

**LEWISTON CITY COUNCIL AGENDA
CITY COUNCIL CHAMBERS
OCTOBER 17, 2017**

6:00 p.m. Workshop - CDBG Public Participation Plan

6:30 p.m. Workshop - CDBG Reallocation of Funds

7:00 p.m. Regular Meeting

Pledge of Allegiance to the Flag
Moment of Silence

Acceptance of the minutes of the November 1, November 15, December 6 and December 20, 2016, January 3, January 17, January 31, February 7 and February 21, 2017 meetings.

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

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

REGULAR BUSINESS:

1. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Pedro O'Hara's, 134 Main Street.
2. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Lewiston Recreation Division, 65 Central Avenue.
3. Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Midtown Athletic Club, 45 Walnut Street.
4. Public Hearing and Final Passage regarding amendments to the General Assistance Ordinance regarding eligibility.
5. Public Hearing and First Passage regarding an amendment to the Offenses and Miscellaneous Provisions Ordinance regarding Sex Offender Restricted Zones.
6. Public Hearing on the Proposed Lewiston Auburn Consolidation Agreement.
7. Public Hearing and Adopting an amendment to the City's Policy Manual regarding Proposed Amendment to the City's Public Participation Plan for the Community Development Block Grant Program.
8. Public Hearing on Reallocation of Community Development Block Grant Funds.
9. Amendments to the City Policy Manual for Miscellaneous Fees regarding penalties for ordinance violations regarding noise, nuisance parties and poles in sidewalks.
10. Public Hearing and Approval of Resolve to authorize city staff to submit a Brownfield Clean Up Grant for Bates Weave Shed and to accept the federal grant funds if the grant is awarded.
11. Authorization to accept transfer of forfeiture funds.
12. Update from the Lewiston School Committee Representative.
13. Reports and Updates.
14. Any other City Business Councilors or others may have relating to Lewiston City Government.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 1

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for Pedro O'Hara's, 134 Main Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from Pedro O'Hara's, 134 Main Street.

The Police Department has reviewed and approved the application.

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

The business owners have been notified of the public hearing and requested to attend.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to Pedro O'Hara's, 134 Main Street.

CITY OF LEWISTON
APPLICATION FOR SPECIAL AMUSEMENT PERMIT

Date of Application: 10-2-17

Expiration Date: 10/6/2018

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
 Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
 Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
 Class D - \$150.00 - function halls with entertainment, including dancing
 Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
 Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

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

****PLEASE PRINT****

Business Name: Pedro O'HARA TBA Lewiston Business Phone: 783 6200

Location Address: 134 Main St. Lewiston

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

Mailing Address: 134 Main St. Lewiston

Email address: Pedro@PedroOHARA.com

Contact Person: William Welch Phone: 576 2897

Owner of Business: William Welch Chief's LLC Date of Birth: 10-7-52

Address of Owner: 271 West Auburn Rd Auburn, ME

Manager of Establishment: Tim Blw Date of Birth: _____

Owner of Premises (landlord): Robert Esposito

Address of Premises Owner: Roatland, ME

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

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

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

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

Corporation Name: CHIEF'S LLC

Corporation Mailing Address: 134 Main St Lewiston, ME 04240

Contact Person: William Weld Phone: _____

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

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 1/4 mile

Please describe the type of proposed entertainment:

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

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

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

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

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

Signature: William Weld Title: owner Date: 10-2-17

Printed Name: William Weld

Hearing Date: 10/17/17



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. David St.Pierre, Support Services

DT: September 18, 2017

RE: Liquor License/Special Amusement Permit – **Pedro O'Hara's**

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

Pedro O'Hara's

134 Main St., Lewiston, Maine



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www.lewistonpd.org



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LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 2

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Lewiston Recreation Division, 65 Central Avenue.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from the Lewiston Recreation Division, 65 Central Avenue.

The Police Department has reviewed and approved the application.

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

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to the Lewiston Recreation Division, 65 Central Avenue.

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

Date of Application: 10/1/17

Expiration Date: 10/1/18

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
- Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
- Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
- Class D - \$150.00 - function halls with entertainment, including dancing
- Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
- Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

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

****PLEASE PRINT****

Business Name: Lewiston Recreation Division **Business Phone:** 513-3005

Location Address: 65 Central Avenue

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

Mailing Address: 65 Central Avenue

Email address: emarin@lewistonmaine.gov

Contact Person: Cheryl Lynn Morin **Phone:** 5133005

Owner of Business: City of Lewiston **Date of Birth:** -

Address of Owner: 27 Pine St

Manager of Establishment: Jason Hanken **Date of Birth:** -

Owner of Premises (landlord): -

Address of Premises Owner: -

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

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

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

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

Corporation Name: _____

Corporation Mailing Address: _____

Contact Person: _____ Phone: _____

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

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? approximately 200 ft

Please describe the type of proposed entertainment:

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

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

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

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

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

Signature: Cheryl Lynn Marsh Title: Sr. Principal Clerk Date: 10/1/17

Printed Name: Cheryl Lynn Marsh

Hearing Date: 10/17/17



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. David S. Pierre, Support Services

DT: October 05, 2017

RE: Special Amusement Permit – **Lewiston Rec. Department**

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

Lewiston Recreation Department
65 Central Ave.



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www.lewistonpd.org



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LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 3

SUBJECT:

Public Hearing on the renewal application for a Special Amusement Permit for Live Entertainment for the Midtown Athletic Club, 45 Walnut Street.

INFORMATION:

We have received a renewal application for a Special Amusement Permit for Live Entertainment from the Midtown Athletic Club, 45 Walnut Street..

The Police Department has reviewed and approved the application.

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

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To grant a Special Amusement Permit for Live Entertainment to the Midtown Athletic Club, 45 Walnut Street.

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

Date of Application: 10-6-17

Expiration Date: 11/3/2018

- Class A - \$125.00 - restaurants with entertainment, which **does not have dancing**
- Class B - \$125.00 - lounges/bars with entertainment, which **does not have dancing**
- Class C - \$150.00 - either restaurants or lounges/bars with entertainment, including dancing
- Class D - \$150.00 - function halls with entertainment, including dancing
- Class E - \$150.00 - dance hall or nightclub that admits persons under the age of 21
- Class F - \$150.00 - "chem-free" dance hall or nightclub for patrons aged 18 yrs and older, with no liquor

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

****PLEASE PRINT****

Business Name: Midtown Athletic club Business Phone: 207 784-2915

Location Address: 45 Walnut St Lew ME 04240

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

Mailing Address: 45 Walnut St Lew ME 04240

Email address: _____

Contact Person: Carol LeBlanc Phone: 252-2495

Owner of Business: Carol LeBlanc Date of Birth: 11-13-65

Address of Owner: 17 Sand Hill rd

Manager of Establishment: Carol LeBlanc Date of Birth: 11-13-65

Owner of Premises (landlord): Joseph Dunn

Address of Premises Owner: 263 Pine Street Lew ME 04240

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

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

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

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

Corporation Name: Midtown Athletic Club

Corporation Mailing Address: 45 Walnut Street Lew ME 04240

Contact Person: Carol LeBlanc Phone: 252-2456

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

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 1 Floor up 15 feet next building 20 Feet

Please describe the type of proposed entertainment:

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

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

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

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

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

Signature: Carol LeBlanc Title: President Date 10-6-17

Printed Name: Carol LeBlanc

Hearing Date: 10/17/17



POLICE DEPARTMENT

Brian O'Malley
Chief of Police



TO: Kelly Brooks, Deputy City Clerk

FR: Lt. David St.Pierre, Support Services

DT: October 3, 2017

RE: Liquor License/Special Amusement Permit – **Midtown Athletic Club**

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

Midtown Athletic Club

43 Walnut St., Lewiston, Maine



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LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 4

SUBJECT:

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

INFORMATION:

The State DHHS Office has changes and amendments regarding the state General Assistance Program that Sue Charron, Director of Social Services, is recommending that Lewiston amend in our local GA ordinance.

The first set of amendments pertain to disqualification for 120 days for acts of fraud as well as a requirement for the applicant to reimburse the city for GA funds if these had been issued to the applicant.

The second set of amendments pertain to the definition of Registered Domestic Partner, confidentiality of information and liability for burials and cremations.

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

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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That the proposed amendments to the City Code of Ordinances, Chapter 46 "General Assistance" receive final passage by a roll call vote.



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



MEMORANDUM

TO: Mayor Macdonald and Members of the City Council

FR: Sue Charron, Social Services Director

RE: G.A. Ordinance Changes

DT: October 3, 2017

Enclosed are the General Assistance Ordinance changes, regarding Fraud, which were effective in 2015. Enclosed are the additional ordinance changes, regarding financial institutions and legally liable persons, which will be effective November 1, 2017.

General Assistance Ordinance changes effective in 2015.

- In addition to persons being disqualified for fraud for 120 days, they are also responsible for reimbursing the municipality. The penalty is the longer of 120 days and until the reimbursement is made — Article III. Sec. 46-69 Period of disqualification (c) Fraud; and Article IV. Sec. 46-94 Fraud (b) Period of ineligibility.
- Deletion of "up to" (...he has been disqualified from receiving assistance for up to 120 days.) — Article IV. Sec. 46-94 Fraud (b) Period of ineligibility.

General Assistance Ordinance changes effective November 1, 2017.

- Registered Domestic Partner is added to the list of definitions — Article I. Sec. 46-2 Definitions.
- National Banks are required to release account information on deceased persons for determining eligibility on burial and cremation requests — Article I. Sec. 46-3 Confidentiality of Information (c) (1) Information from other sources; penalty; and Article IV Sec. 46-98 Basic necessities; maximum levels of assistance g. Burial, cremations (6).
- Spouse and registered domestic partner are added to the list of legally liable relatives for burials and cremations; and all legally liable relatives are no longer exempt from financial responsibility because they do not reside in or own property in the state of Maine — Article IV. Sec. 46-98 Basic necessities; maximum levels of assistance g. Burial, cremations (6); and Article VI. Sec. 46-147 Relatives.

DHHS requires verification that the municipality has adopted the ordinance changes.

*City Hall • 27 Pine Street • Lewiston, Maine • 04240 • Voice Tel. 207-513-3130 • Fax 207-376-3229
• TTY/TDD 207-784-5999 • Email: scharron@ci.lewiston.me.us*

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

AN ORDINANCE PERTAINING TO GENERAL ASSISTANCE

THE CITY OF LEWISTON HEREBY ORDAINS:

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

CHAPTER 46

GENERAL ASSISTANCE

ARTICLE I. IN GENERAL

Sec. 46-2. Definitions.

Registered Domestic Partner means an individual registered as the domestic partner of the applicant pursuant to 22 M.R.S.A. § 2710.

Sec. 46-3. Confidentiality of information.

(c) *Information from other sources; penalty.*

- (1) Information furnished to the municipality by the department of human services or any other agency or institution pursuant to 22 M.R.S.A. § 4314 is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of records concerning birth, marriage and death.
- (2) Any representative of a financial institution or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. National banks are also obligated to disclose deposit information to the Administrator upon receipt of a written request and release signed by the depositor. Additionally, when a municipality or its agents are acting in accordance with 22 M.R.S.A. §4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased. Any person who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any person who refuses to provide information, without just cause, may be subject to a civil penalty in accordance with the city's policy manual as approved by the city council. Any person, including the applicant, who knowingly and willfully gives false information to the administrator is committing a class E crime.

ARTICLE III. ELIGIBILITY FACTORS

Sec. 46-69. Period of disqualification.

- (c) *Fraud.* People who commit fraud are disqualified from receiving assistance for a period of 120 days (see section 46-94, fraud) and they are required to reimburse the municipality. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision. If a disqualification for fraud is issued before the expiration of a grant of assistance, the period of disqualification shall commence on the day following the end of the period covered by the grant of assistance or on the day the fair hearing authority renders its decision, whichever is later. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of disqualification, unless subsequently modified by the fair hearing authority.

ARTICLE IV. DETERMINATION OF ELIGIBILITY

Sec. 46-94. Fraud.

- (b) *Period of ineligibility.* When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself eligible for general assistance, the administrator shall notify the applicant in writing that he has been disqualified from receiving assistance and is required to reimburse the municipality for any assistance rendered for which he was ineligible and is ineligible from receiving further assistance for ~~up to~~ 120 days and until that reimbursement is made. For the purpose of this section, a "material misrepresentation" is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of disqualification issued by the administrator shall inform the applicant of his right to appeal the administrator's decision to the fair hearing authority within five working days of receipt. Unless modified by the fair hearing authority, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of disqualification, whichever is later.

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

- (b) *Maximum levels of assistance for specific basic necessities.* The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance as set forth in the general assistance policy. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs (*Glidden v. Town of Fairfield, et al, CV79-17, Somerset County Superior Court*). In all cases, either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need. The applicant's need for common living expenses for food, rent, fuel, etc., will be presumed to be reduced by an amount equal to the other household members'

proportionate fair share of the common living expenses. This presumption may be rebutted by evidence that the other household members had no income with which to pay their share of common expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person, or which has been incurred in another person's name.

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

g. *Burial, cremations.*

6. The financial responsibility of certain family members. Spouse, registered domestic partner, Grandparents, parents, children and grandchildren of the deceased, who live in the state or own property in the state, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator, with any reasonable requested information regarding their income, assets, and basic living expenses. If any responsible family members refuse to provide the requested information or refuse to allow the municipality to investigate their resources, the municipality will not grant the requested burial or cremation assistance. If the administrator makes a finding that one or more legally liable relatives has a financial capacity to pay for the burial or cremation, the municipality will not grant the requested burial or cremation assistance. Any representative of a financial institution or any employer of a general assistance applicant who, upon receipt of a written release signed by the depositor and a written request from the Administrator, refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. National banks are also obligated to disclose deposit information to the Administrator upon receipt of a written request and release signed by the depositor. Additionally, when a municipality or its agents are acting in accordance with 22 M.R.S.A. §4313(2) to verify eligibility for funeral or cremation benefits, an officer of a financial institution must disclose the amount deposited upon receipt of a written request from the municipality or its agents and a notarized affidavit signed by the overseer of the municipality or its agents stating that the named depositor is deceased.

ARTICLE VI. RECOVERY OF EXPENSES

Sec. 46-147. Relatives.

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

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

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 5

SUBJECT:

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

INFORMATION:

The City 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 with a significant concentration of children. The city also recognizes that sex offenders who prey upon children may have a high rate of re-offense. 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 offenders.

This item appeared on the City Council agenda of September 19th, at which time it was tabled to the October 17th meeting to allow additional time for staff to gather information and respond to questions. Please see the attached memorandum and attachments which attempts to do so.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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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) **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.

- D) **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
- E) **Premises** – shall mean the building structure and any accessory buildings attached to or detached from the primary structure, playground area, playing field, or courts
- F) **Radius** – distance shall be measured from the property line of the school, as defined above, closest to a registered sex offender’s residence

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, “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, “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, “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, “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, “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, “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, “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 50-283(A) 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 50-283(A) 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, "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 50-283(A) 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



EXECUTIVE

Edward A. Barrett, City Administrator

Denis D'Auteuil, Deputy City Administrator

October 13, 2017

To: Honorable Mayor and Members of the City Council
Fr: Edward A. Barrett
Su: Sexual Offender Residency Limitations

On September 19th, the City Council reviewed the first reading of an ordinance proposed by the Police Department that would place certain residency restrictions on those who have been convicted of certain sexual offenses involving a minor under the age of 14 and who are required to register as a sex offender under Maine law. Such an ordinance is authorized under state law, Title 30-A Section 3014 (attached).

Under the proposed ordinance, any registered sex offender convicted of a crime against a person under the age of 14 would not be permitted to establish a new residence within a 750 foot radius of the property line of a school, "safe zone," or any structure or accessory buildings associated with a playground area, playing field, or recreational courts. Three maps showing the exclusion areas and residents potentially impacted are attached, one showing the location of all registered sex offenders in Lewiston, a second showing those that would be subject to the proposed ordinance restriction, and a third showing a closer view of our downtown residential area.

Reason for Proposed Ordinance

Residential restrictions on certain sex offenders are generally intended to protect children in the community by creating a buffer zone around locations where they might congregate such as schools and parks. Please see the attached summary of research relating to this topic.

In addition, we have seen a recent significant increase in the number of sex offenders locating in the City of Lewiston, many of whom with no prior connections to the community. Of the total number of offenders, 145 (79.7%) have no immediate ties to Lewiston.

Between December 11, 2016 and May 3, 2017:

- 66 additional offenders have located in Lewiston.
- Net of the 27 offenders who have apparently left the community, we have seen a 23.8% increase in total offenders from 147 to 182.
- Of these, 66 are registered for offenses against minors under 14

As a group, we have also found that sex offenders tend to be fairly mobile, with 45 changing their addresses during this time frame.

It appears that one of the driving forces in the recent increase in sex offenders locating in Lewiston may be the proliferation of communities adopting residential restriction ordinances. Cities including Bangor and Augusta have adopted such ordinances, and we have seen some individuals from those areas locate here. In February, Auburn adopted an ordinance and, to date, we believe several offenders have moved to Lewiston.

This increase is placing a burden on the Police Department. When sex offenders locate in Lewiston or when they change residences, our Community Policing Team is required to make the necessary notifications in the residence area. In addition, our detective assigned to sex related offenses is required to periodically monitor these individuals, and his workload is increasing allowing less time to work on other, active cases.

On a weekly basis, Detective Brochu holds between 10 and 20 appointments with offenders. These include:

- Initial meetings with offenders moving to Lewiston and related record keeping (60-90 minutes)
- Meeting with offenders who move within Lewiston (30-45 minutes)
- Appointments for quarterly or annual verifications (15-20 minutes)
- Voice messages/time spent making appointments (15-30 minutes per day)
-

Attached, please find additional information regarding Detective Brochu's workload.

Residential Limitation

Under the proposed ordinance, sex offenders who are required to register for offenses involving those under 14 would not be allowed to establish a residence within a 750 foot radius of a school or a safe zone. The City previously designated safe zones covering all public parks, playgrounds, and recreational facilities. Under that ordinance, anyone found to engage in drug dealing within 1,000 feet of a safe zone is subject to enhanced penalties under Maine State Law. Since these areas are generally frequented by children under 14, sometimes with limited supervision, using these safe zones as a basis for a residential limitation ordinance, along with schools, makes sense.

Assuming this ordinance is adopted, it would potentially impact 129 individuals convicted of an offense against someone 14 years old or younger who currently live in Lewiston. Of these 129 individuals, 35, or roughly 27%, now live in a prohibited zone and will be grandfathered for the time they maintain these residences. Of the 35 potentially affected offenders, only 12 are from Lewiston. This would indicate that the restricted areas are not so extensive as to make locating housing in Lewiston too difficult.

