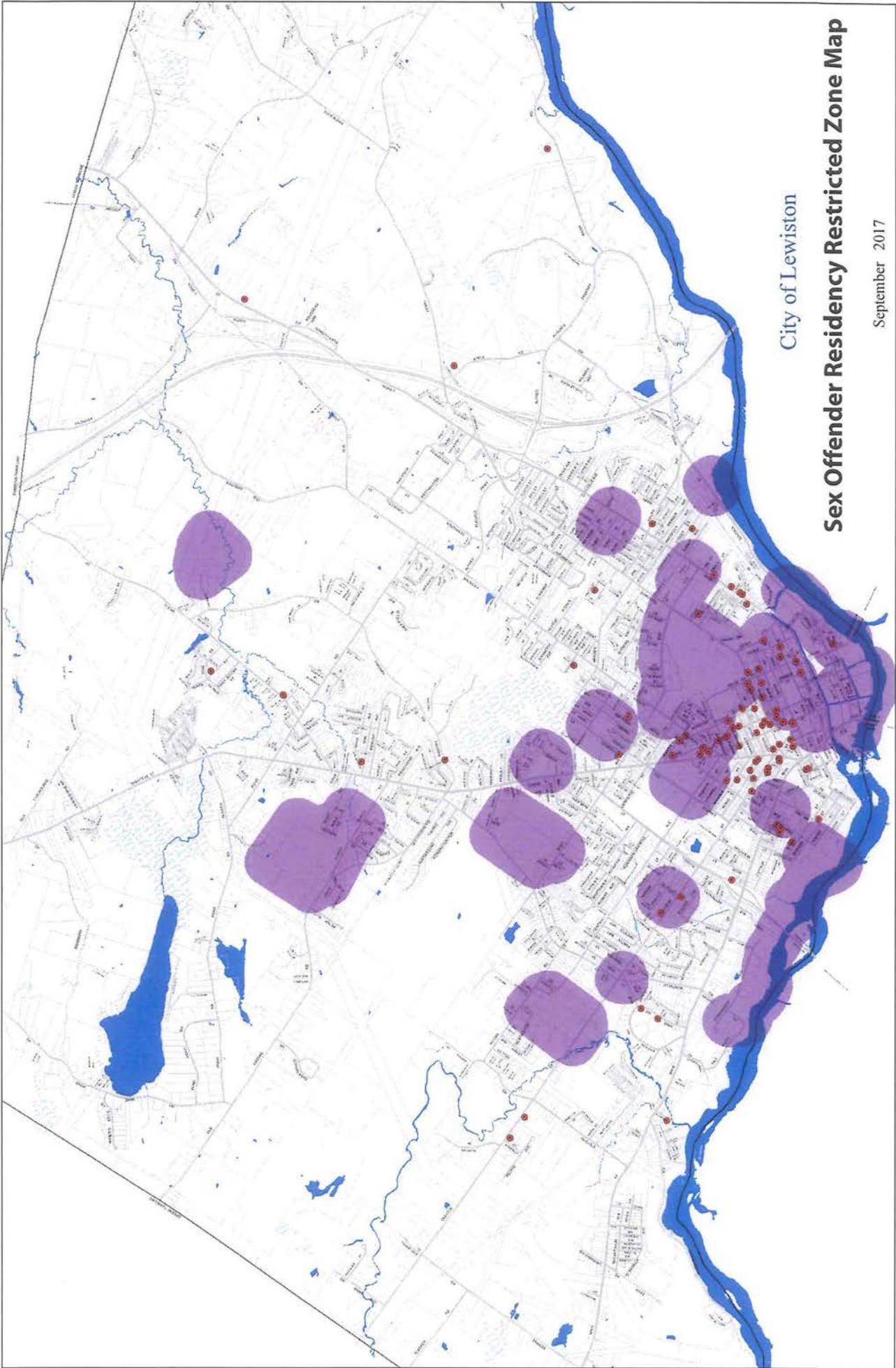
The proposed ordinance was written based on Maine law and what other communities have enacted as local ordinances, and was written using the maximum allowances. There is plenty of room to remove, lessen, and specifically narrow the scoop of how this ordinance is implemented.

G.I.S. mapping:

G.I.S. is capable of developing several versions of the restricted zones that would allow both the department and the public to see where the zones boundaries are and even possibly allow a user to enter an address to see if it is location within or outside of a restricted zone.

Attachments:

I have attached a few articles and reports on the Sex Offender Restricted Zones laws and have highlighted areas of note for your consideration.



City of Lewiston

Sex Offender Residency Restricted Zone Map

September 2017



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Residency Restrictions for Sex Offenders

Residency restriction laws are a fairly new method some jurisdictions are using in an attempt to curb the actions of sex offenders. Alabama passed the first residency restriction law in 1996. The law was part of the states' Community Notification Act. It prohibited child molesters from living within 1,000 feet of a school. By January 2006, approximately 14 states had enacted residency restrictions. Moreover, some local governments have implemented their own residency restrictions.

Critics and supporters of residency restriction laws have watched Iowa's law with interest since its passage in 2002. The Iowa law applies to a "person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor." According to the law, "A person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility." The law does not apply in certain circumstances, including where the "person has established a residence prior to July 1, 2002, or a school or child care facility is newly located on or after July 1, 2002," or where the person is a minor or a ward under a guardianship. It is an aggravated misdemeanor to reside within 2,000 feet of a school or child care.

The Iowa law took effect on July 1, 2002, but was almost immediately challenged in federal district court. The plaintiffs were three named sex offenders who contended that the law was unconstitutional on its face. The case was certified as a class action, on behalf of other sex offenders to whom the law would apply. At trial, the plaintiffs presented evidence regarding the scope of the law. In many cities, the law would effectively limit sex offenders to small areas of residency. In small towns, a single school or child care center could mean that the entire town was off limits. Expert witnesses on both sides testified to their beliefs in the expected efficacy of the law.

The district court enjoined enforcement of the law, and ruled that it was unconstitutional on several grounds, including:

- The law was unconstitutional because it was an ex post facto law for anyone convicted before July 1, 2002;
- It violated plaintiffs' rights to avoid self-incrimination, because registrants would be required to report their addresses, even when the addresses were not in compliance with the law;
- It violated plaintiffs' procedural due process rights;
- It infringed on fundamental rights to travel and decide how to conduct their family affairs; and
- It was not tailored narrowly enough to serve a compelling state interest.

In a ruling dated April 29, 2005, three judges from the United States Eighth Circuit Court of Appeals unanimously voted to reverse the district court's decision. The appellate court dispensed with each ground relied upon by the district court, and ruled that the law was not unconstitutional on its face. The court ruled that there exists no constitutional right to "live where you want." Therefore, the state only needed to show that the statute rationally advanced some legitimate governmental purpose. Plaintiffs acknowledged that the law was enacted to promote the safety of children, and that this was a legitimate legislative goal. They argued, however, that the law is irrational because there is no scientific evidence to support the conclusion that residency restrictions will enhance the safety of children. The court rejected this argument as well, noting that state policymakers are entitled to employ "common sense" when making a determination that "limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense."

Two judges agreed that the law did not amount to an ex post facto punishment. They ruled that plaintiffs did not establish by "clearest proof" that the law's punitive effect overrides the legislature's "legitimate intent to enact a nonpunitive, civil regulatory measure that protects health and safety" of the state's citizens.

Municipalities and counties have enacted their own versions of residency restrictions. For example, in Des Moines, Iowa, the state's largest city, officials added parks, libraries, swimming pools, and recreational trails to the list of protected buffer zones.