Issues Discussed at Workshop

During the workshop, a number of parties spoke against the ordinance citing a variety of reasons, including studies that have been performed relating to recidivism and residency. Among their comments were:

1. Over 90% of offenders know their victims. Residency restrictions are aimed at the less frequent occurrence of a victim not known by the offender. (Note that, while this may be true, a percentage of offenders do victimize youth who are not known by the offender and many offenses go unreported.)
2. Recidivism rates among offenders have been mischaracterized and are actually significantly lower than frequently stated. (Note: Recidivism rates found in studies have generally been between 8 and 15%. However, these studies generally cover periods limited to one to three years. In addition, such rates do not take into account offenses which go unsolved, so actual rates are likely to be higher.)
3. There is no evidence that sex offender residency restrictions work. Studies have shown little relationship between recidivism rates and residence location.

4. Such restrictions have the effect of driving sex offenders underground where they are not monitored or treated.
5. Residency restrictions provide a false sense of security to parents and the general public;
6. Residency restrictions make it more difficult for offenders to reintegrate into society. They may restrict an offender from living with family members where a more stable environment can be provided. (Note that the Council could consider amending the ordinance to allow restricted offenders to live with family members subject to approval of their probation officers or approval by judicial officials at the time of their release from incarceration.)
7. Residency restrictions are constitutionally suspect and may be deemed unconstitutional. (Note that while some state courts have found portions of specific laws unconstitutional under state constitutions, federal courts have generally upheld residency restrictions. In California, a San Diego County ordinance with a 2,000 foot restriction was thrown out because it left only 3% of multi-unit housing outside of restricted zones. In Michigan, a law was thrown out when it was deemed unconstitutionally vague. Carefully designed, it is likely restrictions would be acceptable under current case law. At the same time, it is clear that courts have begun to exercise stricter scrutiny over such laws and the legal landscape may change, particularly should federal courts change their views on such legislation.)

In summary, while there appears to be a number of unanswered question in the research surrounding sexual offenders, it is clear that we have recently experienced an increase in the number of such offenders locating in Lewiston and that many of them have no ties to the local community. In addition to imposing a less than fully understood risk of reoffending on the community, the numbers we have seen are clearly imposing a burden on the Lewiston Police Department's required monitoring and community notification systems. It appears that at least a portion of this increase is the result of other service center communities such as Bangor, Augusta, and Auburn, adopting such ordinances.

It should also be noted that the ordinance as proposed is not draconian in that it leaves a significant area, including portions of our dense downtown neighborhood, open for residency to those who have offended against those who are 14 years old or younger. As such, it appears to provide a reasonable balance between community safety and the ability of offenders to find housing within the community.

PLEASE NOTE THAT COUNCILOR LYSEN HAS PROVIDED SOME ADDITIONAL INFORMATION THAT IS LISTED BELOW AND CAN BE FOUND TOWARD THE END OF THE ATTACHMENTS.

Attachments: MRSA Title 30-A Section 3014
Restricted Zone Maps (3)
Sexual Offender Registry and Maine's Criminal Classification System
Workload – Detective Assigned to Sex Offenders
General Probation Conditions for Sex offenders
Background Research Compiled by Police Department
FindLaw – Residency Restriction for Sex Offenders
Report to the Connecticut General Assembly – Sex Offender Residency
Restrictions
Letter from ACLU

Provided by Councilor Lysen:
Center for Sex Offender Management – Fact Sheet
Excerpt from Twenty Strategies for Advancing Sex Offender Management in your
Jurisdiction – Kansas Sex Offender Policy Board

Maine Revised Statutes

Title 30-A: MUNICIPALITIES AND COUNTIES

Part 2: MUNICIPALITIES

Subpart 4: ORDINANCE AUTHORITY AND LIMITATIONS

Chapter 141: ORDINANCES

§3014. Ordinances regarding residency restrictions for sex offenders

(REALLOCATED FROM TITLE 30-A, SECTION 3013)

1. Application and scope. The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

[RR 2009, c. 1, §21 (RAL) .]

2. Residency restriction ordinance. A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees. [RR 2009, c. 1, §21 (RAL).]

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned or state-owned property that is leased to a nonprofit organization for purposes of a park, athletic field or recreational facility that is open to the public where children are the primary users.

[2013, c. 161, §1 (AMD).]

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance. [RR 2009, c. 1, §21 (RAL).]

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15. [RR 2009, c. 1, §21 (RAL).]

[2013, c. 161, §1 (AMD) .]

SECTION HISTORY

RR 2009, c. 1, §21 (RAL). 2013, c. 161, §1 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

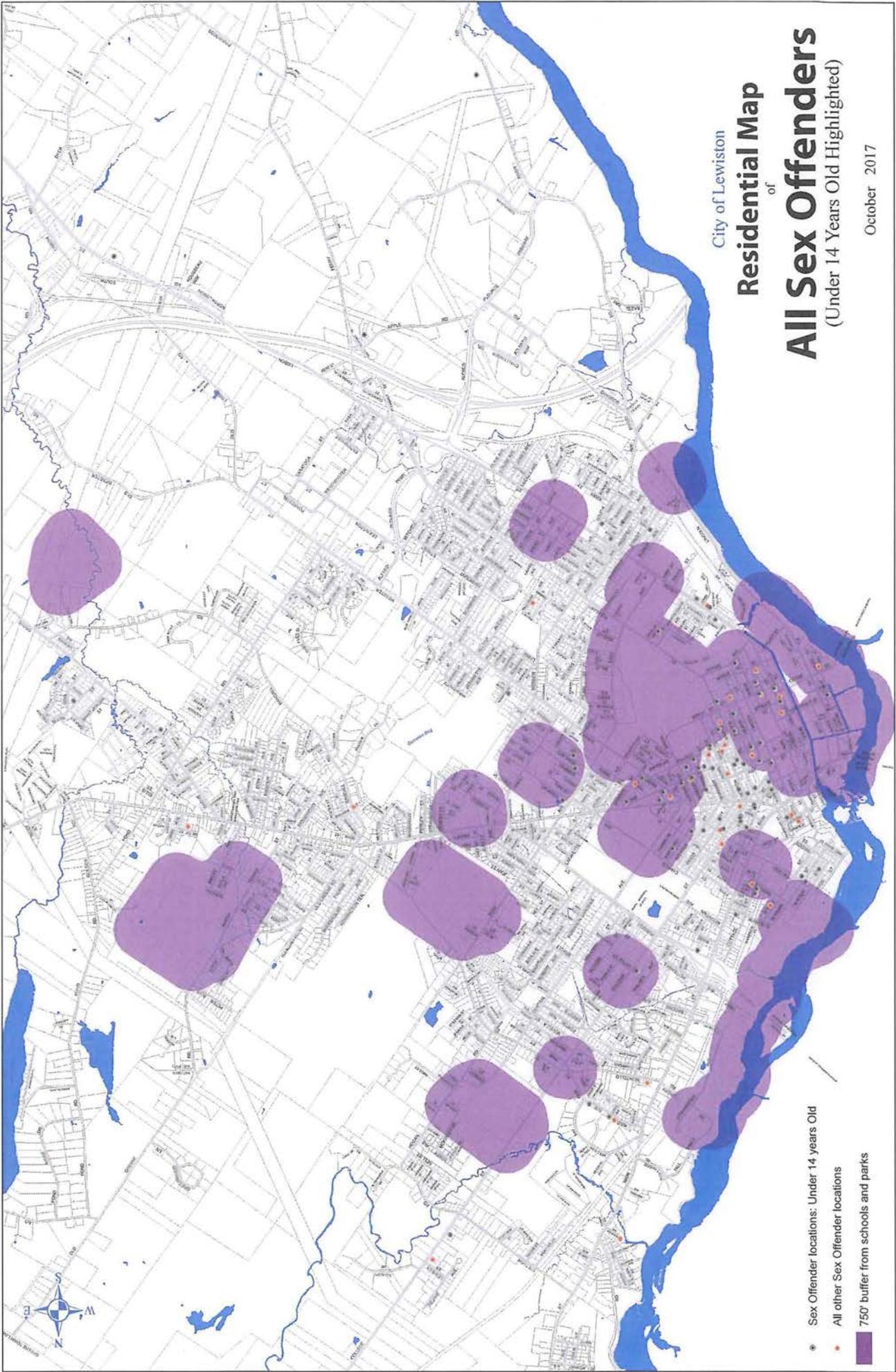
[Office of the Revisor of Statutes \(mailto:webmaster_ros@legislature.maine.gov\)](mailto:webmaster_ros@legislature.maine.gov) • 7 State House Station • State House
Room 108 • Augusta, Maine 04333-0007

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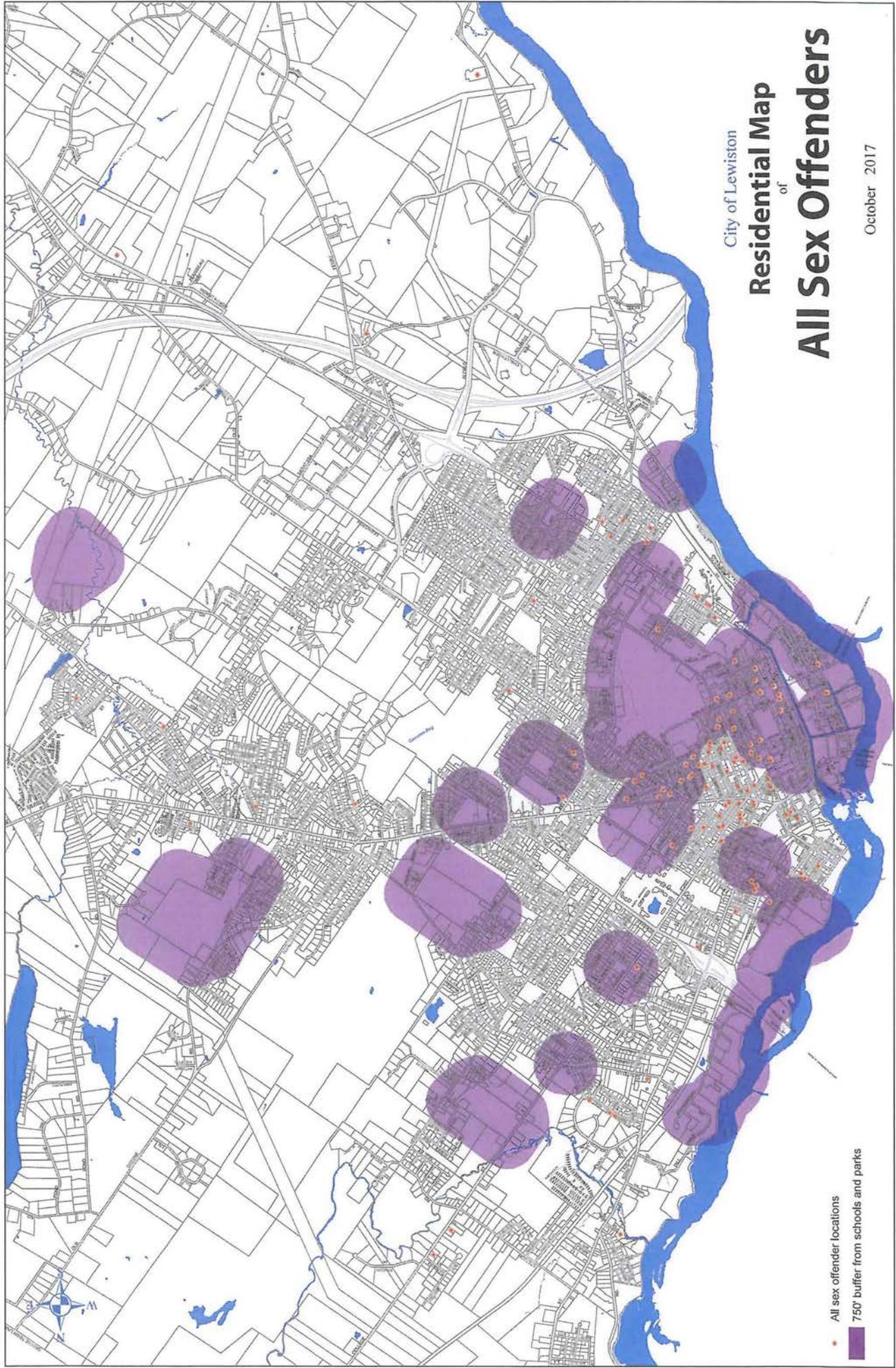
City of Lewiston

Residential Map of All Sex Offenders (Under 14 Years Old Highlighted)

October 2017



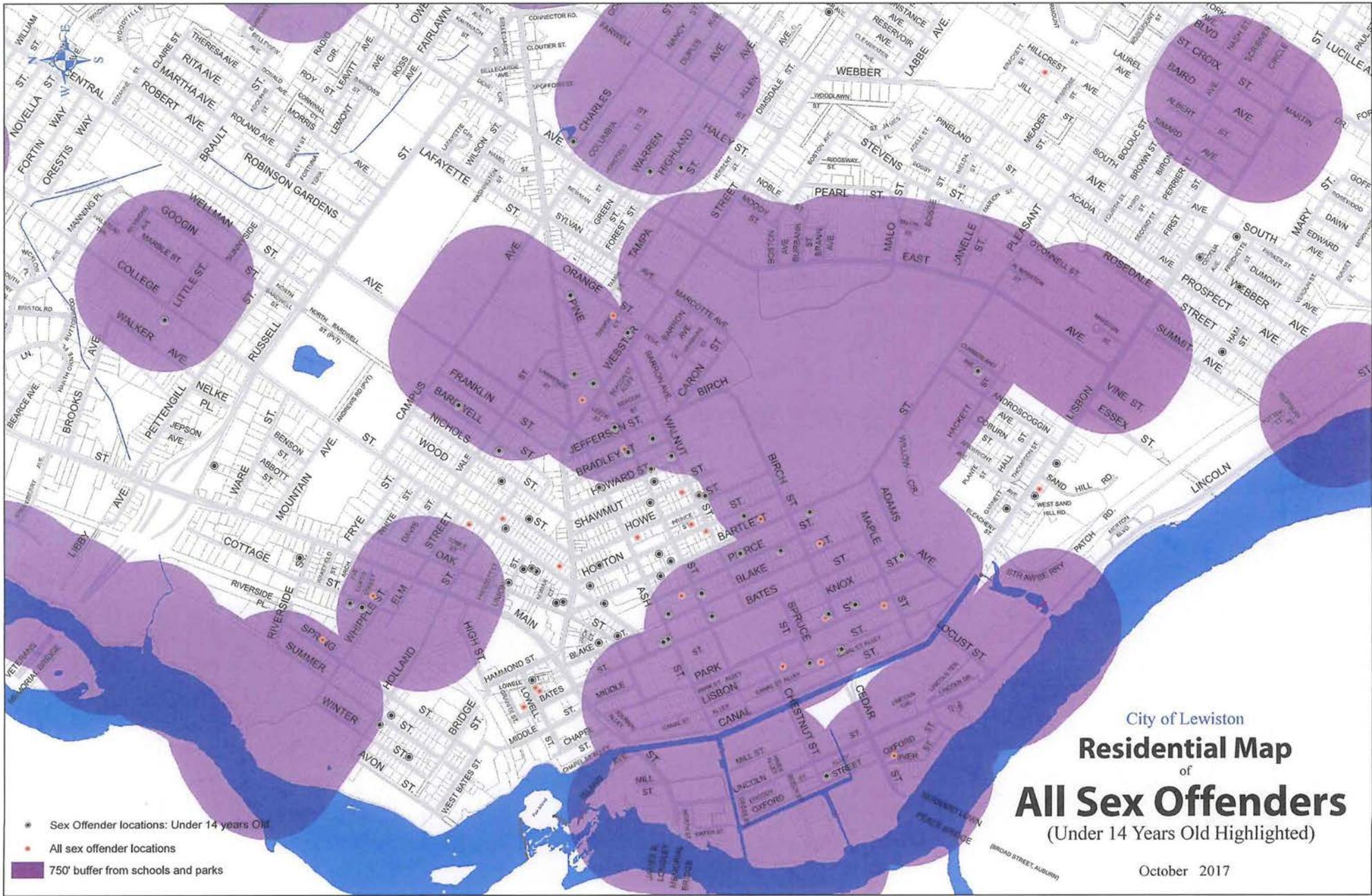
- Sex Offender locations: Under 14 years Old
- All other Sex Offender locations
- 750' buffer from schools and parks



City of Lewiston
Residential Map
of
All Sex Offenders

October 2017

• All sex offender locations
■ 750' buffer from schools and parks



City of Lewiston
Residential Map
 of
All Sex Offenders
 (Under 14 Years Old Highlighted)

October 2017

October 2, 2017

List of Tier classifications that require registration

Laws pertaining to sex offenders were adopted and amended in 1991, 1995, 1999, 2011, and 2013. Sex offender registry (SOR) determines Tier category.

Tier I offense. "Tier I offense" means a conviction for a Class E or Class D crime under the following or for an attempt, solicitation or conspiracy to commit a Class E, Class D or Class C crime under the following if the victim was less than 18 years of age at the time of the criminal conduct unless otherwise specified.

10 year registrant. SOR has to consider other factors for classification.

Tier II offense. "Tier II offense" means a conviction for a Class C crime under the following, or for an attempt, solicitation or conspiracy to commit a Class B crime under the following, if the victim was less than 18 years of age at the time of the criminal conduct unless otherwise specified.

25 year registrant. SOR has to consider other factors for classification.

Tier III offense. "Tier III offense" means a conviction for a Class B or Class A crime under the following or for an attempt, solicitation or conspiracy to commit a Class A crime under the following.

Lifetime registrant. SOR has to consider other factors for classification.

Sexual Assaults

Gross sexual assault 17A-253, Class A,B,C
Sexual abuse of a minor 17A-254, Class C,D,E
Unlawful sexual contact 17A-255, Class A,B,C,D,E
Visual sexual aggression against a child 17A-256, Class C,D
Sexual misconduct with a child under 14 years of age 17A-258, Class C,D
Solicitation of a child to commit a prohibited act 17A-259-A, Class C,D
Unlawful sexual touching 17A-260, Class D,E

Sexual exploitation of Minor

Sexual exploitation of minor 17A-282, Class A,B
Dissemination of sexually explicit material, Class A,B,C
Possession of sexually explicit material, Class B,C,D

Maine's Criminal Classification System

Crimes were traditionally classified as felonies (serious crimes punishable by more than one year in prison) and misdemeanors (less serious crimes punishable by one year or less in jail). Maine no longer uses these categories, but classifies crimes as follows:

- Class E: Crimes punishable by up to six months incarceration and a \$1,000 fine
- Class D: Crimes punishable by up to 364 days incarceration and a \$2,000 fine
- Class C: Crimes punishable by up to 5 years incarceration and a \$5,000 fine
- Class B: Crimes punishable by up to ten years incarceration and a \$20,000 fine
- Class A: Crimes punishable by up to 30 years incarceration and a \$50,000 fine

Some crimes fall outside of these classifications. For example, murder is punishable by a term of imprisonment of between 25 years and life. Special rules may also apply. For example, convicted organizations may be sentenced to pay fines in excess of those listed above.