A report in the *Des Moines Register* on January 22, 2006, reported that since the state's residency law took effect, more sex offenders are eluding tracking by authorities. The paper reported that 298 sex offenders were unaccounted for in

January 2006, compared to 142 on June 1, 2005. Critics charge that the law has forced some sex offenders to become homeless; others may lie and say that they are homeless to hide the fact that they are not complying with the law. Iowa has approximately 6,000 registered sex offenders.

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NEED TO FIND AN AFFORDABLE,
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DAY CARE; LEGISLATION; STATE BOARDS AND COMMISSIONS; MUNICIPALITIES;
RESIDENCY REQUIREMENTS; SEX CRIMES; MUNICIPAL ORDINANCES; SCHOOLS
(GENERAL);

Location:

SEX OFFENDERS;



May 23, 2007

2007-R-0380

SEX OFFENDERS' RESIDENCY RESTRICTIONS

By: Sandra Norman-Eady, Chief Attorney

You asked for information about state laws and local ordinances that preclude registered sex offenders from residing in or visiting certain areas.

SUMMARY

As of August 2006, at least 21 states and over 400 local governments had adopted sex offender residency restriction laws and ordinances, respectively, according to the California Research Bureau in an August 2006 report entitled *The Impact of Residency Restrictions on Sex Offenders and Correctional Management Practices: A Literature Review*. These laws are modeled after nuisance codes, creating sex offender-free zones like drug-free zones. They typically prohibit sex offenders from living, and sometimes working or loitering, within a specified distance of designated places where children congregate.

Like all states, Connecticut requires sex offenders to register. And like most states, police must notify residents when a sex offender moves or returns to their neighborhoods. But, the state has not enacted a law restricting sex offenders' residency. This could change soon, however. A bill, sHB 5503, currently before the General Assembly requires the Risk Assessment Board to use the risk assessment scale it develops to determine the sex offenders who should be prohibited from living within 1,000 feet of the property comprising an elementary or secondary school or a licensed center- or home-based child day care facility.

Danbury is the only city in this state known to have an ordinance restricting sex offenders' residency. The ordinance prohibits sex offenders from entering a public park, playground, recreation center, bathing beach, swimming pool, sports field, or sports facility.

Proponents of residency restrictions argue the need to safeguard potential victims and opponents argue the need to track offenders. We have found no empirical studies on whether these laws reduce crime rates.

Constitutional challenges to the laws and ordinances have been unsuccessful.

BACKGROUND

States began trying to keep track of sex offenders over 50 years ago, when, in 1947, California enacted the first sex offender registration law. Now all states have sex offender registration laws that help law enforcement agencies keep track of offenders' movements.

In the mid 1990's states, following the federal government's lead, enacted community notification laws that require law enforcement agencies to inform residents of the identity and location of sex offenders in their neighborhoods. These notification laws caused people to complain to their local official when sex offenders moved into their neighborhoods. As a result, five years after the first notification law the first sex offender residency and child safety zone restriction law was enacted in Texas.

SEX OFFENDER RESIDENCY RESTRICTION LAWS AND ORDINANCES

State Laws

At least 21 states have laws restricting where registered sex offenders can visit or live. The most common type of restriction prohibits them from residing within a certain distance of specified places where children congregate. Distance markers generally range from 1,000 to 2,000 feet from the designated place; however, Illinois and South Dakota have 500 foot distance markers. Some states limit the restrictions to offenders (1) convicted of only the most serious offenses (Arkansas, California, Indiana, and Louisiana) or (2) most likely to reoffend based on some type of risk assessment (Minnesota and Washington). Table 1 shows the 22 states, lists their relevant statutes, and describes the ban.

TABLE 1: RESIDENCY RESTRICTIONS BY STATE

States With Sex Offender Residency Restriction Laws		
State	Statutory Citations	Restriction
Alabama	§ 15-20-26(a)	

		A sex offender may not live or work within 2,000 feet of schools or childcare facilities.
Arkansas	§ 5-14-128 (a)	A level 3 or 4 (most serious) sex offender cannot live within 2,000 feet of schools or daycare centers.
California	W&I Code § 6608.5 (f) (2005) Penal Code § 3003 (g) (1) (3)	A sexually violent predator or a serious paroled sex offender cannot live within one-fourth of a mile of a school, and high-risk paroled sex offenders cannot live within one-half mile of a school, daycare center, or place where children congregate.
Florida	§ 947. 1405 (7)(a)(2)	A sex offender whose victim was under 18 years old cannot live within 1,000 feet of schools or places where children congregate.
Georgia	§§ 42-1-13 and 42-1-15	No sex offender may live, work, or loiter within 1,000 feet of any school, childcare facility, school bus stop, or place where minors congregate.
Illinois	§ 5/11-9.3 (b-5)	A child sex offender may not live within 500 feet of a school or school property.
Indiana	§ 11-13-3-4 (g) (2) (A)	A violent sex offender cannot live within 1,000 feet of any school property while on parole.
Iowa	§ 692 (A)(2A)	A sexual offender may not live within 2,000 feet of a school or childcare facility.
Kentucky	§ 17.495	A sex offender may not live within 1,000 feet of a school, childcare facility, ball field, or playground.
Louisiana	§§ 14:91.1 and 15.538	A sexually violent predator and serious paroled sex offender may not live within 1,000 feet of schools or related school activities, including school bus stops for life or duration of parole or probation.
Michigan	§§ 28.721 to 28.732	A sex offender cannot live within 1,000 feet of school safety zone.

Minnesota	MSA Chap. 244.052 et al.	The parole commissioner determines if a level III sex offender may live within 1,500 feet of school zones.
Missouri	§ 589.417	A sex offender may not live within 1,000 feet of a school or childcare facility.
Ohio	§ 2950.031(A)	A sex offender cannot live within 1,000 feet of any school, childcare facility, or place where children gather.
Oklahoma	OSA Tit. 57 § 590	A registered sex offender cannot live within 2,000 feet of a school.

Table 1: --Continued--

States With Sex Offender Residency Restriction Laws		
State	Statutory Citations	Restriction
Oregon	§§ 144.642 (1)(a) and 144.644(2)(a)	The Department of Correction decides where and how close a sex offender can live to a school or daycare center based on a decision matrix.
South Dakota	§ 22-24B	A sex offender cannot live or loiter within 500 feet of community safety zones.
Tennessee	§ 40-39-[2]11(a)-(b)	A sex offender cannot live within 1,000 feet of schools, childcare facilities, or the victim.
Texas	Texas Govt. Code Chap. 508.187 (b)	The state parole board decides how close to a child safety zone a paroled sex offender can live or visit.
Washington	§§ 9.94A.712(6)(a)(ii) and 9.95.425-430	A sex offender convicted of a serious offense with a high-risk assessment (Level II or III) cannot live within a community protection zone (within 880 feet of any school or daycare center)

West Virginia	§ 62-12-26 (b) (1)	A paroled sex offender cannot live within 1,000 feet of a school or childcare facility.
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Source: California Research Bureau/ California State Library, 2006.

Local Ordinances

According to the California Research Bureau, over 400 municipalities have enacted restrictive ordinances, primarily within the past two years. States with known local ordinances include California, Florida, Georgia, Iowa, New Jersey, New York, Texas, Virginia, and Washington. The number of municipalities with such ordinances varies by state but according to the bureau, at least 113 municipalities in New Jersey and 60 in Florida have them. Like state laws, local ordinances on this issue either preclude offenders from certain areas where children are known to congregate or establish distance markers.

Danbury is the only city in Connecticut with such an ordinance. It prohibits child sex offenders who are required to register in this state from being present in any child safety zone. A "child safety zone" is a public park, playground, recreation center, bathing beach, swimming or wading pool, or sports field or facility and surrounding land.

The prohibition does not apply to any person:

1. whose name has been removed from the Department of Public Safety's Sex Offender Registry or from the registry in another state or in the federal or military system by court order or expiration of the registration term or
2. entering into a polling place in a child safety zone to vote if he leaves immediately after voting.

If a police officer reasonably believes a child sex offender is in a child safety zone in violation of the ordinance, the office must ask him to provide his name, address, and telephone number. If the officer's belief is confirmed, he or she must issue the offender a written warning and require him to leave the area. An offender who refuses to leave and subsequent offenders are subject to a \$100 fine for each violation. The fine does not apply if the offender's conduct results in his conviction for a new criminal offense or if his parole or probation is revoked because of it (Danbury City Ord. § 12-27).

ARGUMENTS FOR AND AGAINST RESTRICTIONS

The most powerful and often the single argument in support of safety zones or residency restrictions is that they reduce recidivism rates by keeping potential victims safe and apart from offenders. Opponents argue that these restrictions have a number of unintended consequences. For example, they (1) isolate offenders, often forcing them to live in rural areas that lack jobs, transportation, housing, and treatment; (2) create homelessness, making it difficult for law enforcement officers to track offenders; (3) cause offenders to go underground and not update

registration information; and (4) can prevent offenders from residing with supportive family members who live in the restricted areas.

CONSTITUTIONALITY OF RESIDENCY RESTRICTIONS

Residency restrictions have withstood constitutional challenges in trial and appellate courts in Illinois, Iowa, Ohio, and South Dakota. At issue in these cases collectively was whether the restrictions (1) impose criminal sanctions that penalize offenders whose convictions are final in violation of the *ex post facto* clause of Article I, Section 10, Clause 1, of the U.S. Constitution, (2) violate the constitutionally-protected right to travel, or (3) discriminate against offenders in violation of the 14th Amendment's Equal Protection Clause.

These courts have held that (1) residency restrictions are a form of civil regulation intended to protect children and thus prohibitions on *ex post facto* laws do not apply; (2) the federal constitution does not include a right to live where one chooses; and (3) residency restrictions are rationally related to states' legitimate interests in protecting children from harm (see *Doe v. Miller*, 405 F. 3d 700 (8th Cir. 2005); *State v. Steering*, 701 N.W. 2d 655 (Iowa 2005); *Coston v. Petro*, 398 F. Supp. 2d 878 (S.D. Ohio 2005); and *People v. Leroy*, 357 Ill. App. 3d 530 (2005)).

SN-E:ts

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 12

SUBJECT:

Public Hearing on an application from Dana's Garage, 193 Crowley Road, for an Automobile Graveyard/Junkyard permit.

INFORMATION:

Dana's Garage, 193 Crowley Road, is requesting renewal of their Automobile Graveyard/Junkyard permit.

The Police Department, Code Enforcement Division and Fire Department have approved the application.

The yard has been inspected and meets all local and state requirements.

Approval is recommended.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EJAB/KMM

REQUESTED ACTION:	1	2	3	4	5	6	7	M
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To grant an Automobile Graveyard/Junkyard permit to Dana's Garage, 193 Crowley Road, subject to the condition that no more than 1,000 tires may be stored on the property.

**CITY OF LEWISTON
RENEWAL APPLICATION
FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

DATE OF APPLICATION: _____

PUBLICATION FEE: \$25.00 LICENSE FEE: \$75.00

LICENSE EXPIRES: September 30, 2018

PUBLIC HEARING DATE: SEPTEMBER 19, 2017

NAME OF BUSINESS DANA'S GARAGE

BUSINESS ADDRESS 193 CROWLEY ROAD

CITY/STATE LEWISTON, ME 04240

BUSINESS TELEPHONE 782-0777

NAME OF OWNER(S) NORMAN JALBERT

CONTACT PERSON/GENERAL MANAGER NORMAN JALBERT

HOME ADDRESS 199 CROWLEY ROAD

CITY/STATE LEWISTON, ME 04240

HOME TELEPHONE 7821143

CITY & STATE REGULATIONS

(In accordance with Title 30 A, M.R.S.A., Sections 3751 to 3760, and Chapter 22 of the Code or Ordinances of the City of Lewiston)

Location of Automobile Graveyard/Junkyard 193 CROWLEY ROAD
 LEWISTON, ME 04240
(Street address)

How is yard "screened" - Fence? (Type) TREES Height? _____

Trees? (Type) SOFT & HARDWOOD Embankment? _____

Gully? _____ Hill? Other? _____

How far is edge of "yard" from center of highway? 300 YARDS

Can junk be seen from any part of highway? Yes _____ No

Was junkyard law, requirements and fees explained to you?

Yes ✓ No

When was last permit issued? 2016

To whom? NORMAN JALBERT

How does applicant intend to dispose of tires, fuel tanks, batteries, engine lubricant, transmission fluid, brake fluid and engine coolant:

TIRES DISPOSAL TO BDS, BATTERIES & GAS
TANK BRIMMERS LUBRICANT TO RECLINB
CO.

The undersigned certifies that all of the requirements listed below will be complied with:

1. A visual screen at least six (6) feet in height shall be maintained around all sides of the area where vehicles and junk will be located.
2. All screening & location requirements of Title 30 A, M.R.S.A., Section 3755 have been satisfied.
3. Upon receiving a motor vehicle, the fuel tank, battery shall be removed and the fuel, engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of waste oil and hazardous materials.
4. All federal and state hazardous waste laws and regulations will be satisfied.
5. All required state and/or federal permits will be obtained.
6. No noise, vibration, glare, fumes or odor shall be emitted which is detectable to the normal senses from any abutting property.

SIGNED BY Norman Jalbert

FOR _____
(Name of Company, corporation, partnership or individual)

Lewiston Fire Department



Brian Stockdale
Fire Chief

Bruce McKay
Assistant Chief



August 21, 2017

Kelly Brooks
Deputy City Clerk
City Clerk's Office
27 Pine Street
Lewiston ME 04240

RE: 193 Crowley Rd., Dana's Garage Auto Grave Yard 2017 Permit

Dear Kelly,

I have no issues or concerns regarding **Dana's Auto Grave Yard** located at **193 Crowley Rd.** at this time that prohibits the issuance of their city permit.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Ouellette".

Paul Ouellette
Certified Fire Inspector / Certified Fire Investigator
Lewiston Fire Prevention Bureau

Paul / General Files / 2017 Letters / Dana's Garage Graveyard-Junkyard 2017 Letter / Msw



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly J. Brooks, Deputy City Clerk
FROM: Lt. David St.Pierre, Lewiston PD
REF: Automobile Graveyard/Junkyard Permits (Renewals)
DATED: September 13, 2017

We have researched our records, and have no objections to the issuance of an automobile graveyard/junkyard permit to the following:

Dana's Garage, 193 Crowley Road



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: City Clerks
FROM: David Hediger, City Planner
SUBJECT: Automobile Graveyard/Junkyard Permits
DATE: September 14, 2017

Planning and Code Enforcement staff has inspected the following property for renewal of their license with the following recommendations:

Dana's Garage-193 Crowley Road: This facility is in compliance with the City's requirements and it is recommended the license is granted.

PUBLIC NOTICE

CITY OF LEWISTON

Notice is hereby given that a public hearing will be held by the Municipal Officers of the City of Lewiston on the following applications for Automobile Graveyard/Junkyard Permits. The public hearing will be held on *Tuesday, September 19, 2017*, in the Council Chambers, City Hall, at 7:00 P.M. or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action is taken on said applications.

Grimmel's Industry, 50 River Road

ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway

City of Lewiston, Public Works Dept., 424-482 River Road

Maine Heavy Equipment, 1445 Sabattus Street

Dana's Garage, 193 Crowley Road

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

PUBLISH ON: Thursday, September 14, 2017

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 13

SUBJECT:

Public Hearing on an application from Maine Heavy Equipment Rental, 1445 Sabattus Street, for an Automobile Graveyard/Junkyard permit.