SEX OFFENDER DETECTIVE WORKLOAD

Appointments with sex offenders vary in time depending on the task required. Weekly there are 10 to 20 appointments with offenders. Below are several examples of meetings with sex offenders.

New registrant to Lewiston: 60-90 minutes

Initial meeting with sex offender moving to Lewiston lasts about 30 minutes. State forms need to be filled out and copied. LPD sex offender registry form is completed. A change of address form is completed and a passport photo is taken.

Another 30-40 minutes is needed to create a file for the offender. CID clerk creates an offense number (OF). All forms are copied and placed into file. Original forms are placed into an envelope to be mailed to Augusta. IMC entry is made with offender's information and a recent passport photo.

Another 15-30 minutes is needed to create a sex offender poster using the IMC program. The poster is emailed to agencies that work with children and the Sun Journal. A packet of posters is given to the CRO team to use during the neighborhood notification. Once the posters have been distributed, the notification data is placed into the offender's file.

Offender who moves or makes changes in Lewiston: 30-45 minutes

Appointment is made to meet with offender. Required State form is completed with changes. Original form is mailed to Augusta. CID clerk creates an offense number (OF). IMC is updated with the changes.

An updated sex offender poster is created. The poster is emailed to agencies that work with children and the Sun Journal. A packet of posters is given to the CRO team to use during the neighborhood notification. Once the posters have been distributed, the notification data is placed into the offender's file.

Appointments for quarterly or annual verifications: 15-20 minutes each

The State mails verification forms to offenders every 90 days, annually, or occasionally every 5 years. If there are no changes, the appointments are brief and require the form to be signed, finger prints taken and a current passport photo.

The form is copied and given to the CID clerk to create a call number. The photo is uploaded and placed into a desktop folder. The photo is then emailed to the registry in Augusta. The original form is placed into an envelope and mailed.

Voice messages: 15-30 minutes per day to playback messages

Weekdays: 5-10 voice messages are left requesting a callback to make appointments.

Weekends: 30 +/- messages left for the same purposes.

All messages require additional time to callback, speak to the offender, and make appointments.

October 2, 2017

General probation conditions for sex offender

Conditions are determined on a case by case basis. The following are general conditions:

- *Approved housing/residency
- *Counseling to include sex offender treatment
- *Random searches & testing
- *No contact with victim(s)
- *No contact with minors under 16 or 18 (case by case)
- *No internet
- *No pornography

Housing must be approved by PO and random checks are done within 30 days

Probation is usually 2 to 5 years, but can be as long as 10 years.

RESEARCH SUPPORTING RESTRICTED CONTACT WITH CHILDREN June 2004

The following is a summary of the research that supports the statements listed below

I. ***“The offense for which a person is convicted is not necessarily a reliable indicator of the offender’s risk to children or victims.”***

A. Knopp, F.H. (1984). *Retraining Adult Sex Offenders: Methods and Models*, Brandon, VT: Safer Society Press.

Gene Abel et. al. conducted a breakthrough study in 1983 which gave us information on the frequency and variety of sexual offending behaviors sex offenders have committed. He received a federal certificate of confidentiality to study sex offenders. Individuals in this study could admit to current offending behaviors without fear that the information would be reported to law enforcement. He studied 411 sex offenders and found that on average over a twelve year period each offender had attempted 581 crimes, completed 533 crimes, had 336 victims, and committed an average of 44 crimes a year. These crimes included hands off sex offenses such as exposing, peeping and obscene phone calls. Additionally, he found that 50.6% of the rapists involved in the study had also molested children.

B. Freeman-Longo, R., Blanchard, G. (1998). *Sexual Abuse in America: Epidemic of the 21st Century*. Brandon, VT: Safer Society Press.

In 1985, Rob Freeman-Longo reported on a group of 23 rapists and 30 child molesters involved in an institutional forensic mental health sex offender program. Arrest records indicated rapists had an average of 1.9 offenses each for a group total of 43 arrests for sex offenses. The 23 rapists as a group admitted committing a total of 5090 various incidents of sex offending behaviors, which included 319 child molestations and 178 rapes. Arrest records indicated child molesters had an average of 1.5 arrests each. While in treatment, the 30 child molesters as a group admitted 20,667 offenses which included 5891 sexual assaults on children and 213 rapes on adult women.

C. Ahlmeyer, S., Heil, P., McKee, B., and English, K. (2000). The Impact of Polygraphy on Admissions of Victims and Offenses of Adult Sex Offenders, *Sex Abuse: A Journal of Research and Treatment*, Vol. 12 (2).

The Colorado Department of Corrections Sex Offender Treatment Program has found similar patterns to those reported by Gene Abel with the sex offenders participating in treatment and polygraph assessment. The program collected data in 1998 on the number of known victims of the first 36 sex offenders to participate in two polygraph evaluations. On average, for each offender there were 2 known victims documented in official records. After the first polygraph exam inmates disclosed on average 165 victims per offender. By the second polygraph exam the same inmates, on average, disclosed 184 victims per offender. These crimes included hands-on 156 sex offenses such as rape and pedophilia as well as hands-off sex offenses such as exhibitionism, voyeurism and obscene phone calls. Approximately 80% of these offenders were still deceptive on their polygraph examinations, suggesting that even more offenses were committed.

D. English, K. (1998). Maximizing the Use of the Polygraph with Sex Offenders: Policy Development and Research Findings, Presentation at the Association for the Treatment of Sexual Abusers 17th Annual Research and Treatment Conference, Vancouver.

In 1998, Kim English analyzed a sample of 83 sex offenders who had participated in polygraph evaluations at the Colorado Department of Corrections. This sample included inmates and parolees. She determined that 48% of the offenders had crossed over in either age (36%) or the

gender (25%) of the victims they offended against-- they had committed offenses with either victims of different ages (adults and children) or victims of different sexes (males and females). Again, 80% of this sample were still scoring deceptive on their polygraph evaluations.

E. Heil, P., Ahlmeyer, S., Simons, D. (2003). Crossover Sexual Offenses, *Sex Abuse* 15(4). Between 1995 and 2001, crossover sexual offenses were analyzed in a larger sample of 223 incarcerated and 266 paroled sexual offenders who participated in polygraph evaluations at the Colorado Department of Corrections. *The majority of incarcerated offenders admitted to sexually assaulting both children and adults from multiple relationship types. In addition, there was a substantial increase in offenders admitting to sexually assaulting victims from both genders. In a group of incarcerated offenders who sexually assaulted children, the majority of offenders admitted to sexually assaulting both relatives and nonrelatives, and there was a substantial increase in the offenders admitting to assaulting both male and female children* (Heil, et al., 2003).

1) Ahlmeyer, S. (1999). Poster Presentation at the Association for the Treatment of Sexual Abusers 18th Annual Research and Treatment Conference, Lake Buena Vista, Florida 1999.

In 1999, Sean Ahlmeyer analyzed a larger sample of 143 inmates who participated in polygraph evaluations at the Colorado Department of Corrections. In this sample, 89 % of the inmates self reported that they had crossed over in the type of the offenses they committed by either: committing offenses with either victims of different ages (adults and children) and/or victims of different sexes (males and females) and/or victims from different types of relationships.

- It was determined that 71% of the total sample acknowledged crossing over in the age of the victims they assaulted.
- Of the offenders who were only known to have child victims in official records, 82% later admitted to also having adult victims.
- Of the offenders who were only known in official records to have adult victims, 50% later admitted to having child victims during the process of polygraph examination.
- It was determined that 51% of the sample acknowledged crossing over in the sex of the victims they assaulted.
- Of the offenders who were only known to have male victims in official records, 58% later admitted to having female victims.
- Of the offenders who were only known to have female victims, 22% later admitted to having male victims.
- It was determined that 86% of the sample acknowledged having victims in two or more of the following categories: relative, stranger, acquaintance, or position of trust.
- Of those offenders who were only known to have offended against non-relative victims, 62% admitted to also having victims who were relatives.

Again the majority of the individuals in this sample (82%) were still scoring deceptive on some areas of their polygraph evaluations, indicating that the percent of cross over may be higher than the numbers self reported by these offenders.

F. Becker, J., and Coleman, E. (1987). "Incest". In *Handbook of Family Violence*, Van Hasselt, ed. New York, NY: Plenum Publishing.

In 1983, Abel et. al. studied incest offenders who had involved themselves sexually with female children. He found that 44% of these offenders had offended against unrelated female children, 11% had offended against unrelated male children, 18% had committed rapes, 18% had committed exhibitionism, 9% had engaged in voyeurism, 5% had engaged in frottage, 4% had engaged in sadism, and 21% had other paraphilias. In this study it was determined that 59% of

the child molesters developed deviant sexual interest during adolescence.

G. Abel, G., Rouleau, J. (1990). "The Nature and Extent of Sexual Assault". In *Handbook of Sexual Assault*, Marshall, W., Laws, D., Barbaree, H., ed. New York, NY: Plenum Publishing. In 1988, Abel et al. conducted an eight year longitudinal study of 561 male sexual assaulters who sought voluntary assessment and/or treatment at the University of Tennessee Center for the Health Sciences in Memphis and at the New York State Psychiatric Institute in New York City. The study collected information on the offenders self reported patterns of deviant sexual behavior under a guarantee of confidentiality which was obtained under Federal Regulation 4110-88-M. After an extensive interview they diagnosed each offender and looked at the percentage of paraphiliacs (individual with a deviant sexual interest) who had multiple paraphilias (more than one type of deviant interest).

H. Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety, March 2000.

The Colorado Division of Criminal Justice (2000), under a National Institute of Justice research grant, analyzed data from 180 sex offender case files in three states that had implemented the post-conviction polygraph to varying degrees (Texas, Oregon, and Wisconsin). The sample included both probation and parole cases. Their research found that polygraph combined with treatment significantly increases the known rate of offending and crossover in sex offenders. After treatment and polygraph, nearly 9 out of 10 sex offenders who were identified as having sex offenses against adults also admitted committing sex offenses against children. Based on a file review, 35 offenders were initially identified as having victims over the age of 18. Prior to treatment and polygraph only 18 (48.6%) of these offenders were identified as having victims under the age of 18. After treatment and polygraph 80 offenders admitted to victims over the age of 18. Seventy of these 80 offenders (87.5%) also admitted to committing a sex offense against someone under the age of 18. Sixty one (76.3%) of the 80 offenders admitted to having victims age thirteen and under.

I. Tanner, J. (1999). Incidence of Sex Offender Risk Behavior During Treatment, Research Project Final Report.

In 1998, Jim Tanner conducted a research study on the polygraph results of 128 sex offenders who were under supervision and participating in offense specific treatment in the community. The sample consisted of 99 offenders with a current charge for a crime against a child and 29 offenders with a current charge for a crime against an adult. Each of the offenders had participated in one baseline and at least one maintenance polygraph examination. The study looked at the offender's behavior between the time period of the baseline polygraph and maintenance polygraph. Based on the polygraph examination results, 31% of the offenders had sexual contact with a minor during the maintenance polygraph time period. The percent of sex offenders with a current charge for a crime against a child who admitted to or was deceptive to sexual contact with a child was 35%. The percent of sex offenders with a current charge for a crime against an adult who admitted to or were deceptive to sexual contact with a child was 17%. Since the majority of the offenders with crimes against adults were not asked on the polygraph exam whether they had sexual contact with a child, the percent who had sexual contact with a child may be under represented. In addition, 25% of the offenders in this study had unauthorized contact with a minor. Twelve percent of the offenders had forced someone to have sex since the baseline examination. Forty one percent were engaging in new sex offense behaviors. Overall, 86% of this sample were engaging in new high risk behaviors and/or new crimes at least 18 months into treatment. On average, each offender was engaging in 2.5 different high risk behaviors.

J. Hanson, R., Harris, A. (1998). Dynamic Predictors of Sexual Recidivism, Department of the Solicitor General Canada.

In 1997, Karl Hanson and Andrew Harris conducted research on dynamic predictors of sexual Re-offense. The following factors were significantly associated with re-offense: General excuses/justifications/low victim empathy, sexual entitlement, attitudes tolerant of rape, attitudes tolerant of child molesting, sees self as no risk, sexual risk factors (pornography, excessive masturbation, deviant sexual fantasies, preoccupation with sex), access to victims, and negative social influences.

K. Hindman, J. (1989). *Just Before Dawn*, Alexandria Association.

In her book, *Just Before Dawn* (1989), Jan Hindman cites research she conducted over 15 years involving 543 victims of child sexual abuse. She found that even in the most severe cases of sexual abuse, child victims frequently are asymptomatic. It may be years before symptoms are triggered in future developmental stages. Hindman's findings also indicate that ongoing demands for a relationship with the offender or his support system, without the benefit of significant intervention, contribute to severe and ongoing traumatic impact as the victim matures. "Sex offenders typically want to create certain elements in the sexually abusive scenario that will reduce their guilt and responsibility. Effort may be exerted to have the victim feel as though he/she has caused the offender to act inappropriately. While this attitude may help the offender rationalize the deed, it has a profound effect on the trauma bonding (continued demands for a relationship with the perpetrator or those significant to the perpetrator, interfering with the victim's capacity to resolve the abuse and feelings about the perpetrator) felt by the victim." "Even if the perpetrator was incapacitated, incarcerated or absent, the victim remained connected and in a trauma bond."

II. "An important aspect of ongoing risk assessment is measuring an offender's ability to comply with the requirements of treatment and supervision."

A. Hanson, R.K., Harris, A. (1998). Dynamic Predictors of Sexual Recidivism.

Department of the Solicitor General Canada. <http://www.sgc.gc.ca>

Karl Hanson and Andrew Harris (1998) conducted research on dynamic predictors of sexual recidivism. Data were collected for this study through interviews with supervising officers of approximately four hundred sex offenders and a review of the officers' case notes. The results indicated that both recidivists and non-recidivists were equally likely to attend sex offense specific treatment programs; however, recidivists were more likely to have dropped-out of the treatment program. In addition, officers described the non-recidivists as more cooperative with supervision than the recidivists. Recidivists were also more often disengaged from treatment and community supervision and missed more scheduled appointments than the non-recidivists.

III. "A growing body of research indicates most sex offenders supervised by the criminal justice system have more extensive sex offending histories, including multiple victim and offense types, than is generally identified in their criminal justice records."

A. Knopp, F.H. (1984). *Retraining Adult Sex Offenders: Methods and Models*, Brandon, VT: Safer Society Press.

Gene Abel et. al. conducted a breakthrough study in 1983 which gave us information on the frequency and variety of sexual offending behaviors sex offenders have committed. He received a federal certificate of confidentiality to study sex offenders. Individuals in this study could admit to current offending behaviors without fear that the information would be reported to law enforcement. He studied 411 sex offenders and found that on average over a twelve year period

each offender had attempted 581 crimes, completed 533 crimes, had 336 victims, and committed an average of 44 crimes a year. These crimes included hands off sex offenses such as exposing, peeping and obscene phone calls. Additionally, he found that 50.6% of the rapists involved in the study had also molested children.

B. Freeman-Longo, R., Blanchard, G. (1998). *Sexual Abuse in America: Epidemic of the 21st Century*. Brandon, VT: Safer Society Press.

In 1985, Rob Freeman-Longo reported on a group of 23 rapists and 30 child molesters involved in an institutional forensic mental health sex offender program. Arrest records indicated rapists had an average of 1.9 offenses each for a group total of 43 arrests for sex offenses. The 23 rapists as a group admitted committing a total of 5090 various incidents of sex offending behaviors which included 319 child molestations and 178 rapes. Arrest records indicated child molesters had an average of 1.5 arrests each. While in treatment, the 30 child molesters as a group admitted 20,667 offenses which included 5891 sexual assaults on children and 213 rapes on adult women.

C. Ahlmeyer, S., Heil, P., McKee, B., and English, K. (2000). The Impact of Polygraphy on Admissions of Victims and Offenses of Adult Sex Offenders, *Sex Abuse: A Journal of Research and Treatment*, Vol. 12 (2).

The Colorado Department of Corrections Sex Offender Treatment Program has found similar patterns to those reported by Gene Abel with the sex offenders participating in treatment and polygraph assessment. The program collected data in 1998 on the number of known victims of the first 36 sex offenders to participate in two polygraph evaluations. On average, for each offender there were 2 known victims documented in official records. After the first polygraph exam inmates disclosed on average 165 victims per offender. By the second polygraph exam the same inmates, on average, disclosed 184 victims per offender. These crimes included hands-on sex offenses such as rape and pedophilia as well as hands-off sex offenses such as exhibitionism, voyeurism and obscene phone calls. Approximately 80% of these offenders were still deceptive on their polygraph examinations, suggesting that even more offenses were committed.

D. English, K. (1998). Maximizing the Use of the Polygraph with Sex Offenders: Policy Development and Research Findings, Presentation at the Association for the Treatment of Sexual Abusers 17th Annual Research and Treatment Conference, Vancouver.

In 1998, Kim English analyzed a sample of 83 sex offenders who had participated in polygraph evaluations at the Colorado Department of Corrections. This sample included inmates and parolees. She determined that 48% of the offenders had crossed over in either age (36%) or the gender (25%) of the victims they offended against-- they had committed offenses with either victims of different ages (adults and children) or victims of different sexes (males and females). Again, 80% of this sample were still scoring deceptive on their polygraph evaluations.

E. Heil, P., Ahlmeyer, S., Simons, D. (2003). Crossover Sexual Offenses, *Sex Abuse* 15(4). Between 1995 and 2001, crossover sexual offenses were analyzed in a larger sample of 223 incarcerated and 266 paroled sexual offenders who participated in polygraph evaluations at the Colorado Department of Corrections. *The majority of incarcerated offenders admitted to sexually assaulting both children and adults from multiple relationship types. In addition, there was a substantial increase in offenders admitting to sexually assaulting victims from both genders. In a group of incarcerated offenders who sexually assaulted children, the majority of offenders admitted to sexually assaulting both relatives and nonrelatives, and there was a substantial increase in the offenders admitting to assaulting both male and female children* (Heil, et al., 2003).

1) Ahlmeyer, S. (1999). Poster Presentation at the Association for the Treatment of Sexual Abusers 18th Annual Research and Treatment Conference, Lake Buena Vista, Florida 1999. In 1999, Sean Ahlmeyer analyzed a larger sample of 143 inmates who participated in polygraph evaluations at the Colorado Department of Corrections. In this sample, 89 % of the inmates self reported that they had crossed over in the type of the offenses they committed by either: committing offenses with either victims of different ages (adults and children) and/or victims of different sexes (males and females) and/or victims from different types of relationships.

- It was determined that 71% of the total sample acknowledged crossing over in the age of the victims they assaulted.
- Of the offenders who were only known to have child victims in official records, 82% later admitted to also having adult victims.
- Of the offenders who were only known in official records to have adult victims, 50% later admitted to having child victims during the process of polygraph examination.
- It was determined that 51% of the sample acknowledged crossing over in the sex of the victims they assaulted.
- Of the offenders who were only known to have male victims in official records, 58% later admitted to having female victims.
- Of the offenders who were only known to have female victims, 22% later admitted to having male victims.
- It was determined that 86% of the sample acknowledged having victims in two or more of the following categories: relative, stranger, acquaintance, or position of trust.
- Of those offenders who were only known to have offended against non-relative victims, 62% admitted to also having victims who were relatives.

Again the majority of the individuals in this sample (82%) were still scoring deceptive on some areas of their polygraph evaluations, indicating that the percent of cross over may be higher than the numbers self reported by these offenders.

F. Becker, J., and Coleman, E. (1987). "Incest". In *Handbook of Family Violence*, Van Hasselt, ed. New York, NY: Plenum Publishing.

In 1983, Abel et. al. studied incest offenders who had involved themselves sexually with female children. He found that 44% of these offenders had offended against unrelated female children, 11% had offended against unrelated male children, 18% had committed rapes, 18% had committed exhibitionism, 9% had engaged in voyeurism, 5% had engaged in frottage, 4% had engaged in sadism, and 21% had other paraphilias. In this study it was determined that 59% of the child molesters developed deviant sexual interest during adolescence.

G. Abel, G., Rouleau, J. (1990). "The Nature and Extent of Sexual Assault". In *Handbook of Sexual Assault*, Marshall, W., Laws, D., Barbaree, H., ed. New York, NY: Plenum Publishing. In 1988, Abel et al. conducted an eight year longitudinal study of 561 male sexual assaulters who sought voluntary assessment and/or treatment at the University of Tennessee Center for the Health Sciences in Memphis and at the New York State Psychiatric Institute in New York City. The study collected information on the offenders self reported patterns of deviant sexual behavior under a guarantee of confidentiality which was obtained under Federal Regulation 4110-88-M. After an extensive interview they diagnosed each offender and looked at the percentage of paraphiliacs (individual with a deviant sexual interest) who had multiple paraphilias (more than one type of deviant interest).

H. Office of Research and Statistics, Division of Criminal Justice, Colorado Department of Public Safety, March 2000.

The Colorado Division of Criminal Justice (2000), under a National Institute of Justice research

grant, analyzed data from 180 sex offender case files in three states that had implemented the post-conviction polygraph to varying degrees (Texas, Oregon, and Wisconsin). The sample included both probation and parole cases. Their research found that polygraph combined with treatment significantly increases the known rate of offending and crossover in sex offenders. After treatment and polygraph, nearly 9 out of 10 sex offenders who were identified as having sex offenses against adults also admitted committing sex offenses against children. Based on a file review, 35 offenders were initially identified as having victims over the age of 18. Prior to treatment and polygraph only 18 (48.6%) of these offenders were identified as having victims under the age of 18. After treatment and polygraph 80 offenders admitted to victims over the age of 18. Seventy of these 80 offenders (87.5%) also admitted to committing a sex offense against someone under the age of 18. Sixty one (76.3%) of the 80 offenders admitted to having victims age thirteen and under.

I. Weinrott, M. & Saylor, M. (1991). Self-Report of Crimes Committed by Sex Offenders, *Journal of Interpersonal Violence*, 6 (3) 286-300.

Data from a self-report survey regarding past criminal behavior was analyzed from over 90 institutionalized sex offenders. Included in this sample were both rapists and child molesters who had been mandated to receive specialized treatment. Results from this study showed both high rates and varieties of non-sexual offenses, and, high rates of previously undetected sexual aggression. In addition, the 99 sex offenders who completed the survey reported that nearly 20,000 non-sexual crimes were committed during the year prior to being institutionalized (rapists contributed to a disproportionate share).

IV. "Research also indicates that children and victims are particularly vulnerable and are unlikely to report or re-report abuse."

A. William Marshall has reported findings from an unpublished project conducted within child protective agencies in Ontario in the mid-1970's. The project was unsystematic in the sense that some, but not all, victims of incest over approximately a three year period were contacted. A child protective services caseworker located a number of children who had reported molestation by a relative. She found that many cases were recanted when the family did not believe the victim, or when the victim was believed but was poorly treated by family members. Once the children had been located, the caseworker asked the children if they would report the incident if they were molested again. Almost 100% answered "no". The reasons they gave included the following: Practically no one believes them when they tell or, if they do believe, they become hostile to the victim for getting the perpetrator in trouble and removing him from where he was needed; the child held him/herself responsible for the father's absence from the family; or the outcome almost always ended up being more devastating to the child than to the perpetrator. (Information presented at the Association for the Treatment of Sexual Abusers Annual Research and Treatment Conference; personal communication with William Marshall 11/6/98)

B. In 1995, Marshall reported that family reunification provides the following risks: Victims may not want the family to reunify, but may feel pressured into it; even after treatment, 80% of families separate within 5 years; there is an increased chance the victim will not report if victimized again; or the victim may get the impression that the family is important and that he/she is not. (Wisconsin Sex Offender Treatment Network, Inc. training tapes; personal communication with William Marshall 11/6/98)

C. Hanson, R.F., et al. (1999). Factors Related to the Reporting of Childhood Rape, *Child Abuse & Neglect*, 23 (6).

The National Women's Study surveyed a representative sample of 4009 adult women in the United States in 1990. They re-interviewed the women in 1991 and in 1992. During the survey 341 women identified that they had been the victim of a childhood rape prior to the age of 18. Rape was defined as any non-consensual sexual penetration of the victim's vagina, anus, or mouth by a perpetrator's penis, finger, tongue, or an object, that involved the use of force, the threat of force, or coercion. Only 44 (13%) of the women ever reported a childhood rape to authorities. Two hundred ninety seven (87%) of the women did not report any of their childhood rapes to authorities. In looking at the victims who did report the rape, a higher percent involved physical injury or life threat. In addition, reported cases were twice as likely to involve an offender who was a stranger to the victim. Unreported cases were more likely to involve an offender who was a relative or an acquaintance of the victim. This is similar to previous research which has found that victims are less likely to report the abuse when the offender is a relative or acquaintance. (Arata, 1998; Ruback, 1993; Williams, 1984; Wyatt & Newcomb, 1990). Whether or not the rape was reported, one third of the victims of childhood rape met the criteria for PTSD-lifetime and one half met the criteria for Major Depression-lifetime.

D. (1992). Rape in America: A Report to the Nation, National Victim Center and Crime Victims Research and Treatment Center, Dept. of Psychiatry and Behavioral Sciences, Medical University of South Carolina.

Rape in America: a Report to the Nation, in 1992 reports findings of a phone survey of 4009 women across the United States. Based on the results of this survey, 1 out of 8 women are estimated to have been the victim of forcible rape sometime in their lifetime. It was determined that 78% of the rapes were committed by someone known to the victim. Only 16% of these rapes were ever reported to the police. Only 30% of the rapes resulted in the victim being physically injured. But, when compared to women who were never sexually assaulted, female sexual assault victims were 3.4 times more likely to have used marijuana; 5.3 times more likely to have used prescription drugs non-medically; 6.4 times more likely to have used hard drugs; 3 times more likely to have had a major episode of depression; 6.2 times more likely to have developed PTSD; 5.5 times more likely to have current PTSD; 4.1 times more likely to have contemplated suicide; and 13 times more likely to have attempted suicide. The majority of these women had not abused alcohol or drugs prior to their sexual assault.

E. Underwood, R., Patch, P., Cappelletty, G., Wolfe, R. (1999). Do Sexual Offenders Molest When Other Persons Are Present? A Preliminary Investigation, *Sexual Abuse: A Journal of Research and Treatment*, Vol. 11(3).

In 1999, Underwood, Patch, Cappelletty, and Wolfe reported on a sample of 113 child molesters. On average, each offender committed 88.6 offenses. Many of the offenders in the sample acknowledged molesting a child while a non-collaborating person was present. The following percentage of the sample engaged in the listed behaviors:

_ Molested one child when another child was present - 54%; another adult was present - 23.9%; a child & adult were present - 14.2%

_ Molested a child when they knew the other person was awake - 44.3%

_ Molested a child when another child was in the same bed - 25.7%; when another adult was in the same bed - 12.4%; when another adult and child were in the same bed - 3.5%

_ The child molesters listed the following reasons for molesting a child while a noncollaborating person is present: increased excitement - 77%; sense of mastery - 77%; compulsive sexual behavior - 75.2%; and stupidity -38.9%.

F. Hindman, J. (1989). *Just Before Dawn*, Alexandria Association.

In her book, *Just Before Dawn* (1989), Jan Hindman cites research she conducted over 15 years involving 543 victims of child sexual abuse. She found that even in the most severe cases

of sexual abuse, child victims frequently are asymptomatic. It may be years before symptoms are triggered in future developmental stages. Hindman's findings also indicate that ongoing demands for a relationship with the offender or his support system, without the benefit of significant intervention, contribute to severe and ongoing traumatic impact as the victim matures. "Sex offenders typically want to create certain elements in the sexually abusive scenario that will reduce their guilt and responsibility. Effort may be exerted to have the victim feel as though he/she has caused the offender to act inappropriately. While this attitude may help the offender rationalize the deed, it has a profound effect on the trauma bonding (continued demands for a relationship with the perpetrator or those significant to the perpetrator, interfering with the victim's capacity to resolve the abuse and feelings about the perpetrator) felt by the victim." "Even if the perpetrator was incapacitated, incarcerated or absent, the victim remained connected and in a trauma bond."

G. Colorado Coalition Against Sexual Assault, <http://www.ccasa.org/statistics.cfm>

"Twenty-four percent (1 in 4) of Colorado women and 6% (1 in 17) Colorado men have experienced a completed or attempted sexual assault in their lifetime. This equates to over 11,000 women and men each year experiencing a sexual assault in Colorado (*Sexual Assault in Colorado: Results of a 1998 Statewide Survey*. 1998. Colorado Department of Public Health and Environment and Colorado Coalition Against Sexual Assault). One thousand seven hundred ninety-four (1,794) rapes were reported to Colorado law enforcement in 1997. If compared to the 1998 Statewide Survey, these reports constitute only 16% of sexual assaults."

H. Cardarelli, A. (1998). Child Sexual Abuse: Factors in Family Reporting, NIJ Reports, No. 209, May/June.

Data involving 156 sexually abused children who were treated at a Family Crisis program associated with Tuft's New England Medical Center in Boston were analyzed. Sixty-two percent of the sample chose not to report the abuse to the police. Of the individuals who did report the abuse, very few were the victims (they were mostly parents or primary caretakers).



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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.

Topic:

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 officer 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)).

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September 18, 2017

Council President Kristen Cloutier
Lewiston City Council
27 Pine Street
Lewiston, ME 04240

RE: Proposed Sex Offender Restricted Zones Ordinance

Dear Council President Cloutier and members of the Lewiston Council,

For nearly 50 years, the ACLU of Maine has been a guardian of liberty, working in courts, with the Maine legislature, and in communities to defend and preserve the individual rights and liberties that the Constitution and our laws guarantee everyone. With over 9,000 members, activists, and supporters, the ACLU of Maine is a statewide organization that fights tirelessly for the principle that every individual's rights must be protected equally under the law. We write to you in opposition of the proposed sex offender restricted zones ordinance.

First, there is no evidence that sex offender residency restrictions work. Research shows that most sex crimes against children are committed by family, acquaintances or others known to the child.¹ Research shows no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children.² Sexual assaults are most often crimes of relationship, not geography. Furthermore, there is no research that shows children are more likely to be victimized by strangers in the areas usually covered by restrictions (schools, churches, etc.) than in other places, and in fact, the places usually covered by restrictions tend to house recovery meetings or support services that can help prevent recidivism for released offenders.

Second, residency restrictions are constitutionally suspect. They may be deemed unconstitutional on one of many grounds - as violations of due process (Fifth and Fourteenth Amendments), violations of the prohibition on unlawful takings (Fifth Amendment), violations of the prohibition on cruel and unusual punishment (Eighth Amendment), violations of right of association (First Amendment), and violation of the ex-post facto prohibition (Article 1 Sections 9 and 10).

Third, residency restrictions have the practical effect of driving sex offenders underground, either off the registry, or to increasingly rural areas, with the result that law enforcement officers

¹ Howard N. Snyder, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics* (Bureau of Justice Statistics, NCJ 182990, 2000).

² See generally Paul A. Zandbergen, Jill S. Levenson, and Timothy C. Hart, *An Empirical Analysis of Sex Offense Recidivism*, 37 *Criminal Justice and Behavior* 482 (2010).

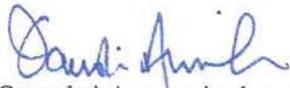
no longer know where offenders are, and offenders are away from important supports and resources. These results undermine public safety.

The proliferation of residency restrictions can create a snowball effect among communities – more and more communities pass more and more restrictive ordinances in an effort to keep sex offenders out as other communities restrict where they can live. In Iowa, for example after increasingly restrictive ordinances, sex offenders were sleeping in cars.³ They became homeless, with no support system and no geographic stability – which is neither good for oversight or for preventing recidivism.

Finally, residency restrictions provide parents and communities with a false sense of security. Parents think that if they know where the offender is on the street, they can protect their children from him, thus keeping their children safe. This creates an illusion of safety because, as already mentioned, most sexual crimes against children are committed by family members or people known by the victim.

Because residency restrictions for sex offenders are “unlikely to resolve the very real social problem of sexual violence and may inadvertently increase victimization,”⁴ we urge the Town Council to reject the proposed ordinance.

Sincerely,



Oamshri Amarasingham, Esq.
Advocacy Director

cc: Mayor Robert Macdonald
Kathy Montejo, City Clerk
Ed Barrett, City Administrator

³ This is what led the Iowa County Attorneys Association to issue a statement in January 2006 stating Iowa’s restrictions law “does not provide the protection that was originally intended and that the cost of enforcing the requirement and the unintended effects on families of offenders warrant replacing the restrictions with more effective protective measures.”

⁴ Making Sense out of Nonsense: The Deconstruction of State-Level Sex Offender Residence Restrictions. *American Journal of Criminal Justice*; vol. 33, Number 2. October 2008, 209-222.

THE FOLLOWING INFORMATION HAS BEEN
PROVIDED BY
COUNCILOR LYSEN

This fact sheet highlights key issues related to sex offenses and the management of sex offenders who are under the control of the justice system. It is prepared for members of the public who want to know more about sexual assault, sex offenders, and the role that citizens can play in keeping their communities safe.

What Is Sexual Abuse?

Sexual abuse isⁱ:

- unwanted sexual contact between two or more adults or two or more minors;
- any sexual contact between an adult and a minor;
- any unwanted sexual contact initiated by a youth toward an adult; or
- sexual contact between two minors with a significant age difference between them.

Sex crimes can involve physical contact (e.g., unwanted sexual touching) or no physical contact (e.g., Internet crimes).

How Common Are Sex Crimes?

Sex crimes are unfortunately fairly common in the United States. It is estimated that one in every five girls and one in every seven boys are sexually abused by the time they reach adulthoodⁱⁱ. One in six adult women and one in 33 adult men experience an attempted or completed sexual assaultⁱⁱⁱ.

How Many Arrests Occur for Sex Offenses?

Sex offenses represent under 1% of all arrests^{iv}. In 2004, the last year for which official report data were available, there were 26,066 arrests for forcible rape and 90,913 arrests for other sex offenses in the United States^v. Adults account for about 80% of arrests; juveniles for 20%^{vi}. Males account for approximately 95% of arrests^{vii}.

Are All Sex Crimes Reported?

Many victims do not report sexual abuse to authorities because they^{viii}:

- are afraid that their abuser will harm them again;
- do not want to make a very private matter public;
- are worried that they will be blamed for what happened or that they will not be believed;
- feel ashamed;
- feel guilty; and/or
- are embarrassed.

Established in June 1997, CSOM's goal is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. A collaborative effort of the U.S. Department of Justice, Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, CSOM is administered by the Center for Effective Public Policy.



Fact Sheet: What You Need to Know About Sex Offenders

This means that there are both victims and offenders in the community who have not come to the attention of the authorities. Victims may continue to be in situations that put them at risk and/or are not getting the services they need, while offenders who can potentially be prevented from reoffending are not receiving the support they need to stop.

Who Are the Victims?

Anyone can be a victim of sexual assault, but women and girls are especially at risk. Females are more than six times as likely as males to be victims of sexual assault^{ix}. Children are particularly vulnerable. Approximately 67% of all victims of reported sexual assaults are under the age of 18, and more than half of these victims are under the age of 12^x. Approximately one in four girls and one in seven boys are sexually assaulted before the age of 18^{xi}.

Who Are Offenders Likely to Target?

Most sexual offenses are committed by someone the victim knows — either a family member, friend, intimate partner, or acquaintance^{xii}. About 27% of offenders are strangers^{xiii}.

Who Are Sex Offenders?

There is no such thing as a “typical” sex offender^{xiv}. Sex offenders can:

- be male or female;
- be young or old;
- have different levels of education;
- be married or single;
- have strong ties to their families and communities, or have weak ties; and/or
- have no record of prior criminal involvement or have a record either for sexual or non-sexual offenses.

The reasons why they offend, the kinds of interventions required to help them stop offending, and the risks they pose also vary.

Does Being Sexually Abused Cause Sex Offending?

Not necessarily — some people who commit sex offenses have been victims of sexual abuse themselves, but many have not. Being sexually abused does not cause people to become sex offenders. In fact, most people who have been sexually abused do not go on to sexually abuse others.

What Happens to Convicted Sex Offenders?

The courts impose different sentences depending on the offender, the facts of the case, and the



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state's laws. Some offenders are sentenced to prison or jail, while others are sentenced directly to community supervision (e.g., probation). For those sentenced to prison or jail, some are released on parole or probation supervision while others are released with no supervision.

Approximately 150,000 adult sex offenders are currently in state and federal prisons throughout the United States. Between 10,000 and 20,000 are released to the community each year^{xv}.

Why Do People Commit Sex Crimes?

No single factor or combination of factors can fully explain why someone offends sexually, though some factors may combine to increase people's *tendency* to offend.

These factors are:

- physiological/biological (e.g., imbalanced hormones, being sexually attracted to children);
- sociocultural (e.g., being exposed to broader social messages supportive of aggression);
- developmental/environmental (e.g., having witnessed domestic violence); and
- situational/circumstantial (e.g., having easy access to victims, extreme levels of stress).

How Often Do Sex Offenders Reoffend?

About 12 to 24% of sex offenders will reoffend^{xvi}. When sex offenders do commit another crime, it is more often not sexual or violent^{xvii}. (The figures given may be low because sex offenses are often not reported.)

Are Some Offenders More Likely to Reoffend than Others?

Some offenders are more likely to reoffend than others. Professionals use science-based assessments to estimate the likelihood that someone may reoffend, though these assessments are not guarantees.

What Efforts Are Made to Improve Public Safety When Offenders Are in the Community?

The majority of convicted sex offenders reside in our communities. With proper treatment and supervision, many can live productive and stable lives. Ideally, all sex offenders who go to prison, jail, or detention should have a period of community supervision (probation or parole) following their release to monitor offenders' behavior. If offenders are at risk for reoffending or do not comply with their release conditions, they may be returned to confinement.