INFORMATION:

Maine Heavy Equipment Rental, 1445 Sabattus Street are requesting renewal of their Automobile Graveyard/Junkyard permit.

The Police Department, Code Enforcement Division and Fire Department have approved the renewal application.

The yard has been inspected and meets all local and state requirements.

Approval is recommended.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EPAB/KMM

REQUESTED ACTION:	1	2	3	4	5	6	7	M
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To grant an Automobile Graveyard/Junkyard permit to Maine Heavy Equipment Rental, 1445 Sabattus Street.

**CITY OF LEWISTON
RENEWAL APPLICATION
FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

DATE OF APPLICATION: 8/23/17

PUBLICATION FEE: \$25.00 LICENSE FEE: \$75.00

LICENSE EXPIRES: September 30, 2018

PUBLIC HEARING DATE: SEPTEMBER 19, 2017

NAME OF BUSINESS Maine Heavy Equipment

BUSINESS ADDRESS 20 Highland Spring Rd.

CITY/STATE Lewiston, ME 04240

BUSINESS TELEPHONE 207-784-7944

NAME OF OWNER(S) Gary St. Laurent

CONTACT PERSON/GENERAL MANAGER Jill Bergeron

HOME ADDRESS _____

CITY/STATE _____

HOME TELEPHONE _____

CITY & STATE REGULATIONS

(In accordance with Title 30 A, M.R.S.A., Sections 3751 to 3760, and Chapter 22 of the Code or Ordinances of the City of Lewiston)

Location of Automobile Graveyard/Junkyard 1445 Sabbath St. Lewiston, ME

(Street address)

How is yard "screened" - Fence? (Type) _____ Height? _____

Trees? (Type) Yes Embankment? _____

Gully? _____ Hill? _____ Other? _____

How far is edge of "yard" from center of highway? 100 feet (+)

Can junk be seen from any part of highway? Yes _____ No X

Was junkyard law, requirements and fees explained to you?

Yes X No _____

When was last permit issued? 9/30/2016

To whom? Maine Heavy Equipment

How does applicant intend to dispose of tires, fuel tanks, batteries, engine lubricant, transmission fluid, brake fluid and engine coolant:

The undersigned certifies that all of the requirements listed below will be complied with:

1. A visual screen at least six (6) feet in height shall be maintained around all sides of the area where vehicles and junk will be located.
2. All screening & location requirements of Title 30 A, M.R.S.A., Section 3755 have been satisfied.
3. Upon receiving a motor vehicle, the fuel tank, battery shall be removed and the fuel, engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of waste oil and hazardous materials.
4. All federal and state hazardous waste laws and regulations will be satisfied.
5. All required state and/or federal permits will be obtained.
6. No noise, vibration, glare, fumes or odor shall be emitted which is detectable to the normal senses from any abutting property.

SIGNED BY *Bill Byrne*

FOR *M* Maine Heavy Equipment
(Name of Company, corporation, partnership or individual)

Lewiston Fire Department



Brian Stockdale
Fire Chief

Bruce McKay
Assistant Chief



August 21, 2017

Kelly Brooks
Deputy City Clerk
City Clerk's Office
27 Pine St.
Lewiston, ME 04240

RE: Gary St. Laurent / Heavy Equipment – Auto Graveyard/ Junkyard 2017 Permit

Dear Kelly,

I have no issues or concerns regarding **Gary St. Laurent / Heavy Equipment Auto Graveyard / Junkyard** located at **1445 Sabattus St.** at this time that prohibits the issuance of their 2017 city permit.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Ouellette".

Paul Ouellette
Certified Fire Inspector / Certified Fire Investigator
Lewiston Fire Prevention Bureau

Paul / General Files / 2017 Letters / Gary St. Laurent / Heavy Equipment Auto Graveyard / Junkyard 2017 Letter / Msw



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly J. Brooks, Deputy City Clerk
FROM: Lt. David St.Pierre, Lewiston PD
REF: Automobile Graveyard/Junkyard Permits (Renewals)
DATED: September 13, 2017

We have researched our records, and have no objections to the issuance of an automobile graveyard/junkyard permit to the following:

Maine Heavy Equipment, 1445 Sabattus Street



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: City Clerks
FROM: David Hediger, City Planner
SUBJECT: Automobile Graveyard/Junkyard Permits
DATE: September 14, 2017

Planning and Code Enforcement staff has inspected the following property for renewal of their license with the following recommendations:

Gary St. Laurent/Maine Heavy Equipment-1445 Sabattus Street: This facility is in compliance with the City's requirements and it is recommended the license is granted.

PUBLIC NOTICE
CITY OF LEWISTON

Notice is hereby given that a public hearing will be held by the Municipal Officers of the City of Lewiston on the following applications for Automobile Graveyard/Junkyard Permits. The public hearing will be held on *Tuesday, September 19, 2017*, in the Council Chambers, City Hall, at 7:00 P.M. or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action is taken on said applications.

Grimmel's Industry, 50 River Road

ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway

City of Lewiston, Public Works Dept., 424-482 River Road

Maine Heavy Equipment, 1445 Sabattus Street

Dana's Garage, 193 Crowley Road

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

PUBLISH ON: Thursday, September 14, 2017

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 14

SUBJECT:

Public Hearing on an application from Grimmel's Industries, 50 River Road, for an Automobile Graveyard/Junkyard permit.

INFORMATION:

Grimmel's Industries, 50 River Road is requesting renewal of their Automobile Graveyard/Junkyard permit.

The Police Department, Code Enforcement Division and Fire Department have approved the renewal application.

The yard has been inspected and meets all local and state requirements.

Approval is recommended.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant an Automobile Graveyard/Junkyard permit to Grimmel's Industries, 50 River Road, subject to the following conditions:

1. The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Saturday.
2. Maintain screening from the Maine Turnpike.

**CITY OF LEWISTON
RENEWAL APPLICATION
FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

DATE OF APPLICATION: 8/23/17

PUBLICATION FEE: \$25.00 LICENSE FEE: \$75.00

LICENSE EXPIRES: September 30, 2018

PUBLIC HEARING DATE: SEPTEMBER 19, 2017

NAME OF BUSINESS Grimmel Industries

BUSINESS ADDRESS 50 River Rd.

CITY/STATE Lewiston, Me.

BUSINESS TELEPHONE 207-784-6754

NAME OF OWNER(S) Gary + Betty Grimmel

CONTACT PERSON/GENERAL MANAGER Cory Prindall

HOME ADDRESS 520 N. Parish Rd.

CITY/STATE Turner, Me.

HOME TELEPHONE 207-713-9262

CITY & STATE REGULATIONS

(In accordance with Title 30 A, M.R.S.A., Sections 3751 to 3760, and Chapter 22 of the Code or Ordinances of the City of Lewiston)

Location of Automobile Graveyard/Junkyard 50 River Rd.

Lewiston, Me. 04240
(Street address)

How is yard "screened" - Fence? (Type) Cyclone Height? 10' Turnp. Ke Side 8' Roadside

Trees? (Type) Pine + Alders Embankment? yes

Gully? _____ Hill? _____ Other? _____

How far is edge of "yard" from center of highway? 150 feet

Can junk be seen from any part of highway? Yes X But mostly only No _____
when leaves are gone

Was junkyard law, requirements and fees explained to you?

Yes X No _____

When was last permit issued? 2016

To whom? Grimmel Industries

How does applicant intend to dispose of tires, fuel tanks, batteries, engine lubricant, transmission fluid, brake fluid and engine coolant:

We do not take any Fluids whatsoever. Batteries are shipped to refinery on pallets to Their spec's we do not buy tires

The undersigned certifies that all of the requirements listed below will be complied with:

1. A visual screen at least six (6) feet in height shall be maintained around all sides of the area where vehicles and junk will be located.
2. All screening & location requirements of Title 30 A, M.R.S.A., Section 3755 have been satisfied.
3. Upon receiving a motor vehicle, the fuel tank, battery shall be removed and the fuel, engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of waste oil and hazardous materials.
4. All federal and state hazardous waste laws and regulations will be satisfied.
5. All required state and/or federal permits will be obtained.
6. No noise, vibration, glare, fumes or odor shall be emitted which is detectable to the normal senses from any abutting property.

SIGNED BY Cory A. P. [Signature]

FOR Grimmel Industries
(Name of Company, corporation, partnership or individual)

Lewiston Fire Department



Brian Stockdale
Fire Chief

Bruce McKay
Assistant Chief



August 21, 2017

Kelly Brooks
Deputy City Clerk
City Clerk's Office
27 Pine Street
Lewiston ME 04240

RE: 50 River Road, Grimmel's Auto Grave Yard / Junkyard 2017 Permit

Dear Kelly:

I have no issues or concerns regarding **Grimmel's Auto Graveyard / Junkyard** located at **50 River Rd.** at this time that prohibits the issuance of their 2017 city permit.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Ouellette".

Paul Ouellette
Certified Fire Inspector / Certified Fire Investigator
Lewiston Fire Prevention Bureau

Paul / General Files / Letters / 2017 Letters / Grimmel's Junkyard - Graveyard 2017 Letter / Msw



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly J. Brooks, Deputy City Clerk
FROM: Lt. David St.Pierre, Lewiston PD
REF: Automobile Graveyard/Junkyard Permits (Renewals)
DATED: September 13, 2017

We have researched our records, and have no objections to the issuance of an automobile graveyard/junkyard permit to the following:

Grimmel's industries, 50 River Road



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: City Clerks
FROM: David Hediger, City Planner
SUBJECT: Automobile Graveyard/Junkyard Permits
DATE: September 14, 2017

Planning and Code Enforcement staff has inspected the following property for renewal of their license with the following recommendations:

Grimmel's Industry – 50 River Road: This facility is in compliance with the City's requirements and it is recommended the license is granted.

PUBLIC NOTICE

CITY OF LEWISTON

Notice is hereby given that a public hearing will be held by the Municipal Officers of the City of Lewiston on the following applications for Automobile Graveyard/Junkyard Permits. The public hearing will be held on *Tuesday, September 19, 2017*, in the Council Chambers, City Hall, at 7:00 P.M. or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action is taken on said applications.

Grimmel's Industry, 50 River Road

ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway

City of Lewiston, Public Works Dept., 424-482 River Road

Maine Heavy Equipment, 1445 Sabattus Street

Dana's Garage, 193 Crowley Road

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

PUBLISH ON: Thursday, September 14, 2017

LEWISTON CITY COUNCIL
MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 15

SUBJECT:

Public Hearing on an application from the Lewiston Public Works Department, 424-482 River Road, for an Automobile Graveyard/Junkyard permit.

INFORMATION:

Lewiston Public Works Department, 424-482 River Road, is requesting renewal of their Automobile Graveyard/Junkyard permit.

The Police Department, Code Enforcement Division and Fire Department have approved the renewal application.

The yard has been inspected and meets all local and state requirements.

Approval is recommended.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

ETAS/KMM

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant an Automobile Graveyard/Junkyard permit to the Lewiston Public Works Department, 424-482 River Road.

**CITY OF LEWISTON
RENEWAL APPLICATION
FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

DATE OF APPLICATION: September 11, 2017

PUBLICATION FEE: \$25.00 LICENSE FEE: \$75.00

LICENSE EXPIRES: September 30, 2018

PUBLIC HEARING DATE: SEPTEMBER 19, 2017

NAME OF BUSINESS City of Lewiston - Public Works

BUSINESS ADDRESS 424 River Rd.

CITY/STATE Lewiston, Maine

BUSINESS TELEPHONE 513-3006

NAME OF OWNER (S) David A. Jones, P.E.
Dir. Public Works

CONTACT PERSON/GENERAL MANAGER Rob Stafford - Superintendent

HOME ADDRESS 103 Adams Ave.

CITY/STATE Lewiston, ME.

HOME TELEPHONE 513-3006

CITY & STATE REGULATIONS

(In accordance with Title 30 A, M.R.S.A., Sections 3751 to 3760, and Chapter 22 of the Code or Ordinances of the City of Lewiston)

Location of Automobile Graveyard/Junkyard City of Lewiston
Solid Waste Facility, 424 River Rd.
(Street address) Chain Link

How is yard "screened" - Fence? (Type) w/ slats Height? 10'
White Pine 8' Earthen

Trees? (Type) Spruce Embankment? Berm.

Gully? _____ Hill? _____ Other? Building

How far is edge of "yard" from center of highway? 480 LF

Can junk be seen from any part of highway? Yes _____ No X

Was junkyard law, requirements and fees explained to you?

Yes X No _____

When was last permit issued? 10-1-2015

To whom? _____

How does applicant intend to dispose of tires, fuel tanks, batteries, engine lubricant, transmission fluid, brake fluid and engine coolant:

Tire- Recycled, Batteries- Recycled,
Engine Lubricant- Recycled, Engine Coolant-
Recycled. Other waste items- not accepted.

The undersigned certifies that all of the requirements listed below will be complied with:

1. A visual screen at least six (6) feet in height shall be maintained around all sides of the area where vehicles and junk will be located.
2. All screening & location requirements of Title 30 A, M.R.S.A., Section 3755 have been satisfied.
3. Upon receiving a motor vehicle, the fuel tank, battery shall be removed and the fuel, engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of waste oil and hazardous materials.
4. All federal and state hazardous waste laws and regulations will be satisfied.
5. All required state and/or federal permits will be obtained.
6. No noise, vibration, glare, fumes or odor shall be emitted which is detectable to the normal senses from any abutting property.

SIGNED BY Robert Stelford 

FOR City of Lewiston, D.P.W.
(Name of Company, corporation, partnership or individual)

Lewiston Fire Department



Brian Stockdale
Fire Chief

Bruce McKay
Assistant Chief



August 21, 2017

Kelly Brooks
Deputy City Clerk
City Clerk's Office
27 Pine St.
Lewiston, ME 04240

RE: Lewiston Public Works Dept. Auto Graveyard / Junkyard 2017 Permit

Dear Kelly,

I have no issues or concerns regarding **Lewiston Public Works Dept. Auto Graveyard / Junkyard** located at **424-482 River Road** at this time that prohibits the issuance of their 2017 city permit.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Ouellette".

Paul Ouellette
Certified Fire Inspector / Certified Fire Investigator
Lewiston Fire Prevention Bureau

Paul / General Files / 2017 Letters / Lewiston Public Works Dept. Auto Graveyard / Junkyard 2017 Letter / Msw



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly J. Brooks, Deputy City Clerk
FROM: Lt David St. Pierre, Lewiston PD
REF: Automobile Graveyard/Junkyard Permits (Renewals)
DATED: September 13, 2017

We have researched our records, and have no objections to the issuance of an automobile graveyard/junkyard permit to the following:

City of Lewiston, Public Works Dept., 424-482 River Road



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: City Clerks
FROM: David Hediger, City Planner
SUBJECT: Automobile Graveyard/Junkyard Permits
DATE: September 14, 2017

Planning and Code Enforcement staff has inspected the following property for renewal of their license with the following recommendations:

Public Works Department-424-482 River Road: This facility is in compliance with the City's requirements and it is recommended the license is granted.