The following strategies are being used in managing sex offenders who are under community supervision.

Providing Specialized Supervision

Convicted sex offenders may be sentenced to probation or parole as a result of a sexual offense, or they may be placed on probation or parole supervision after they have been in prison, jail, or detention. This means that for a period of time (which varies by jurisdiction), offenders report to a supervising officer and must follow specific rules and conditions that limit their behavior. These "conditions of supervision" depend on an offender's risk level and risk factors. They often include (but are not limited to):

- no contact with victims;
- no or limited contact with minors;
- attending sex offender-specific treatment;
- limited or no Internet access;
- no use of alcohol or drugs;
- restrictions on where they can live and work;
- restricted movement within the community and within and across state lines; and
- reporting to probation/parole officers as required.

Using Surveillance

In some instances, electronic technologies (such as electronic monitoring or GPS devices) help monitor sex offenders while under supervision. Because these technologies are quite expensive and some studies suggest they are most effective with higher-risk offenders^{xviii}, these surveillance techniques may be best used with only the highest-risk or violent sex offenders.

Providing Specialized Treatment

Sex offender treatment can reduce the risk of reoffending^{xix}. The most effective type of treatment approach involves helping offenders change unhealthy thinking patterns, understand factors that are linked to their offending, and develop effective coping skills. For certain offenders, medications, such as those that reduce testosterone, can also be helpful when they are combined with sex offender-specific treatment^{xx}. Treatment may be more effective when it is combined with specialized supervision.

Helping Offenders Deal with Challenges Following Release from Prison

When reentering the community, sex offenders may face many challenges that can cause their lives to be unstable, including^{xi}:

- negative public feelings, including being ostracized or the victims of hostile acts;
- restrictions on where they can live; and
- difficulties finding a job.

This instability can put them at greater risk to reoffend^{xxii}; therefore, working with offenders to deal

with these challenges is crucial to their ability to live crime-free lives.

Ensuring Offenders Have Suitable Housing

One of the most serious problems that sex offenders face is finding an appropriate place to live. Zoning or residency restrictions and landlords' or homeowners' efforts to keep offenders from moving into their buildings or neighborhoods limit their options. These "safety zones" are found mostly in cities and suburbs — the same places where offenders are most likely to have access to the things they need to be successful in the community, such as jobs, social services, mental health treatment, and transportation.

Understanding Residency Restrictions

Sex offenders who are under community supervision must have their residence approved by their supervising officers to ensure that it is suitable, while sex offenders who are not under community supervision do not have the same restrictions, unless they live in an area with residency restrictions.

Most states have laws that prohibit sex offenders — whether on community supervision or not and whether their crimes involve children or not — from living within 1,000 to 2,000 feet (500 feet in some states) of places where children gather, such as schools and childcare facilities, parks, playgrounds, churches, gyms, swimming pools, libraries, and school bus stops. These zones are often referred to as "child safety zones." Some states and jurisdictions also limit or forbid sex offenders from passing through child safety zones, which means they also cannot travel on certain roads or bus routes.

No research has shown that these restrictions lead to a decrease in sexual reoffending. On the other hand, professionals are concerned that laws that banish or restrict housing options for offenders may eliminate the stability and support that offenders need to be successful in the community^{viii}.

Reunifying and/or Living with Children

If offenders who are under community supervision plan to live in the same home as past or potential victims, supervision agencies should first work with other professionals (such as the victim's/family's therapist) on a "reunification" process. Before beginning this process, professionals must determine if the benefits of reuniting outweigh the possible risks to past or potential victims.

Helping Offenders Find a Suitable Job

It is especially important for sex offenders to find appropriate jobs because offenders without stable employment are at a higher risk of reoffending^{xv}. Finding suitable employment is a challenge for all offenders who are reentering the community, but it can be particularly difficult for sex



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offenders. Their options can be extremely limited because of concerns about access to potential victims, employers' reluctance to hire sex offenders, licensing restrictions (e.g., for doctors/nurses, teachers, daycare workers, and security guards), and zoning and residency restrictions that limit the geographic area where offenders can work. Community supervision staff typically review and approve employment to make sure that it is suitable. In many instances, they stay in contact with employers or use other means to ensure that offenders are maintaining suitable employment.

What Is the Purpose of Sex Offender Registration?

Sex offender registration is designed to help law enforcement investigate new sex crimes. Law enforcement agencies keep identifying information about convicted sex offenders, such as their names, addresses, photographs, and crimes for which they were convicted. The length of time an offender is required to register varies by jurisdiction (e.g., certain offenders may have to register for ten years, others may have to register for life), and so does the frequency with which the offender must update and verify the information. Recent federal legislation created a national sex offender registry that is intended to assure that all states collect and maintain the same information on convicted sex offenders and provides a single Web site where citizens can find information about registered sex offenders.

What Is Community Notification?

Community notification provides community members access to information about convicted sex offenders. In some cases, community members have to look for the information on their own, for example, on their state registry Web site. In other cases, law enforcement or others inform community members that a sex offender is moving into the area. They may:

- share information in community meetings;
- post fliers in neighborhoods;
- place notices in local newspapers; and/or
- inform residents by going door to door.

How communities are notified and who in the community is notified often depend on the level of risk that an offender presents.

What Should I Know About Juvenile Sex Offenders?

Juveniles who commit sex offenses are not just younger versions of adult sex offenders. They differ in fundamental ways, including how likely they are to reoffend. These differences affect how law enforcement and other professionals manage juveniles to reduce their rate of reoffense.

How Many Juveniles Are Arrested for Sex Offenses?

Juveniles under the age of 18 make up just under 20% of those arrested for sex offenses^{xv}. Each year, there are approximately 2,200 arrests of juveniles for forcible rape and an estimated 9,200

arrests of juveniles for other types of sex offenses^{xxvi}. More than 90% of the juveniles who are arrested are male^{xxvii}. Victims are often reluctant to come forward, so the actual number of juveniles committing sexual assault may be higher.

What Is a “Typical” Juvenile Sex Offender?

Just as there is no “typical” adult sex offender, there is no “typical” youth who commits a sex crime. Juvenile offenders can:

- be male or female;
- be from any race or ethnic background;
- be wealthy or poor;
- come from a supportive family or from a family where there has been abuse;
- have mental health or substance abuse issues, or have no mental health or substance abuse issues;
- do well in school or have learning disabilities and experience challenges in school; and/or
- have no history of any type of offense and pose little risk for reoffense, or can have a history of delinquent and/or sexual abuse behavior and require careful management.

Is There a Connection between Exposure to Violence and Sex Offending?

Exposure to physical or sexual violence in the home or community, to particularly aggressive male role models, and to pornography (especially material that is very graphic and violent) can be associated with sexually abusive behaviors among youth^{xxviii}.

How Often Do Juvenile Sex Offenders Reoffend?

Juvenile sex offenders appear to respond better to treatment and reoffend less frequently than adult sex offenders. Sexual reoffense rates for youth over several years are estimated at approximately 10%^{xxix}. In addition, if juvenile sex offenders reoffend, they are far more likely to engage in other types of delinquent behavior than to commit new sex crimes^{xxx}.

Can Juvenile Sex Offenders be Managed in the Community?

In some cases, yes. Placing juvenile sex offenders in custody does not necessarily reduce offending over time. In fact, it can actually increase the likelihood of reoffense as youth who live with other delinquent or troubled juveniles may teach one another how to be even more serious young criminals^{xxxi}. Many juvenile sex offenders can be safely managed in the community with specialized supervision and treatment^{xxxii}.

Is Treatment Important for Juvenile Sex Offenders?

Many juveniles who come to the attention of law enforcement for committing sex offenses do not commit more crimes, even if they do not receive treatment^{xxxiii}. However, juvenile sex offenders



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who do receive treatment have lower rates of reoffense for both sexual and non-sexual crimes^{xxiv}.

Why Is Community Supervision Important for Juvenile Sex Offenders?

Community supervision (probation or parole supervision) can help ensure that youth behave appropriately in the community, and participate in treatment. Supervision also allows trained officers or case managers to provide support to (and work closely with) parents, school personnel, and others who are responsible for juvenile offenders.

What Other Strategies Are Being Used to Manage Juvenile Sex Offenders?

Many states have laws regarding registration and community notification that apply to juveniles. The Adam Walsh Child Protection and Safety Act, passed by the United States Congress in 2006, requires that selected (but not all) juvenile sex offenders register periodically with law enforcement and that some data about these youth be posted on the Internet. Like with adult sex offenders, there has been very limited research to date on whether juvenile registration and notification can help reduce reoffending and enhance public safety.

For Additional Information and Resources

CSOM has developed a variety of publications that address in greater depth the range of issues identified in this fact sheet. These documents — along with a number of other tools that have been developed by professionals in the field to aid communities in their efforts to protect themselves and their families and to become a part of the solution to reduce victimization through the effective management of sex offenders — can be found at www.csom.org.

Please contact us with specific questions at askcsom@cepp.com or:

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Fact Sheet: What You Need to Know About Sex Offenders

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Ensure Appropriate, Sustainable Housing Options

Difficulties securing employment, financial concerns, and disruption to prosocial relationships are but a few of the challenges offenders face when reintegrating into the community, particularly following a period of incarceration. These barriers are especially significant for sex offenders, who also face negative public sentiment and restrictions on housing options.

Laws restricting where sex offenders can reside have swept the country in recent years. These “sex offender-free zones” prohibit offenders from residing anywhere from 1,000 feet or less to 2,000 feet or more from locations where children congregate, including schools, day care centers, parks, and bus stops. [More than half of the states have passed residency restriction laws (Council of State Governments, 2008).] Other communities further limit or prohibit sex offenders’ access to homeless shelters or other residential settings (including treatment centers) where more than one sex offender might reside. In some localities, particularly urban areas, these exclusion zones can severely limit sex offenders’ access to housing options. Instances of offenders being forced into homelessness or congregating under bridges have been widely reported.

These conditions raise serious community safety concerns:

Key Concerns

- Some sex offenders are denied conditional release from confinement as a result of an inability to secure housing. These offenders serve their maximum terms and are released to the community without a period of community supervision or treatment. In these instances, justice system professionals are unable to provide oversight and monitoring to offenders in the critical months following release from confinement when reoffense is most likely to occur
- Others are denied access to residential settings that offer the structure and treatment necessary to decrease the likelihood of reoffense.
- Still others experience organized community efforts to prevent them from moving into specific homes or neighborhoods.
- Aware of community members’ concerns, some landlords are reluctant to rent to sex offenders, even in those areas where restrictions do not apply.

These conditions run counter to efforts to reduce the rate of reoffense, in that research demonstrates that stabilization in the community contributes to decreases in reoffense rates among sex offenders (Hanson & Harris, 2000; Hanson et al., 2007).

The Solution

Some jurisdictions are proactively establishing mechanisms to identify and secure affordable and sustainable housing for sex offenders. In some instances, state resources are directed to housing options for sex offenders (e.g., rent subsidies). In still others, department of corrections staff work with local landlords to reserve apartments for displaced or releasing sex offenders. These arrangements often have the added benefit of providing for added security measures (such as around-the-clock duty personnel and security cameras). As a means of addressing these problems in a deliberate manner, housing representatives are increasingly joining the memberships of state and local sex offender management policy teams.

With the heightened concerns about sex offenders and sexual victimization and the public's demand for legislative responses, sex offense-specific laws have been passed at unprecedented rates. Most prevalent in recent years have been laws that establish specialized civil commitment, mandatory minimum sentences, expanded requirements for registration and community notification, and residency restrictions. Enactment of these and other well-intentioned laws is typically reactive, in response to high-profile cases that fuel citizens' fears about their safety (Sample & Kadleck, 2008).

The resulting policies, which tend to be costly and far-reaching in applicability, are not necessarily developed with a thorough understanding of the facts pertaining to sex offenders, victims, and effective management strategies (Levenson & D'Amora, 2007; Sample & Kadleck, 2008). As a result, many sex offense-specific legislative initiatives are implemented in the absence of evidence supporting their effectiveness in promoting public safety or preventing sexual victimization.

Just as the field of corrections overall has moved toward implementing evidence-based practices, there has been recent movement toward developing evidence-based policies, whereby current research and data is used to inform correctional policies in order to reduce recidivism and increase public safety in cost-effective ways (see Andrews & Bonta, 2006; Aos et al., 2001, 2006). In addition, there has been a growing emphasis regarding the need for evidence-based sex offender management policies (Levenson & D'Amora, 2007; Sample & Kadleck, 2008). Developing informed sex offender management policies requires dedicated efforts to engage lawmakers in educational opportunities that are designed to increase their understanding of the following:

- The incidence and prevalence of sexual victimization;
- The nature of the victim-offender relationship, whereby most victims are related to or otherwise known to the offenders;
- The diversity of adult and juvenile sex offenders, including the varied levels of risk they pose to the community;
- The ability of practitioners to differentiate between lower- and higher-risk sex offenders based on empirically based assessment tools and to apply these tools at key decision points;
- Key elements of contemporary sex offender management and the goals underlying these components; and
- Research on the impact and effectiveness of various sex offender management laws and strategies, including the potential for paradoxical, risk-increasing effects.

Criminal justice and correctional policymakers throughout the country are increasingly taking steps to frame laws and other policies upon the evidence-based correctional literature, including current research about sex offenders and effective management strategies. This is occurring by convening legislative briefings, training events, and other educational forums for state lawmakers and other public executives; creating multidisciplinary task force groups, special committees, and advisory boards to provide policy analyses and recommendations; and commissioning research reports focused on specific areas of sex offender management policy. Equipping lawmakers – and the public they represent – with accurate and contemporary information about these issues allows for a more deliberate and informed response to sex offender management policy, more effective and efficient allocation of resources, and, ultimately, increased public safety.

Promoting Informed Legislation: Kansas Sex Offender Policy Board

In 2006, the Kansas Governor and the Legislature established the Kansas Sex Offender Policy Board to provide guidance and recommendations to state officials regarding a range of sex offender management policies. Per statute, the Sex Offender Policy Board, under the authority of the Kansas Criminal Justice Coordinating Council (KCJCC), included the following members:

- ◆ Secretary of Department of Corrections;
- ◆ Commissioner of Juvenile Justice Authority;
- ◆ Secretary of Social and Rehabilitation Services;
- ◆ Director of the Kansas Bureau of Investigation;
- ◆ Chief Justice of the Supreme Court or designee; and
- ◆ Two persons (i.e., mental health provider, victim advocate) appointed by the KCJCC.

The Board analyzed policies that focused on community notification, residency restrictions, electronic monitoring, juvenile sex offender management, treatment and supervision standards for sex offenders, suitability of lifetime supervision, and public education. The following were among the key policy recommendations:

- ◆ Establish a multidisciplinary sex offender management board to address comprehensive, specialized, and victim-sensitive sex offender management standards and guidelines;
- ◆ Adopt developmentally appropriate assessment, treatment, and supervision approaches for juveniles who have committed sex offenses, including an emphasis on family interventions;
- ◆ Promote collaboration between law enforcement, community corrections and supervision, court services, prosecutors, and others to verify and update sex offender registry data;
- ◆ Educate the public about the uses and limitations of the sex offender registry, and ensure that the terminology and offenses on the registry are clearly defined and understandable;
- ◆ Establish a formal review process that may allow for waiver of registration for certain offenders under special circumstances;
- ◆ Reserve electronic monitoring for sex offenders assessed as a high risk for recidivism, and use this technology in conjunction with other management strategies (e.g., treatment, supervision);
- ◆ Forgo lifetime supervision legislation, given the current lack of evidence to support such a strategy;
- ◆ Make permanent the moratorium on residency restrictions, in light of the absence of evidence supporting the effectiveness of residency restrictions and the false sense of security that these laws may instill; and
- ◆ Allocate resources to develop public education and prevention programs regarding sex offenders, effective management strategies, and the prevention of sexual victimization.

These and other recommendations have resulted in well-informed and measured legislation pertaining to the management of sex offenders in Kansas.

Please find attached copies of written testimony submitted to the City Council during the First Public Hearing on the Sex Offender Residency Ordinance

Lewiston City Council Meeting
September 20th, 2017

My name is Melissa Dunn. I am a Community Organizer in Lewiston. First I would like to thank the people of Lewiston City Council for allowing me the opportunity to give my testimony. I come here, to share my story as a survivor of childhood sexual assault and rape... and I want our children safe.

By the time I was 16, I had been approached in my sleep, molested, and/or raped by five men. Only one served time in prison. One thing was for certain, I knew each and every one of them, some more than others - but they were people I was suppose to trust. Although my story is not unique, I am fully aware there are survivors who were assaulted at the hands of people they did not know. In no way am I minimizing their experiences and trauma. The sad reality is, no residency restriction would have prevented our sexual assaults.

This particular law's focus misleads the public in thinking there will be a distance rule for any other offender, but the offender you know. When you think about "who" is an offender, you have been lead to believe it is likely a stranger" "hunting" for unsuspecting children at playgrounds, statistically, couldn't be further from the truth. 93% of child victims know their offender. According the U.S. Department of Health & Human Services (2009-2013) of 63,000 cases, a staggering 80% of perpetrators were the parent. Of the cases reported to Law Enforcement, 59% were acquaintances 34% was family. The problem is this: society continues to ignore addressing the root cause of sexual assault through blanket policies, giving a false sense of security for their families.

First as a community, we must humanize the people not dehumanize them due to their crimes. Only then can we begin to shift very hurtful and damaging rhetoric of survivors and those who have offended. Only then we can begin to make progress in sexual assault prevention.

Sex offenders are persons with the most violent of crimes to urinating in public. They may even had agreeable sex or simply had a birthday during a legal, mutual, sexual relationship. Yet, despite this sex offenders tend to be labeled by community and society as the same - child predators. Our definition of sex crime laws are broad as well. I point to a case of high school quarterback Cormega Copening in Louisiana. He was 17 when he was legally allowed to have sex, but not sext under a "Sexual Exploitation of a Minor" law. Police discovered pictures on his phone between him and his girlfriend when they were both 16 and in a relationship. He was faced with possible felony charges of two counts of second-degree sexual exploitation and three counts of third-degree exploitation for **images depicting his own body**. If found guilty, he would of had to register for life. **Maine has this very same law.**

It's clear the perception of sexual assault only happens in poor communities by the hands of poor people, and it is up to us to dismantle the stigma. As a survivor, the proposed ordinance in its brazen, intentional misleading of the public is greatly concerning. From the discussions and the proposal, sexual assault has been made to be believed it is a classist issue - when it clearly not. Sexual assault exists in every class, race, culture, and location of housing. We have been led to believe that those who have committed offenses are burdensome on our resources while they reintegrate into society - the very same hurtful rhetoric we use against poor people, immigrants, and other marginalized folks in attempt to gain support to ostracize "certain" people from our community. The truth is this rhetoric greatly deflects from the truth and the broader issues stealing progress away from a public health epidemic that needs unbiased support to put an end to sexual violence once and for all.