PUBLIC NOTICE

CITY OF LEWISTON

Notice is hereby given that a public hearing will be held by the Municipal Officers of the City of Lewiston on the following applications for Automobile Graveyard/Junkyard Permits. The public hearing will be held on *Tuesday, September 19, 2017*, in the Council Chambers, City Hall, at 7:00 P.M. or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action is taken on said applications.

Grimmel's Industry, 50 River Road

ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway

City of Lewiston, Public Works Dept., 424-482 River Road

Maine Heavy Equipment, 1445 Sabattus Street

Dana's Garage, 193 Crowley Road

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

PUBLISH ON: Thursday, September 14, 2017

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 16

SUBJECT:

Public Hearing on an application from ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway for an Automobile Graveyard/Junkyard permit.

INFORMATION:

ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway is requesting renewal of their Automobile Graveyard/Junkyard permit.

The Police Department, Code Enforcement Division and Fire Department have approved the renewal application.

The yard has been inspected and meets all local and state requirements.

Approval is recommended.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EPB/KMM

REQUESTED ACTION:

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To grant an Automobile Graveyard/Junkyard permit to ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway, subject to the attached conditions.

ReEnergy Lewiston, LLC
(10-1-2017 through 9-30-2018)

1. Permit is granted for storage of construction and demolition debris (CDD), wood waste (includes demolition debris) and oversized bulky waste (OBW). CDD and OBW will consist of wood waste, sheetrock, insulation, metal, wire, aggregate products, dirt, sand, furniture, rugs, plastics, roofing materials, cardboard and any other large burnable household goods. Unacceptable materials are units containing CFC's, universal waste, municipal solid waste (MSW), hazardous materials, asbestos, and medical waste.
2. All wood waste and OBW which is to be placed in storage shall be piled no higher than 30'.
3. The width and length of the piles will be sized as indicated on the plan view of the back yard, but shall be no wider than 90' and no longer than 150'.
4. There shall be no more than nine (9) piles of wood waste and OBW at any time. OBW will not exceed two (2) piles.
5. Access rows or fire lanes shall be maintained between piles with a minimum distance of 30' between piles.
6. The main entrance roadway must be kept at a minimum of 24' of travel way at all times.
7. An additional access road or fire lane shall be maintained from Alfred A. Plourde Parkway at a minimum width of 20' to the storage area at all times.
8. All roads and fire lanes on the facility shall be of all weather surface adequately constructed to support fire apparatus likely to be operated on site at all times.
9. All storage pile locations shall be properly identified by the placement of a pole at the corner of the pile. A mark shall be placed at a height of 30' on the pole.
10. The site shall be designated no smoking throughout except office areas and control room. A no smoking sign shall be placed at the entrance to the facility.
11. Training of employees shall be provided on the use of fire protection equipment and fire reporting procedures on an annual basis.
12. ReEnergy Lewiston, LLC shall conduct a self-inspection of their activities and inspections shall be conducted on a weekly basis. Records of inspections shall be kept on site for Fire Prevention Bureau review when requested.
13. Pine trees shall be planted along the perimeter to provide a buffer and dead and/or missing trees shall be replaced promptly.
14. That the processing of pressure treated wood be done in full compliance with the EPA & DEP regulations.
15. An effective visual screen at least six feet in height shall be located and maintained around all sides of the area where junk is located such that these areas are entirely screened from ordinary view from all directly abutting properties and public ways at all times. The existing 'wood and pole' fence that was adjacent to 32 Plourde Parkway will be replaced with a 'screen-mesh and pole' fence of similar length and height. This new fence shall be properly maintained at all times, including the replacement of the 'screen-mesh and pole' should the material degrade such that an effective visual screen is no longer provided. Given that the proposed screening material represents a non-standard design with limited history on its performance, the City reserves the right to evaluate the screening integrity of the fence bi-annually and if it is determined that it no longer meets the requirements of the City Code of Ordinances, Article XII, Section 22-75(c) (1) and (2) and MRSA Title 30-A §3754-A it will need to be replaced.

**CITY OF LEWISTON
RENEWAL APPLICATION
FOR AUTOMOBILE GRAVEYARD/JUNKYARD PERMIT**

DATE OF APPLICATION: 8/28/17

PUBLICATION FEE: \$25.00 LICENSE FEE: \$75.00

LICENSE EXPIRES: September 30, 2018

PUBLIC HEARING DATE: SEPTEMBER 19, 2017

NAME OF BUSINESS ReEnergy Lewiston, LLC

BUSINESS ADDRESS 38 Alfred A Plourde Prkwy

CITY/STATE Lewiston, ME 04240

BUSINESS TELEPHONE (207) 283-2941

NAME OF OWNER(S) ReEnergy Lewiston, LLC

CONTACT PERSON/GENERAL MANAGER Jason Grant

HOME ADDRESS Same as above

CITY/STATE ME

HOME TELEPHONE (207) 500-1077

CITY & STATE REGULATIONS

(In accordance with Title 30 A, M.R.S.A., Sections 3751 to 3760, and Chapter 22 of the Code or Ordinances of the City of Lewiston)

Location of Automobile Graveyard/Junkyard _____

38 Alfred A Plourde Parkway
(Street address)

How is yard "screened" - Fence? (Type) 1.) Wood & Pole
2.) Screen Pole Height? 15ft

Trees? (Type) White Pine Embankment? Earth in berm

Gully? _____ Hill? _____ Other? _____

How far is edge of "yard" from center of highway? 300 ft ±

Can junk be seen from any part of highway? Yes X No _____

Was junkyard law, requirements and fees explained to you?

Yes X No _____

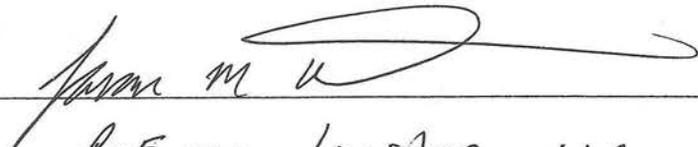
When was last permit issued? 10/1/2018

To whom? ReEnergy Lewiston, LLC

How does applicant intend to dispose of tires, fuel tanks, batteries, engine lubricant, transmission fluid, brake fluid and engine coolant:

Applicant is a construction and demolition (C&D) and
waste processing/Recycling Company and does not solicit
or accept the material, listed above. It is the
applicant's intent to operate the facility in a manner consistent with
the current license with exceptions of one additional condition - see attached
The undersigned certifies that all of the requirements listed below addendum
will be complied with:

1. A visual screen at least six (6) feet in height shall be maintained around all sides of the area where vehicles and junk will be located.
2. All screening & location requirements of Title 30 A, M.R.S.A., Section 3755 have been satisfied.
3. Upon receiving a motor vehicle, the fuel tank, battery shall be removed and the fuel, engine lubricant, transmission fluid, brake fluid and engine coolant shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of waste oil and hazardous materials.
4. All federal and state hazardous waste laws and regulations will be satisfied.
5. All required state and/or federal permits will be obtained.
6. No noise, vibration, glare, fumes or odor shall be emitted which is detectable to the normal senses from any abutting property.

SIGNED BY 

FOR ReEnergy Lewiston, LLC
(Name of Company, corporation, partnership or individual)

Lewiston Fire Department



Brian Stockdale
Fire Chief

Bruce McKay
Assistant Chief



August 21, 2017

Kelly Brooks
Deputy City Clerk
City Clerk's Office
27 Pine St.
Lewiston, ME 04240

RE: ReEnergy Lewiston, LLC, 38 Alfred Plourde Parkway. Auto Graveyard / Junkyard 2017 Permit

Dear Kelly,

I have no issues or concerns regarding **ReEnergy Lewiston** located at **38 Alfred Plourde Parkway** at this time that prohibits the issuance of their 2017 city license.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul Ouellette".