Officer Philippon who I have great respect for and adore, reports to the Chief on an undated letter included with the proposal that "Sex Offender Residency Restriction Zones are constitutional", when in fact that is false. Courts are finding that residency restrictions are being overturned and found unconstitutional. Passing an ordinance may open Lewiston up to litigation to fight this through the courts, at our costs. I promise you, we would lose.

The numbers and the data don't add up or does not clarify certain data (i.e. separate offenses) which leaves the information subject to interpretation instead of providing facts. Lewiston has a low crime rate and we are one of the safest communities in our state. What is the motive here? Who is the funder? How many incidents have you had where a known offender has assaulted a child in our community in a public space and our schools? How many abductions have occurred in Lewiston?

It is my hope for the sake of our children that the ordinance is not passed because if it is passed childhood sexual assault will remain a dead-in-the-water issue halting any pursuit from council members from creating real change. If so it needs to be amended with the facts and not bias. There is data from the U.S. Department of Justice at our fingertips among many other credible sources. To hide the truth and glorify rhetoric is just as violent as the crimes committed against me and so many others.

The ordinance states the policy is not inclusive of registrants voices. The flawed ordinance was written without the inclusion of the existing residents on the registry, unattainable penalties of \$500 for each day a registrant and their property owner is in violation, and a potential set-up for failure. We would be setting these men and women, boys and girls up for failure with policies like these with a guarantee of imprisonment for failure to pay. Not only is there an intentional lack of documentation, lines of communication may be lost on part of the City, but who gets the blame? The residential needs of offenders is not segregation nor isolation. The interest and residential needs is basic human rights. Especially for those who have served their time and following guidelines by the state and federal courts.

Blanket laws such as residency restrictions serve no purpose, and do not address the root cause of this vast public health issue for both sides. Please remember I am a survivor, and fully understand how society and the system failed me. We don't even come together as a community for our children, and when we become adults? Where were you? What does that say for people who have fallen through the cracks? I had no choice but to define my story of survival. I have been through it, I understand it, and want to make change happen. As a survivor, it's common sense our dollars are better invested in prevention education, awareness, and resources to make sure programs are strengthened at the local, state, and federal level.

Opposing this ordinance is not saying we agree with abuse of our children, it says we give into our fears without factual basis and create policies based on emotion while ignoring the root cause of sexual assault. The reality is there is no residency restriction ordinance that would prevent sexual assault or abduction of a child. The reality is you have a legitimate reason to have fear, because while you are looking in the other direction for strangers, the one closest to your family is likely the one hurting your children.

Every 2 minutes an American is sexually assaulted. And every 8 minutes, that victim is a child. Meanwhile, only 6 out of every 1,000 perpetrators will end up in prison - RAINN.ORG. These numbers are **with** residency restrictions. How many children's lives are you truly willing to become a statistic?



REPAIR

Of Maine

Returning Ex-Prisoners: Aid, Information, Reintegration
Serving Lewiston-Auburn

Our Mission:

Providing Returning Ex-Prisoners with empathetic Aid and Information, assuring a successful transition from incarceration to Reintegration into the community

Good evening. My name is Eric Terrio, 70 King Ave Lewiston. I am also the chairman of REPAIR of Maine, an organization serving Lewiston Auburn just referenced by Mr. Peterson. Our mission is “Providing Returning Ex-Prisoners with empathetic Aid and Information, assuring a successful transition from incarceration to Reintegration into the community”. We perform “triage” on people coming to the Twin Cities after completing their terms of incarceration. We assist anyone referred to us regardless of their conviction, sex offense or otherwise.

Our clients are referred to us by their caseworker, by Probation, by a friend, by a shelter, by a private or municipal agency, family members, and some are even self-referred. Once a client is referred to REPAIR, we initiate communication with their assigned DOC caseworker or with the client directly to determine the level and type of services they will need once released into the community. Our staff then ensures that our clients receive access to critical support services in a timely fashion, promoting a positive re-entry experience for our clients and a safer community in general. After we have greeted a new client at their arrival site, we review with them what our services encompass, what to expect in the coming days and weeks, and have them review and sign a REPAIR Client Expectations and Accountability Agreement form. Although this agreement is not legally binding, it does outline what they can expect from REPAIR, the community and their overall reentry experience. We emphasize accountability and a “No New Victims” goal, and expect our clients to do the same. Although our services are currently limited to the Lewiston Auburn area, we will provide guidance for clients in other locations if requested. We do not, however, encourage these clients to come to Lewiston Auburn, as remaining closer to established support systems in or near their original home towns has been proven to increase the success of a reentry.

On the surface, residency restrictions for sex offenders may seem like good policy, and they certainly cater to the public appetite for law enforcement to be “tough on crime”, especially sex offenders. But a politically motivated effort disguised as a public safety initiative is not the answer. Although

these restrictions may seem “common sense” on the surface, the actual, statistical facts indicate a different outcome. In practice, these types of residency restrictions often fall way short of the intended effects, and often result in several unintentional negative outcomes.

There are several misconceptions about sex offenders (SOs). First, the perception that an SO is a stranger lurking in the bushes, waiting to pounce on some unsuspecting victim. It is estimated that over 90% of victims know their attacker. Residency restrictions would not change that number. Second, recidivism is high among SOs. A major cause of this misconception is a now debunked claim made in a Supreme Court ruling from 2003 that quoted an “80%” and “frightening and high” recidivism rate, as stated in a mid-1980’s mass market magazine. That claim has been repeatedly discredited, including by the very author of the article, but that “high recidivism rate” reference remains in use to this day as a justification for residency restrictions. As Mr. Peterson just pointed out, the recidivism rate for sex offenders in Maine is far below 80%, and is below the recidivism rates for people convicted of other, non-sex offenses. Also, the percentage of sex offenders committing another sex offense is even lower! Third, “a sex offender is a sex offender is a sex offender”. A person with a sex offense can range from someone who has committed multiple atrocities against their victim, to a teenager who engaged in what was to them, innocent sexting. As the proposed ordinance is written, if a person committed multiple egregious class A felonies against someone over 14 years old, then the ordinance *would not* apply to them. But if a 14-year-old person was found guilty of being in possession of a nude image of a 13-year-old texted to them, then the ordinance *would* apply to them. Although unlikely, it is possible that the 14-year-old would no longer be able to live with their own family, if that family lived in a declared safe zone. Yet, the severity of the two hypothetical crimes is quite different. From my extensive experience in working with REPAIR clients, I know first-hand the extreme differences in type and severity of crimes they have committed, and these broad cookie-cutter type residency restrictions do not effectively factor in these nuances, another reason they are bad policy.

Often when any offenders are released from incarceration, they suffer from many issues: drug and or alcohol addiction; financial difficulties; lack of ongoing family or friend support; difficulty finding employment; little or no effective rehabilitation; few life skills, and homelessness. Transitioning from the structured and controlled prison environment to the community is very challenging for ex-offenders. When re-entering the community after fulfilling their terms of incarceration, ex-offenders need assistance, support, guidance and effective mentoring from trained and certified mentors. The

paradigm that existed in the past did not allow for these services in any organized fashion, and many individuals got stuck in the revolving door of the Corrections system. I know this first-hand, as I spoke with many individuals, young and old, while I was incarcerated. I heard the intense desperation of people who were stuck in the “system”, and knew of no way out, as there were so few services on the outside to help them stay out. Although I couldn’t do much at the time, I tried to convince them that there had to be a way to change the post release mechanism...hence, my eventual involvement with REPAIR. We are striving create a new paradigm, where people re-entering the community will receive qualified care and guidance once in the community. Rather than restrict where SOs may live, we need to do what is truly in society’s best interest, and provide assistance, support, guidance, mentoring and instruction on life skills that they have not received in the past.

When an SO is restricted to reside in certain areas, this can distance them from the critical support systems they desperately need in order to have a successful re-entry. They may no longer be able to reside with supportive family members, or even close to family members. They may be forced to live in a more rural location where public transportation is unavailable, reducing the SO’s already restricted prospects for stable employment and further limits access to counseling and support services. Growing increasingly frustrated with the continued restrictions placed upon them and lacking critical after care, the SO is much more likely to recidivate. As possible locations to reside shrink, the SO may choose to move underground, cite a fake living address, or worse, they will reoffend just to get reincarcerated, knowing that in jail, they have a bed to sleep on and 3 meals a day. The cycle of institutionalization continues, and our duty to rehabilitate the offender has failed once again.

A review of the literature focusing on residency restrictions comparing the intended effects vs. the actual results shows the ineffectiveness of residency restrictions:

In a 2008 commentary from the American Planning Association for Planning and Environmental Law entitled “Residency Restrictions For Sex Offenders: A Failure of Public Policy”, a section reads:

“The driving force behind residency restrictions is the mistaken belief that the restrictions are highly effective in reducing recidivism and limiting additional victimization, especially of children. What most people do not realize is how such restrictions perniciously make matters worse. These counterintuitive results and unintended

consequences include adverse impacts on employment, housing, family integrity, treatment, and human dignity.” (1)

In a 2010 article in the peer-reviewed American Journal of Public Health, entitled “Sexual Offender Laws and Prevention of Sexual Violence or Recidivism”, it was concluded that:

“It is clear from this review of recent policies enacted to protect communities from sexual violence that the proliferation of well intentioned political efforts to curb sexual violence has led to the creation of laws lacking a solid evidence base.”

Further...

“...research to date indicates that after 15 years the laws have had little impact on recidivism rates and the incidence of sexually based crimes. The most significant impact of these laws seems only to be numerous collateral consequences for communities, registered sex offenders (including a potential increased risk for recidivism) and their family members.” (2)

A better approach to the perceived public safety issue as described by the Lewiston Police Department would be to not ostracize the SO. Allow them to reside where their family ties and/or supports systems are, whether they be immediate family; relatives; friends; counseling; and/or addiction treatment services. It has been shown in several studies that access to support systems is one of the key factors in determining a successful reentry and preventing recidivism, along with stable housing and employment. Distancing an SO from support systems, housing and employment would have the opposite of the intended effect of this ordinance, and would create a less safe community, increase recidivism and lead to a higher incarceration rate, all at further taxpayer expense.

A possible solution is to create a peer mentoring program for all offenders, SOs or otherwise. This mentoring program would utilize trained and certified volunteers who would meet with offender clients on an ongoing basis, helping them navigate the challenges of living safely in the community. Similar to how AA and NA have “sponsors”, mentors would meet with their assigned clients, and would be someone the client could talk to when they needed to work through any issues they may be facing. The mentors would hold their clients accountable for their actions, ensure that they remain compliant with any restrictions they may have due to their offense, and take action if any sign of relapse is evident. Rather than trying

to handle things on their own and getting overwhelmed, the client would receive access to immediate, empathetic and supportive help, preventing a relapse and possible recidivism. Such a mentoring program would extend beyond a person's probation period, and would continue as long as needed. REPAIR of Maine is currently negotiating with an organization that would help us create and maintain such a mentoring program, with Lewiston as the possible beta site, as they also see the intense need for such a program. Similar mentoring programs throughout the country have worked well, and we hope to continue this success in the Lewiston area and beyond.

Often, Lewiston is looked down upon by the rest of the state as being behind the times, dirty and dangerous. Everyone here knows that this is not the case and we are the ones who can change that perception. We have an opportunity here to show that Lewiston is a much better place than perceived and is willing to address the real problem, that of insufficient reentry services, not a phantom sex offender threat. We have the opportunity to show that Lewiston is strong enough to operate in a truly transformational manner, regardless of political pressure, and willing to make effective, positive changes in the lives of all community members. I strongly urge you to reject this proposed ordinance, and to instead work on a real solution, one that addresses the real issues instead of some false threat to the community. I invite you to initiate dialogue with REPAIR on how an offender mentoring program would be a more effective solution for all offenders AND the community in general. This mentoring program could be the model for ex-offender rehabilitation for the entire state, and Lewiston would be known as the leader in these efforts.

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1. Planning and Environmental Law, American Planning Association "Residency Restrictions for Sex Offenders: A Failure of Public Policy", Dwight H. Merriam, FAICP October 2008 Vol. 60 No. 10.

2. American Journal of Public Health, Health Policies and Ethics "Sexual Offender Laws and Prevention of Sexual Violence or Recidivism", Kelly K. Bonnar-Kidd, PhD March 2010 Vol. 100 No. 3.

ABOUT THE UNIVERSITY OF SOUTHERN MAINE (USM) MUSKIE SCHOOL OF PUBLIC SERVICE

The USM Muskie School of Public Service educates leaders, informs public policy, and strengthens civic life through its graduate degree programs, research institutes and public outreach activities. By making the essential connection between research, practice, and informed public policy, the School is dedicated to improving the lives of people of all ages, in every county in Maine and every state in the nation.

ABOUT THE MAINE STATISTICAL ANALYSIS CENTER (SAC)

The Maine Statistical Analysis Center (SAC) operates as a collaborative service of the USM Muskie School of Public Service and the Maine Department of Corrections. The SAC is partially supported by the Bureau of Justice Statistics and is guided by an Advisory Group of policy makers from the Maine Administrative Office of the Courts, Maine Department of Public Safety, Maine Department of Corrections, and Maine Criminal Justice Commission. The SAC collects, analyzes, and disseminates justice data and research reports to criminal justice professionals, policy makers, researchers, students, advocates, and the public. The Maine SAC website is located at: <http://muskie.usm.maine.edu/justiceresearch>

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Foreword

Concern about sex offenders and their behavior is understandably a topic of great public interest. Numerous public policy proposals target the management of sex offenders in prisons and in communities post-release. Recent examples of such proposals include, but are not limited to, enhanced sanctions for convicted and repeat sex offenders, civil commitment for predatory sex offenders, the development of sex offender registries, and the use of advanced technology to monitor sex offenders and residency restrictions.¹ Unfortunately, the quality and extent of the body of knowledge concerning sex offender behavior has not kept pace with either the sophistication or potential cost of some of these proposed policies.

The purpose of this report is to shed light on trends in sex offending and the recidivism of sex offenders in Maine, by replicating the methods of Bureau of Justice Statistics special report, *Recidivism of Sex Offenders Released from Prison in 1994*. That study followed prisoners released from prison in 15 states during 1994 over a three year period, examining their patterns of incarceration. This report seeks to replicate, to the degree possible, the analysis and resulting data tables for sex offenders released from Maine's state prisons over a five year period, from 2004-2008.

This report also examines sex offenders admitted to probation from 2004-2007. The rationale for this inclusion is that offenders under community correctional supervision are a population of special interest, and that determining the progress of a group which had been subjected to supervision in the community might also have important policy implications. Each group was followed for a period of three years to identify re-incarcerations.

Funding for this report is provided by BJS to the Maine Statistical Analysis Center, located at the University of Southern Maine's Muskie School of Public Service. Any points of view or opinions stated are those of the report author and do not necessarily represent the opinion or official position of BJS.

¹See Council of State Government's *National Legislative Briefing: Sex Offender Management Policy in the States* at <http://csg-web.csg.org/knowledgecenter/docs/pubsafety/ZonedOut.pdf>

Methodology

Although this Maine study seeks to replicate the BJS analysis as closely as possible, community corrections (probation) admissions are also included, given the high level of interest in issues related to sex offenders under supervision in the community and the availability of state probation recidivism data. Other variations from the BJS study should be noted. One such variation is that the Maine Department of Corrections accepts inmates with sentences of 270 days (9 months) or more, unlike the BJS study, which accepted only inmates with a sentence of one year or more. Other deviations from the original BJS report are noted in the report text. Primarily, such deviations consist of omitted data tables resulting from the unavailability of arrest data, and in some cases, data on the age of the victim.

Limitations

Data sources used for the analyses contained in this report are Maine's Uniform Crime Reports, generated by the Maine Department of Public Safety and incarceration, probation, and recidivism outcome data generated by the Maine Department of Corrections. In considering report findings, it is important to note and be aware of the limitations of this analysis. The cohorts were so small that relatively small fluctuations could result in large changes in certain outcomes. An obvious, and extremely important, limitation of any study basing outcome measures on official records is that unreported behavior is not included. It is also important to be mindful that there is overlap between the prison release and probation cohorts; i.e., some offenders leaving prison were also released to probation, and therefore would be included in each cohort.

The findings of this study are limited to sex offenders in Maine's state prison and probation systems. Findings may not necessarily be applied to sex offenders in other states leaving prison, or those entering Maine's probation system at another period of time. However, study findings establish a baseline sex offender recidivism rate for Maine, and begin a trend line useful for state policy makers. The study will also appeal to a national audience interested in state corrections performance measurement.

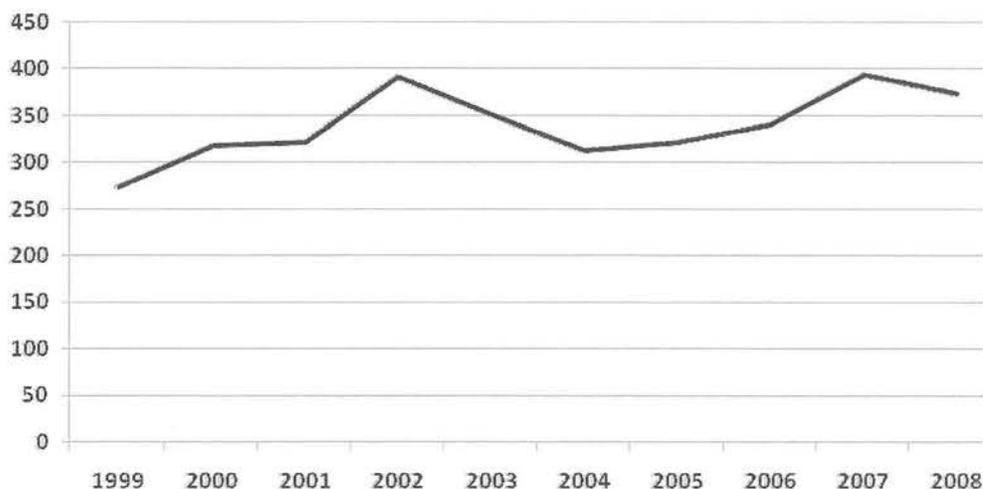
Section I: Sex Offense Trends in Maine 1999-2008

Forcible Rape Offenses²

Forcible rape is one of the eight crimes grouped together as Index crimes, which are reported annually by each state to the FBI as part of the Uniform Crime Report. This section examines forcible rape occurring in Maine and compares it to trends in the rest of the country. What follows is an overview of forcible rape crime rates in Maine over the last ten years, and an examination of the national and regional trends. Crime rates are disaggregated to explore the distinct developments across Maine's counties and towns, and are compared to national and regional trends where applicable.

Maine Trend: In 2008, there were 375 reports of rape in Maine. This is a 57% increase compared with the number of reports in 1999. Over the last ten years, 2007 saw the highest number of reports of rape (391). This increase may be explained by greater statewide efforts to encourage victims to file reports.

*Chart 1: Reports of Rape Offenses in Maine
1999 - 2008*



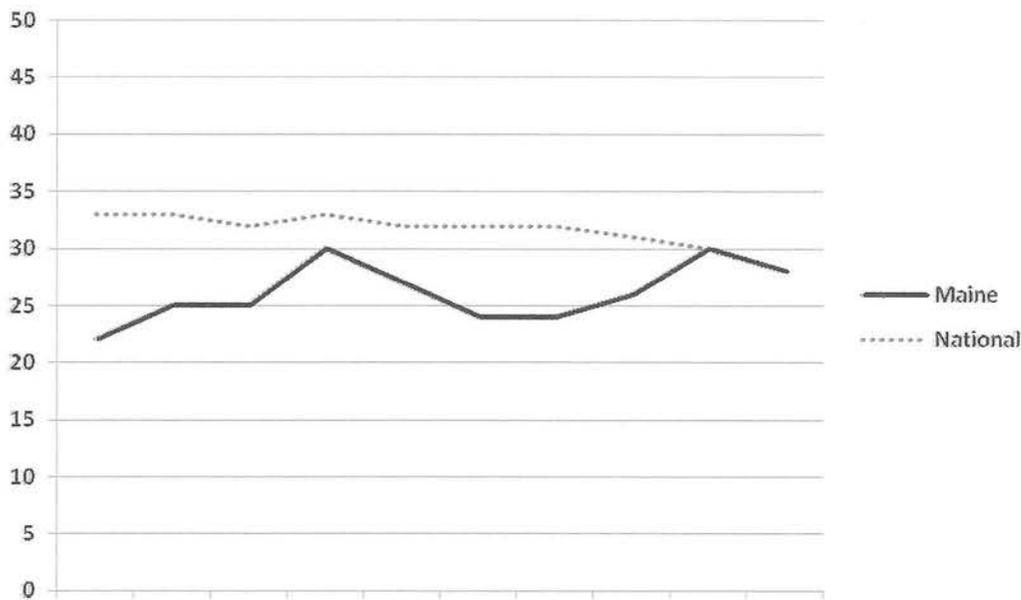
²The Maine Department of Public Safety (MDPS) collects data from each law enforcement agency on forcible rape offenses. Offenses are victim reports to law enforcement, rather than an arrest for a crime. Forcible rape is defined by MDPS as "the carnal knowledge of a female forcibly and against her will." This category includes attempted forcible rape, but excludes statutory rape or other sex offenses. Because forcible rape is one of eight crimes reported to the FBI on an annual basis, this offense classification remains the same between the national and state levels.

Forcible Rape Offense Reports

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	239	320	326	377	354	315	326	339	391	375

National Comparison: In 2008, the rape offense rate in Maine was 28/100,000 population. This is a 49.2% increase from the rate in 1999. In the last 10 years, the highest rape offense rate in Maine was in 2007 (30/100,000 population). The national rate is not available for 2008, but overall, Maine ranked 32nd in the nation in 2008 (see Chart 2), and is moving closer to the national average.

*Chart 2: Rape Offenses/100,000, Maine vs. USA
1999-2008*



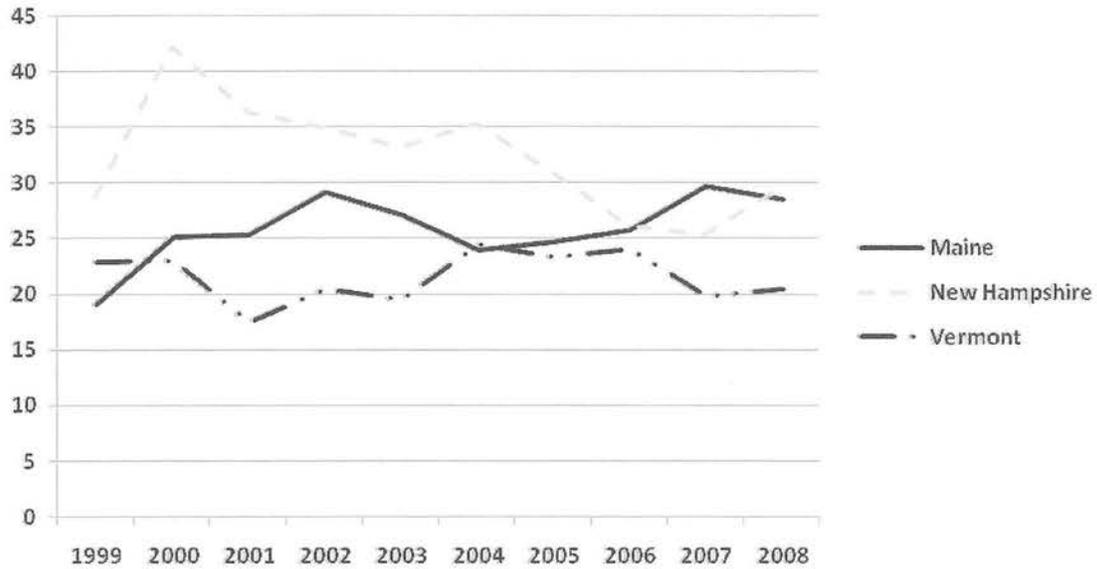
Rape Offenses/100,000

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	22	25	25	30	27	24	24	26	30	28
National	33	33	32	33	32	32	32	31	30	NA

Regional Comparison: Maine has shown a relative increase in the rate of reported forcible rape offenses, especially over the last five years, resulting in a rate that may soon surpass New Hampshire as the highest rate in Northern New England, if the current trend continues. Although the reasons for this upward trend are unknown, this increase may at least partially be explained by increased collaboration between victim service providers and law enforcement.

Since 2004, Maine's reported forcible rape offense rate has increased 19.2%, compared to a decline of 15.9% in New Hampshire and a 16.7% decline in Vermont.³

*Chart 3: Forcible Rape Offense Reports per 100,000
Regional Comparison, 1999-2008*



Forcible Rape Offense Reports

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	19.1	25.1	25.3	29.1	27.1	23.9	24.7	25.7	29.7	28.5
New Hampshire	28.7	42.2	36.4	35	33.2	35.3	30.9	26.2	25.3	29.7
Vermont	22.9	23	17.5	20.4	19.5	24.5	23.3	24	19.8	20.4

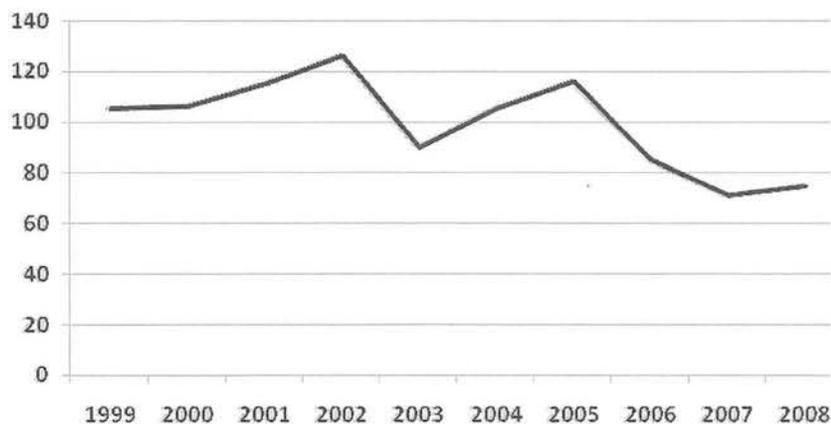
³Maine's forcible rape offense rate was higher in 2008 than all other New England states except New Hampshire.

Forcible Rape and Sex Offense Arrests⁴

Examining arrest rates offers a chance to understand who is committing forcible rape and sex offense crimes in Maine. The data in this section constitute crimes reported to law enforcement (Index and Non-Index) which resulted in an arrest. The arrest data cannot be compared precisely with the Uniform Crime Report (UCR) data because an individual may have been arrested several times during the year or have been arrested for a crime committed the previous year. Moreover, the data should not be analyzed as an annual accounting of the number of persons arrested, but rather, as the number of arrests reported by law enforcement. One arrest is counted for each separate occasion in which an individual is either arrested, cited or summonsed for criminal acts.⁵

In 2008, there were 75 forcible rape arrests in Maine. This is a 28.6% decrease in forcible rape arrests compared with the number of arrests in 1999. Over the last ten years, 2002 saw the highest number of forcible rape arrests (126). Overall, Maine ranked 34th in the nation in 2008 in the number of forcible rape arrests.

*Chart 4: Forcible Rape Arrests in Maine
1999 - 2008*



Forcible Rape Arrests

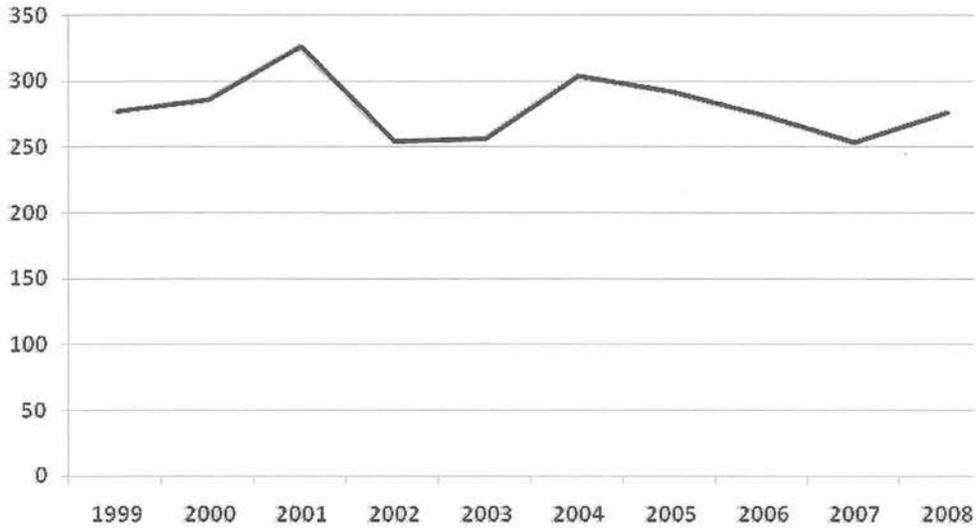
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	105	106	115	126	90	105	116	85	71	75

In 2008, there were 276 sex offense arrests in Maine. Over the last ten years, 2001 saw the highest number of sex offense arrests (326).

⁴MDPS collects data from each law enforcement agency on sex offense arrests. Since sex offenses are not an Index Crime, Maine does not collect data on the number of incidents reported. As defined by MDPS, a sex offense can include, "adultery and fornication, buggery, incest, indecent exposure, sodomy, statutory rape, and all attempts to commit any of these crimes." Forcible rape is a separate category, and not included in these totals.

⁵All charts and tables in this section use data from the Maine Department of Public Safety's Crime in Maine series, the FBI's Uniform Crime Reports, and the Center for Sex Offender Management data center.

*Chart 5: Sex Offense Arrests in Maine
1999 - 2008*

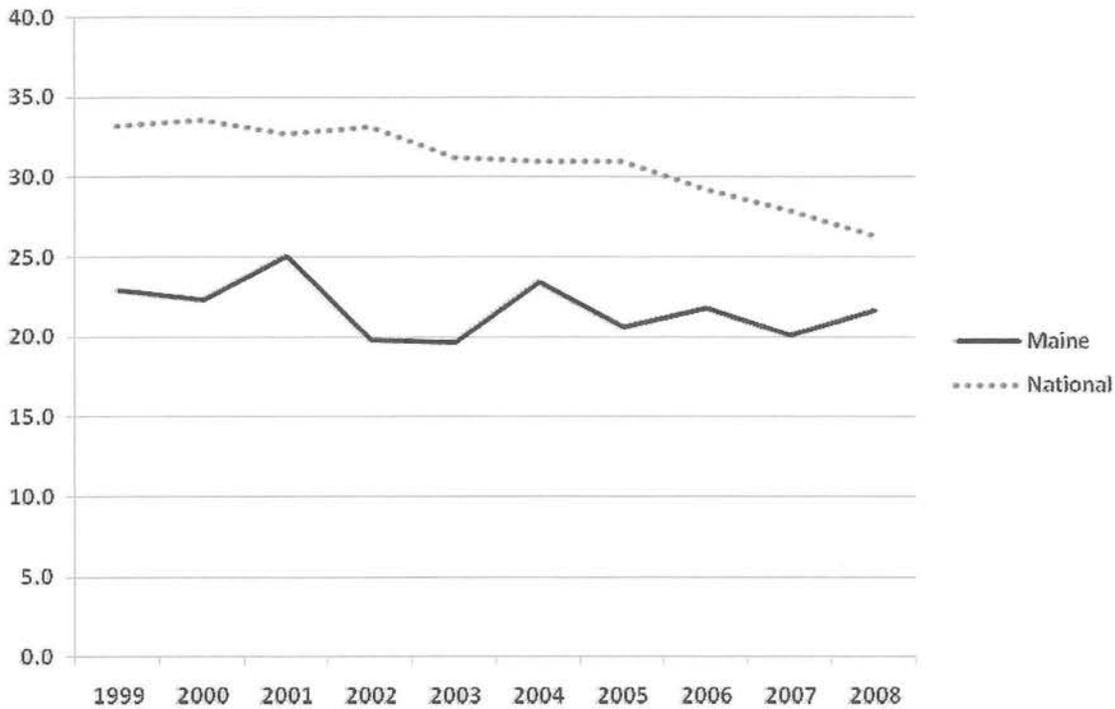


Sex Offense Arrests

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	277	286	326	254	256	304	292	274	253	276

National Comparison: In 2008, the sex offense arrest rate in Maine was 21.6/100,000 population. Maine's sex offense rate has fluctuated between 20 and 25 per 100,000 population in the last ten years. The national sex offense rate, while higher than Maine's, has slowly declined, and in 2008 was 26.3/100,000 population. Overall, Maine ranked 18th in the nation in 2008, higher than all other New England states.

*Chart 6: Sex Offense Arrests per 100,000
National Comparison, 1999 - 2008*

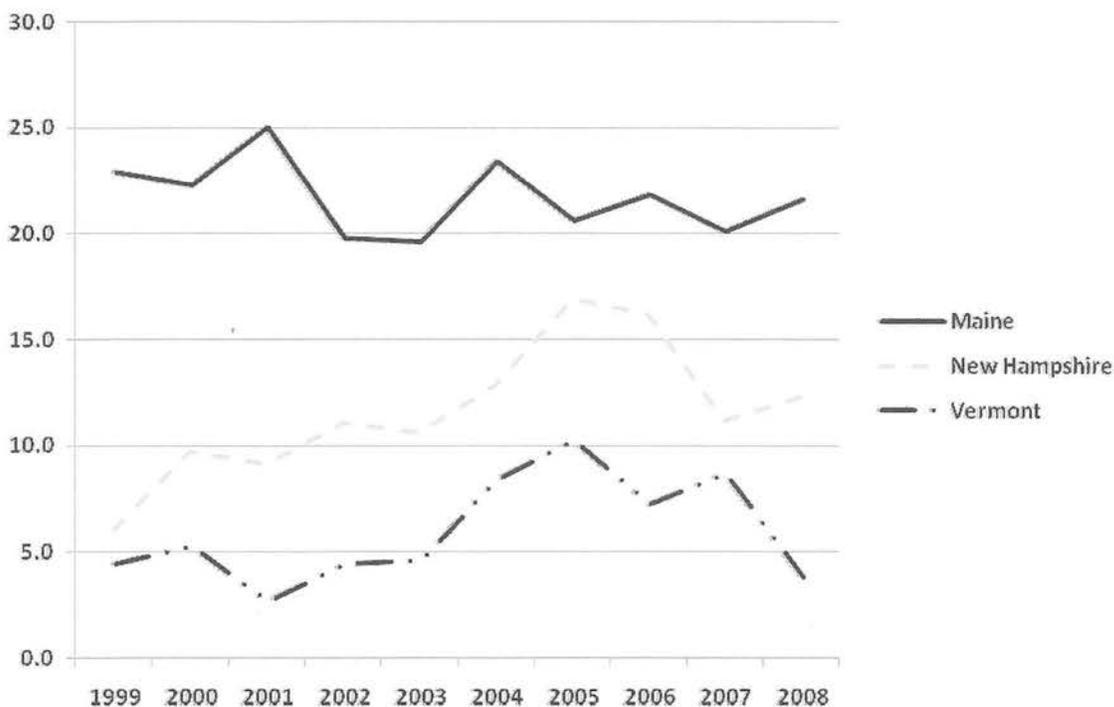


Sex Offense Arrests/100,000

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	23	22	25	20	20	23	21	22	20	21
National	33	34	33	33	31	31	31	29	28	26

Regional Comparison: Maine has maintained a consistently higher sex offense arrest rate than its neighboring states. In 2008, Maine's sex offense arrest rate was nearly twice as high as New Hampshire and five times higher than Vermont. Since 1999, Maine's sex offense arrest rate has increased 5.7% compared to an increase of 26.8% in New Hampshire and a 13.3% decline in Vermont.

*Chart 7: Sex Offense Arrests per 100,000 People
Regional Comparison, 1999 - 2008*



Sex Offense Arrests/100,000

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Maine	23	22	25	20	20	23	21	22	20	21
New Hampshire	6	10	9	11	11	13	17	16	11	12
Vermont	4	5	3	4	5	8	10	7	9	4

Section II: Maine's Sex Offender Recidivism Outcomes

In recent years, prisoner reentry has become an important issue within the field of corrections and with the public. There has been a widespread increase in the numbers of offenders released into communities, accompanied by an increase in re-offending rates in the United States.

While any offender's subsequent reoffending is of public concern, the prevention of sexual violence is particularly important, given the irrefutable harm that these offenses cause victims and the fear they generate in the community.

To that end, tracking, describing, and analyzing outcomes (recidivism) of released offenders is an important activity for correctional assessment. This section will provide an overview of recidivism outcomes in Maine for two groups: 1) sex offenders leaving prison and 2) sex offenders entering probation. The data are collected by the Maine Department of Corrections.

- 1) *Return Rates of Sex Offenders Released from Incarceration between 2004-2008*
- 2) *The cohort of all offenders released from Maine DOC facilities⁶ between 2004 and 2008 consisted of 5,315 individuals. Slightly more than 10% (552) were characterized as sex offenders. By age, sex offenders were significantly older than other offenders. At the time of release, 28.6% of sex offenders were older than 44 years old, compared with 13.7% of other offenders⁷. The median age of all sex offenders was 39 years, nine years older than other offenders. This age difference is due in large part to sentence length. Sex offenders had significantly longer sentences than other offenders.*

⁶Bolduc Correctional Facility, Central Maine Pre-Release Center, Charleston Correctional Facility, Downeast Correctional Facility, Maine Correctional Center, Maine State Prison, Women's Reentry Center.

⁷Sex Offenders had at least one adjudicated (convicted) offense which falls into the category of a sex offense.