Paul Ouellette
Certified Fire Inspector / Certified Fire Investigator
Lewiston Fire Prevention Bureau

Paul / General Files / 2017 Letters / KTI Auto Graveyard / Junkyard 2017 Letter / Msw



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly J. Brooks, Deputy City Clerk
FROM: Lt. David St.Pierre, Lewiston PD
REF: Automobile Graveyard/Junkyard Permits (Renewals)
DATED: September 13, 2017

We have researched our records, and have no objections to the issuance of an automobile graveyard/junkyard permit to the following:

Re-Energy Lewiston LLC. 38 Alfred A. Plourde Pkwy



CITY OF LEWISTON

Department of Planning & Code Enforcement

TO: City Clerks
FROM: David Hediger, City Planner
SUBJECT: Automobile Graveyard/Junkyard Permits
DATE: September 14, 2017

Planning and Code Enforcement staff has inspected the following property for renewal of their license with the following recommendations:

ReEnergy Lewiston. – 38 Alfred A Plourde Parkway: This facility is in compliance with the City's requirements and it is recommended the license is granted.

PUBLIC NOTICE
CITY OF LEWISTON

Notice is hereby given that a public hearing will be held by the Municipal Officers of the City of Lewiston on the following applications for Automobile Graveyard/Junkyard Permits. The public hearing will be held on ***Tuesday, September 19, 2017***, in the Council Chambers, City Hall, at 7:00 P.M. or as soon thereafter as it may be heard. Any interested person may appear and will be given the opportunity to be heard before final action is taken on said applications.

Grimmel's Industry, 50 River Road

ReEnergy Lewiston, LLC, 38 Alfred A. Plourde Parkway

City of Lewiston, Public Works Dept., 424-482 River Road

Maine Heavy Equipment, 1445 Sabattus Street

Dana's Garage, 193 Crowley Road

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

PUBLISH ON: Thursday, September 14, 2017

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 17

SUBJECT:

Resolve, Authorizing the City Administrator to engage in the services of Napoli Shkolnik, PLLC and Trafton, Matzen, Belleau & Frenette, LLP on behalf of the City of Lewiston with Respect to Prosecution of any Legal Claims Against Manufacturers and Distributors of Opioids Arising out of their Fraudulent and Negligent Marketing and Distribution of Opioids.

INFORMATION: The growing abuse of opioids has reached epidemic proportions in the United States, Maine, and Androscoggin County. This growth can, in part, be attributed to the dramatic increase in the use and availability of prescribed opioids, with a four-fold increase in prescriptions between 1999 and 2013 paralleling a more than four-fold increase in opioid deaths. The effects of this epidemic have been felt strongly in the City of Lewiston. The actions of companies who market and distribute opioid drugs have contributed significantly to these issues through activities including: knowingly claiming that prescription opioids are less addictive and less subject to abuse than other opioid forms; failing to report suspicious orders of drugs; misleading marketing practices; negligence; and generally creating a false perception of the safety and efficacy of opioids in the medical community, much as the actions of tobacco companies contributed to health issues arising from tobacco use. Pursuing a claim against these organizations is intended to recover the City's costs relating to the opioid crisis and to change the practices of those engaged in opioid marketing and distribution. Should the City recover damages through these proceedings, any amounts recovered should be used to support law enforcement, education, and treatment efforts aimed at combating this epidemic.

Napoli Shkolnik, the firm leading this effort, has significant expertise in pharmaceutical litigation on behalf of government entities including municipalities and is working with a local firm on this effort. These firms will be working on a contingency fee basis under which they would receive 25% of net amounts recovered, so this effort will not involve any payment to the firms by the City.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

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To approve the Resolve, Authorizing the City Administrator to engage in the services of Napoli Shkolnik, PLLC and Trafton, Matzen, Belleau & Frenette, LLP on behalf of the City of Lewiston with Respect to Prosecution of any Legal Claims Against Manufacturers and Distributors of Opioids Arising out of their Fraudulent and Negligent Marketing and Distribution of Opioids.



COUNCIL RESOLVE

Resolve, Authorizing the City Administrator to engage the services of Napoli Scholnik, PLLC and Trafton, Matzen, Belleau & Frenette, LLP on behalf of the City of Lewiston with Respect to Prosecution of any Legal Claims Against Manufacturers and Distributors of Opioids Arising out of their Fraudulent and Negligent Marketing and Distribution of Opioids.

Whereas, in 2015, over 300 million prescriptions were written for opioids, which is sufficient to provide every American adult with their own bottle of pills; and

Whereas, opioids have claimed 175,000 lives from 1999 to 2013; and

Whereas, from 1999 to 2010, a four-fold increase in opioid sales paralleled a more than four-fold increase in prescription opioid overdose deaths; and

Whereas, in the United States, prescription opioid abuse costs are estimated at \$55.7 billion annually; and

Whereas, the Maine overdose death rates continue to rise and remain above the U.S. average; and

Whereas, drug deaths in Androscoggin County have increased substantially in recent years and now are similar to average rates throughout Maine; and

Whereas, the effects of the opioid epidemic have been felt strongly at the City level where we are seeing significant financial costs associated with the rise of opioid addiction; and

Whereas, the actions of companies marketing and distributing opioid drugs have contributed significantly to these issues through activities including: knowingly claiming that prescription opioids are less addictive and less subject to abuse than other opioid forms; failing to report suspicious orders of drugs; misleading marketing practices; negligence; and generally creating a false perception of the safety and efficacy of opioids in the medical community; and

Whereas, pursuing a claim against these organizations is intended to recover the City's costs relating to the opioid crisis and to change the practices of those engaged in opioid marketing and distribution; and

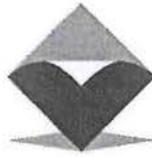
Whereas, should the City recover damages through these proceedings, it is the intention of the City Council that amounts recovered be used to support law enforcement, education, and treatment efforts aimed at combating this epidemic;

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

The City Administrator is hereby authorized to engage the services of Napoli Scholnik, PLLC and Trafton, Matzen, Belleau & Frenette, LLP on behalf of the City of Lewiston with respect to prosecution of any legal claims against manufacturers and distributors of opioids arising out of their fraudulent and negligent marketing and distribution of opioids.

Be it Further Resolved, that

It is the intention of the City Council that any proceeds received from the City as a result of these proceedings be dedicated in full to law enforcement, educational, and treatment efforts aimed at combating the opioid epidemic in our community.



**NAPOLI
SHKOLNIK PLLC**
ATTORNEYS AT LAW

**THIS CONTRACT IS SUBJECT TO ARBITRATION
UNDER THE FEDERAL ARBITRATION ACT**

LEGAL SERVICES CONTRACT

Mail or Fax to:

NAPOLI SHKOLNIK PLLC
Attn: Paul Napoli, Esq.
360 Lexington Avenue, 11th Floor
New York, NY 10017
Telephone: (212) 397-1000
Fax: (646) 843-7603

TRAFTON, MATZEN, BELLEAU & FRENETTE, LLP
Attn: James Belleau, Esq.
Ten Minot Avenue
P.O. Box 470
Auburn, Maine 04212-0470
Telephone: (207) 784-4531
Fax: (207) 784-8738

WHEREAS, the undersigned (“Client”) agrees to retain the law offices of Napoli Shkolnik PLLC and Trafton, Matzen, Belleau, & Frenette, LLP) (“Law Firms”) (collectively, “Parties”) as Client’s attorneys in the prosecution of any legal claim against manufactures and distributors of opioids arising out of the manufacturers’ and distributors’ fraudulent and negligent marketing and distribution of opioids. The Parties specifically agree as follows:

1. **FEE PERCENTAGE:** As consideration for legal services rendered and to be rendered by the Attorneys in carrying out the purpose hereof, Client agrees to pay Law Firm 25% (twenty-five percent) of all net amounts recovered. Further, if the action is certified as a class action, the law firm shall request an award of common benefit fees and compensation to be award within the discretion of the court irrespective of the stated retainer amount. Client assigns, and the Law Firm accepts and acquires as its fee, a proportionate interest in the subject matter of any claim, action, or suit instituted or asserted under the provisions of this agreement. All expenses and costs will be deducted prior to the contingent fee calculation. Any liens and subrogation are to be deducted after the contingent fee is calculated.

2. **DISBURSEMENTS:** The Law Firm shall be reimbursed all reasonable expenses associated with the legal services being rendered including, but not limited to, legal research, long distance telephone calls, fax, postage, copying, travel, litigation, and expert expenses. Costs shall also include, but not be limited to, any “MDL Assessment” imposed by any Multi-District Litigation (“MDL”) Court or withheld from any settlement or favorable



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judgment by any defendant. In addition to the above listed individual costs, there will be common benefit costs. Common benefit costs are costs expended for the common benefit of a group of clients. For example, if a deposition of a defendant expert witness is taken in one case, and this deposition can be used for and/or benefits the claims of many other clients, these costs will be classified as common benefit costs. By using this common benefit cost system, no one client has to solely bear the costs which actually benefit the group as a whole, and many of the most substantial costs of litigation can be shared equally by all. Client grants a special privilege to the Law Firm for their professional fees, expenses, costs, interest, and loans, on all monies and properties recovered or obtained for Client. Client's repayment of costs and expenses is contingent on the outcome from any funds received on the claim in question.

3. **FINANCING OF CASE:** If the firm borrows money from any lending institution to finance the cost of the client's case, the amounts advanced by this firm to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the client's interest will bear interest at the highest lawful rate allowed by applicable law. In no event will the interest be greater than the amount paid by the firm to the lending institution.

4. **TAX ADVICE:** The Client understands that the Law Firm will not provide any advice regarding the tax consequences of accepting money from a settlement or award. CLIENT SHOULD CONTACT A TAX PROFESSIONAL REGARDING ANY TAX CONCERNS REGARDING ANY SETTLEMENT PRIOR TO THE SETTLEMENT.

5. **TERMINATION:** The Law Firm expressly reserves the right to withdraw its representation at any time upon reasonable notification to the Client, subject to applicable ethical rules, if any. Should the Client terminate the Law Firm, the Law Firm shall continue to be entitled to its legal fees on any and all sums recovered as a result of the claims.

6. **APPEALS:** The above contingency fee does not contemplate any appeal. The Law Firm is under no duty to perfect or prosecute any such appeal until a satisfactory fee arrangement is made between the Parties and is reduced to writing regarding costs and attorneys' fees.

7. **COUNTERCLAIMS:** The above contingency fee does not contemplate the Law Firm's representation of Client against any claims made by a person against the Clients. The Law Firm is under no duty to defend or prosecute any such claim or counterclaim until a satisfactory fee arrangement is made between the Parties and is reduced to writing regarding costs and attorneys' fees.

8. **STATUTE OF LIMITATIONS:** Client understands that the Statute of Limitations period for the case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of the entire case. Client understands that statutes of limitation may have run on the case and agrees to hold the Law Firm harmless in the event the applicable statutes of limitation have run for any reason.



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9. **NO GUARANTEE OF FINAL OUTCOME:** No attorney can accurately predict the outcome of any legal matter. Accordingly, the Law Firm makes no express or implied representations as to the final outcome of the matter(s) contemplated by this Agreement. Client further understands that Client must immediately report any changes in Client's address or telephone number to the Law Firm.

10. **APPROVAL NECESSARY FOR SETTLEMENT:** Client hereby grants the Law Firm power of attorney so that the Law Firm may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations, and papers as shall be reasonably necessary to conclude the representation including settlement and/or reducing to possession any and all monies or other things of value due to Client under its claim as fully as the Client could do so. The Law Firm is also authorized and empowered to act as Client's sole negotiator in any and all negotiations concerning the subject of this Agreement. To be clear, all decisions regarding final resolution of the litigation, including settlement, are within the sole power of the Client.

11. **ASSOCIATION OF OTHER ATTORNEYS:** The Law Firm may, at its own expense, use or associate with other attorneys in the representation of the Client. Client understands that the Law Firm is a Professional Limited Liability Company with a number of attorneys. Several of those attorneys may work on Client's case.

12. **ASSOCIATE COUNSEL:** Another attorney may participate in the division of fees in this case and assume joint responsibility for the representation of Client, either in the event that the Law Firm retains associate counsel or in the event that Client later chooses new counsel, provided that the total fee to Client does not decrease as a result of the division of fees and that the attorneys involved have agreed to the division of fees and assumption of joint responsibility.

13. **CLASS ACTION:** Client understands that Attorneys may pursue a class action on behalf of Client and all others similarly situated and client specifically authorizes attorneys to do so. Client understands that Client may serve as a class representative and may be called upon to act in a representative capacity for those who are similarly situated. Client knows of no conflict that would cause Client to be inadequate representative and agrees to vigorously defend the interests of the class if called upon to do so.

14. **MAINE STATE LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of Maine, and the rights, duties and obligations of Client and of the Law Firm's representation of Client and the laws of the State of Maine shall govern regarding anything covered by this Agreement.

15. **ARBITRATION:** Any and all disputes, controversies, claims or demands arising out of or relating to (i) this Agreement; (ii) any provision of this Agreement; (iii) the provision of services by the Law Firm to Client; and (iv) the relationship between the Parties,



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whether in contract, tort or otherwise, at law or in equity, for damages or any other relief, shall be resolved by binding arbitration pursuant to the Federal Arbitration Act in accordance with the Commercial Arbitration Rules then in effect with the American Arbitration Association. Client shall not file a class action against at the Law Firm or seek to assert any claims or demands against the Law Firm by or through a class action, either as the named plaintiff or as a member of the class, but rather shall submit his/her claims or demands to binding arbitration. Any such arbitration proceeding shall be conducted in Androscoggin County, Maine. This arbitration provision shall be enforceable in either federal or state court in Androscoggin County, Maine, pursuant to the substantive federal laws established by the Federal Arbitration Act. Any party to any award rendered in such arbitration proceeding may seek a judgment upon the award and any Court in Androscoggin County, Maine having jurisdiction may enter that judgment.

16. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and there respective heirs, executors, administrators, legal representative, successors and assigns.

17. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable, such invalidity, herein illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained.

18. **PRIOR AGREEMENTS SUPERSEDED:** This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes all prior understandings or written or oral agreement between the Parties respecting the within subject matter, if any.

Client certifies and acknowledges that Client has had the opportunity to read this Agreement. Client further affirms that Client has voluntarily entered into this Agreement, that Client has been advised that Client may seek legal counsel to review this Agreement before signing, and that Client is fully aware of the terms and conditions contained in this Agreement.

SIGNED AND ACCEPTED ON THIS _____ day of _____, 2017

THIS CONTRACT IS SUBJECT TO ARBITRATION
UNDER THE FEDERAL ARBITRATION ACT

Print Client's Name:	Napoli Shkolnik PLLC
Signature:	By:



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ATTORNEYS AT LAW

Address:	TRAFTON, MATZEN, BELLEAU & FRENETTE, LLP
	By:

LEWISTON CITY COUNCIL

MEETING OF SEPTEMBER 19, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 18

SUBJECT:

Potential Action on Personnel Issue Discussed in Executive Session Prior to the Meeting.

INFORMATION:

Prior to the start of the regular meeting, the City Council is scheduled to hold an executive session on a personnel matter. If the City Council needs to take an official action as a result of the discussion in the Executive Session, they would take action under this item.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

This item is tentative in case the Council needs to take formal action.

EAB/kmm

REQUESTED ACTION:

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TO BE DETERMINED