Table 1: Demographic Characteristics of Offenders Released from Prison between 2004-2008

Prisoner Characteristic	All		Sex Offender*		Other Offender	
	N	%	N	%	N	%
Race						
White	4,668	87.8%	496	89.9%	4,172	87.6%
Black	295	5.6%	23	4.2%	272	5.7%
Other	352	6.6%	33	6.0%	319	6.7%
Age at release						
18-24	1,106	20.8%	54	9.8%	1,052	22.1%
25-29	1,240	23.3%	82	14.9%	1,158	24.3%
30-34	812	15.3%	79	14.3%	733	15.4%
35-39	717	13.5%	86	15.6%	631	13.2%
40-44	629	11.8%	93	16.8%	536	11.3%
45 or older	811	15.3%	158	28.6%	653	13.7%
Year of Release						
2004	1,009	19.0%	109	19.7%	900	18.9%
2005	1,034	19.5%	120	21.7%	914	19.2%
2006	996	18.7%	112	20.3%	884	18.6%
2007	1,098	20.7%	113	20.5%	985	20.7%
2008	1,178	22.2%	98	17.8%	1,080	22.7%
Age at release						
Average**	33.5		38.9		32.9	
Median**	31		39		30	
Total Released	5,315		552		4,763	

*Includes Rape

** - P<.01

↳ 10.38% of releases 2004-2008

3) Re-incarceration Rates of Sex Offenders released from prison between 2004-2008

Sex offenders had statistically significant lower rates of return to prison for a new crime than other offenders at one, two, and three years after release from prison. Within one year, 4.0% of sex offenders returned to prison (for any new crime) compared to 7.1% of other offenders. Sex offender return rates after two and three years were 8.8% and 15.0%, which were lower than the return rate of all other offenders at 15.1% and 21.0%, respectively.

However, sex offender return rates for sex offenses at one, two, and three years were 0.7%, 1.8%, and 3.8% which were 14, 18, and 38 times higher than the return rate of other offenders.

Table 2: Recidivism Measure, Re-Incarceration to Prison

	All		Sex Offender		Other Offender	
	N	%	N	%	N	%
Within 1 Year Following Release (2004-2008)						
Returned to prison with a new sentence for any type of crime**	360	6.8%	22	4.0%	338	7.1%
Returned to prison with a new sentence for felony**	244	4.6%	8	1.4%	236	5.0%
Returned to prison with a new sentence for misdemeanor	116	2.2%	14	2.5%	102	2.1%
Returned to prison for technical violation*	167	3.1%	27	4.9%	140	2.9%
Returned to prison with a new sentence for any type of crime or technical violation* ⁸	668	12.6%	53	9.6%	615	12.9%
Returned to prison for sex offense**	5	0.1%	4	0.7%	1	0.02%
Total Released	5,315		552		4,763	

Within 2 Years Following Release (2004-2007)						
Returned to prison with a new sentence for any type of crime**	595	14.4%	40	8.8%	555	15.1%
Returned to prison with a new sentence for felony**	409	9.9%	19	4.2%	390	10.6%
Returned to prison with a new sentence for misdemeanor	186	4.5%	21	4.6%	165	4.5%
Returned to prison for technical violation*	263	6.4%	41	9.0%	222	6.0%
Returned to prison with a new sentence for any type of crime or technical violation**	996	24.1%	86	18.9%	910	24.7%
Returned to prison for sex offense**	11	0.3%	8	1.8%	1	0.1%
Total Released	4,137		454		3,683	

Within 3 Years Following Release (2004-2006)						
Returned to prison with a new sentence for any type of crime**	617	20.3%	51	15.0%	566	21.0%
Returned to prison with a new sentence for felony**	440	14.5%	24	7.0%	416	15.4%
Returned to prison with a new sentence for misdemeanor	177	5.8%	27	7.9%	150	5.6%
Returned to prison for technical violation**	259	8.5%	42	12.3%	217	8.0%
Returned to prison with a new sentence for any type of crime or technical violation	1002	33.0%	98	28.7%	904	33.5%
Returned to prison for sex offense**	17	0.6%	13	3.8%	4	0.1%
Total Released	3,039		341		2,698	

* $p < .05$ ** $p < .01$

⁸This row of data include individuals who returned to prison for an unspecified revocation event.

4) Sex Offenders Admitted to Probation between 2004-2008

The cohort of offenders released to probation between 2004 and 2008 consisted of 18,295 individuals. Slightly fewer than 5% (4.9%), (897) were characterized as sex offenders. Similar to the racial breakdown among those offenders leaving prison, probationer sex offenders and offenders of other crimes were not significantly different by race. By age, sex offenders were older than other offenders. At the time of admission to probation, 28.7% of sex offenders were older than 44 years old, compared with 15.7% of other offenders. The median age of all sex offenders was 37 years, which was seven years older than other offenders on probation.⁹

Table 3: Demographic Characteristics of Offenders Released to Probation between 2004-2008

Probationer Characteristic	All		Sex Offender*		Other Offender	
	N	%	N	%	N	%
Race						
White	16,838	92.0%	825	92.0%	16,013	92.0%
Black	560	3.1%	24	2.7%	536	3.1%
Other	897	4.9%	48	5.4%	849	4.9%
Age at release						
18-24	5,160	28.2%	162	18.1%	4,998	28.7%
25-29	3,324	18.2%	116	12.9%	3,208	18.4%
30-34	2,441	13.3%	119	13.3%	2,322	13.3%
35-39	2,289	12.5%	119	13.3%	2,170	12.5%
40-44	2,079	11.4%	124	13.8%	1,955	11.2%
45 or older	2,992	16.4%	257	28.7%	2,735	15.7%
Year of Release						
2004	4,699	25.7%	196	21.9%	4,503	25.9%
2005	3,540	19.3%	195	21.7%	3,345	19.2%
2006	3,332	18.2%	173	19.3%	3,159	18.2%
2007	3,316	18.1%	178	19.8%	3,138	18.0%
2008	3,408	18.6%	155	17.3%	3,253	18.7%
Age at release						
Average	33		38.2		32.7	
Median	31		37		30	
Total released	18,295		897		17,398	

*Includes Rape

⁹ In Maine, probation is a court-ordered term of community supervision with specified conditions for a determinant period of time that cannot exceed the maximum sentence for the offender. It is imposed on an adjudicated offender who is placed under supervision in lieu of or subsequent to incarceration, with a requirement to comply with certain standards of conduct.

5) *Re-Arrest Rates of Sex Offenders Admitted to Probation between 2004-2008*

Sex offenders on probation had lower rates of re-arrest for a new crime than other offenders at one, two, and three years after admission to probation. Within one year of admission to probation, sex offenders were re-arrested for any type of new crime at 17.2% compared with 24.9% for non-sex offenders, although their technical violations rates were higher. Sex offender re-arrest rates at two and three years were 25.1% and 31.8%, which were lower than the rate of other offenders at 31.7% and 35.0% respectively.

Table 4: Recidivism Measure, Re-Arrested

	All		Sex Offender		Other Offender	
	N	%	N	%	N	%
Within 1 Year Entering Probation (2004-2008)						
Re-arrested for any type of crime	4,479	24.5%	154	17.2%	4,325	24.9%
Re-arrested for felony	1,218	6.7%	18	2.0%	1,200	6.9%
Re-arrested for misdemeanor	3,335	18.2%	138	15.4%	3,197	18.4%
Re-arrested for technical violation	5,434	29.7%	303	33.8%	5,131	29.5%
Re-arrested for sex offense	51	0.3%	10	1.1%	41	0.2%
Re-arrested for any type of crime or technical violation	8,296	45.3%	381	42.5%	7,915	45.5%
Total Probation Entrants	18,295		897		17,398	
Within 2 Years Entering Probation (2004-2007)						
Re-arrested for any type of crime	4,676	31.4%	186	25.1%	4,490	31.7%
Re-arrested for felony	1,361	9.1%	23	3.1%	1,338	9.5%
Re-arrested for misdemeanor	3,473	23.3%	165	22.3%	3,308	23.4%
Re-arrested for technical violation	5,561	37.3%	336	45.4%	5,225	36.9%
Re-arrested for sex offense	61	0.4%	18	2.4%	43	0.3%
Re-arrested for any type of crime or technical violation	8,098	54.4%	407	55.0%	7,691	54.3%
Total Probation Entrants	14,891		740		14,151	
Within 3 Years Entering Probation (2004-2006)						
Re-arrested for any type of crime	4,026	34.8%	181	31.8%	3,845	35.0%
Re-arrested for felony	1,195	10.3%	29	5.1%	1,166	10.6%
Re-arrested for misdemeanor	3,020	26.1%	158	27.8%	2,862	26.0%
Re-arrested for technical violation	4,704	40.7%	294	51.7%	4,410	40.1%
Re-arrested for sex offense	67	0.6%	22	3.9%	45	0.4%
Re-arrested for any type of crime or technical violation	6,484	56.0%	352	61.9%	6,132	55.7%
Total Probation Entrants	11,569		569		11,000	

Findings

While Maine continues to be one of the safest states in the nation, rape and sexual assault remain one of the most chronically underreported crimes. Only 41% of victims report their assault¹⁰, and reliance on law enforcement data only can be unreliable when trying to measure the prevalence of the crime or gain a better understanding of trends. For example, in the 2006 Maine Crime Victimization Survey, 18.2% of respondents said they had been victimized by rape or attempted rape in their lifetime. Multi-disciplinary initiatives, such as Sexual Assault Response Teams, which help victims/survivors navigate legal and law enforcement systems more effectively, may lead to increased reporting, but it is unknown if that is the only factor. Recent statistics show that many victims/survivors are being served by Maine's nine sexual assault support programs. The numbers have increased from 2,362 in 2000 to 2,800 in 2008.¹¹

Boon

The data on sex offender state prison release recidivism suggest that sex offenders do not reoffend at significantly higher rates than other offenders. Of the 552 sex offender prisoners released from a state correctional facility since 2004, the one, two and three year re-incarceration rates for a new crime was lower than other offenders, while technical violation rates were higher for the same period. Sex offenders were older than other offenders, which may be a factor in the lower re-incarceration rate for a new offense, as older offenders generally reoffend at lower rates than younger offenders. Because the prison data did not include risk assessment or data, this report cannot identify whether sex offenders were considered a "riskier" population for reoffending.

Boon

Adult probationer sex offender recidivism rates were similar to the findings of prisoners released from a state correctional facility. From 2004 to 2008, the one year re-arrest rate of sex offenders for any new crime was lower than for other offenders (17.2% vs. 24.9%). However, technical violation rates were higher for sex offenders than other offenders at one, two, and three years. These rates may reflect MDOC policy to have specially trained, specialized probation officers supervising sex offenders more intensively in communities than other offenders.

Overall, there is much more to learn about factors associated with the likelihood of re-offense of sex offenders. Ongoing dialogue between researchers and practitioners supervising and treating sex offenders is essential to gather information about offenders and the events leading

¹⁰Rand, M. and Catalano, S. (2007). Crime Victimization, 2006. Washington D.C.: Bureau of Justice Statistics, U.S. Department of Justice.

¹¹Maine Coalition Against Sexual Assault (MECASA) Center Statistics 2007-2008.

up to offenses, and to ensure that research activity can be translated into strategies to more effectively manage sex offenders in the community.

Ultimately, research on sex offender recidivism must be designed and applied to practice with the goals of preventing further victimization and creating safer communities.¹²

This report attempted to define multiple measures of recidivism, considering re-offense rates for both sex crimes and all other offenses, and utilizing consistent follow-up periods. Future reporting on sex offenders will expand the follow up period (five years or more) and examine specific types of sex offenders.

¹²See <http://www.csom.org/pubs/recidsexof.html> Center of Sex Offender Management, "Recidivism of Sex Offenders" May 2001

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September 18, 2017

Council President Kristen Cloutier
Lewiston City Council
27 Pine Street
Lewiston, ME 04240

RE: Proposed Sex Offender Restricted Zones Ordinance

Dear Council President Cloutier and members of the Lewiston Council,

For nearly 50 years, the ACLU of Maine has been a guardian of liberty, working in courts, with the Maine legislature, and in communities to defend and preserve the individual rights and liberties that the Constitution and our laws guarantee everyone. With over 9,000 members, activists, and supporters, the ACLU of Maine is a statewide organization that fights tirelessly for the principle that every individual's rights must be protected equally under the law. We write to you in opposition of the proposed sex offender restricted zones ordinance.

First, there is no evidence that sex offender residency restrictions work. Research shows that most sex crimes against children are committed by family, acquaintances or others known to the child.¹ Research shows no correlation between residency restrictions and reducing sex offenses against children or improving the safety of children.² Sexual assaults are most often crimes of relationship, not geography. Furthermore, there is no research that shows children are more likely to be victimized by strangers in the areas usually covered by restrictions (schools, churches, etc.) than in other places, and in fact, the places usually covered by restrictions tend to house recovery meetings or support services that can help prevent recidivism for released offenders.

Second, residency restrictions are constitutionally suspect. They may be deemed unconstitutional on one of many grounds - as violations of due process (Fifth and Fourteenth Amendments), violations of the prohibition on unlawful takings (Fifth Amendment), violations of the prohibition on cruel and unusual punishment (Eighth Amendment), violations of right of association (First Amendment), and violation of the ex-post facto prohibition (Article 1 Sections 9 and 10).

Third, residency restrictions have the practical effect of driving sex offenders underground, either off the registry, or to increasingly rural areas, with the result that law enforcement officers

¹ Howard N. Snyder, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics* (Bureau of Justice Statistics, NCJ 182990, 2000).

² See generally Paul A. Zandbergen, Jill S. Levenson, and Timonthy C. Hart, *An Empirical Analysis of Sex Offense Recidivism*, 37 *Criminal Justice and Behavior* 482 (2010).

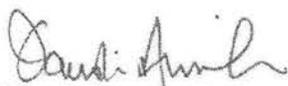
no longer know where offenders are, and offenders are away from important supports and resources. These results undermine public safety.

The proliferation of residency restrictions can create a snowball effect among communities – more and more communities pass more and more restrictive ordinances in an effort to keep sex offenders out as other communities restrict where they can live. In Iowa, for example after increasingly restrictive ordinances, sex offenders were sleeping in cars.³ They became homeless, with no support system and no geographic stability – which is neither good for oversight or for preventing recidivism.

Finally, residency restrictions provide parents and communities with a false sense of security. Parents think that if they know where the offender is on the street, they can protect their children from him, thus keeping their children safe. This creates an illusion of safety because, as already mentioned, most sexual crimes against children are committed by family members or people known by the victim.

Because residency restrictions for sex offenders are “unlikely to resolve the very real social problem of sexual violence and may inadvertently increase victimization,”⁴ we urge the Town Council to reject the proposed ordinance.

Sincerely,



Oamshri Amarasingham, Esq.
Advocacy Director

cc: Mayor Robert Macdonald
Kathy Montejo, City Clerk
Ed Barrett, City Administrator

³ This is what led the Iowa County Attorneys Association to issue a statement in January 2006 stating Iowa’s restrictions law “does not provide the protection that was originally intended and that the cost of enforcing the requirement and the unintended effects on families of offenders warrant replacing the restrictions with more effective protective measures.”

⁴ Making Sense out of Nonsense: The Deconstruction of State-Level Sex Offender Residence Restrictions. *American Journal of Criminal Justice*; vol. 33, Number 2. October 2008, 209-222.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 6

SUBJECT:

Public Hearing on the Proposed Lewiston Auburn Consolidation Agreement.

INFORMATION:

Under state law, the municipal officers of both Lewiston and Auburn are required to notify the voters of each city of the time and place of a public hearing on the proposed consolidation agreement submitted by the Joint Charter Commission. The City Council scheduled such a hearing for Thursday, September 21, 2017. That hearing was held. However, a quorum of the municipal officers was not present at the hearing. The City Attorney has reviewed the situation and has concluded that it is likely that the requirements of state law have been met since the statute does not require that a quorum of the municipal officers be present. However, it is possible that the lack of a quorum might provide a basis for a legal review in the future should the consolidation measure be approved in both communities. From an abundance of caution, the City Council scheduled a new public hearing to be held at the regular City Council meeting of October 17, 2017.

Attached are the comments from the September 21 Public Hearing.

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 open and conduct a Public Hearing on the Proposed Lewiston Auburn Consolidation Agreement.

CITY OF LEWISTON

CITY COUNCIL

SEPTEMBER 21, 2017

SPECIAL MEETING HELD IN THE MIDDLE SCHOOL AUDITORIUM AT 6:00 P.M.

THE HONORABLE KRISTEN A. CLOUTIER, COUNCIL PRESIDENT, PRESIDING.

PRESENT: Councilors Bouchard, Cloutier and Lachance, City Administrator Edward Barrett and City Clerk Kathleen Montejo. Excused absence: Councilors Lysen and Lajoie

Pledge of Allegiance to the Flag.
Moment of Silence.

PUBLIC HEARING ON THE PROPOSED LEWISTON-AUBURN CONSOLIDATED AGREEMENT

Council President Cloutier opened the hearing at 6:05pm to receive citizen input and comment. She noted that each speaker will be limited to 5 minutes.

Lucien Gosselin, 625 College Street, Lewiston – Spoke in favor of the consolidation, noted he is an elected member of the Joint Charter Commission. He said the Commission feels the new Charter will offer a great deal of enhancements over the current Charters, citing such examples as 10 City Councilors, 2 elected from 5 wards, in two year terms, of alternating years. He outlined the wards noting one will straddle the river, one will be completely in the current Lewiston and one in the current layout of Auburn. He said that with the outline of the wards, current Auburn residents would have a chance to be elected to a majority of the new Council, just as Lewiston would. He noted this would eliminate the “take over” accusations from current Auburn residents. Mayor would be only citywide elected position and a full member the Council, with no term limits. Mayor would be required to issue an annual State of the City address. A City Council President would also be a position. City codes will be codified. Planning Board and Board of Appeals would be outlined in ordinance and not Charter. Budget must include an emergency fund.

Richard Grandmaison, 51 Jean Street, Lewiston – Spoke in favor of the consolidation. Born and raised in Lewiston. October 1970 – purchased first home with wife in Auburn. Lived there five years, sold and bought home in Lewiston. Have owned income properties in both cities. Lewiston and Auburn ARE one community. There is one river. People go to restaurants on both sides. We need to be more together with things instead of competing. We need to change mentality of competing. Had 15 years of experience with State Dept of Labor. They needed to cut employees because of less funding. Purchased computers and it was said no support staff would be needed. Easier to cut at bottom instead of top. Lewiston Public Works currently is bare bones for staff. Need front line people to do jobs. Cannot cut back on everything. Need public safety. We have many top down administrators. Need to think out of the box, this is a way to make good improvements for citizens of both Lewiston and Auburn.

Gene Geiger, 7 Robitaille Circle, Lewiston – Spoke in favor of the consolidation, noted he is the Chair of the Joint Charter Commission. For the last three years, three citizens from Lewiston and

from Auburn have been working in public meetings to craft a new Charter for both cities. Have assembled four work groups with over 40 city officials and citizens to study and evaluate options for merging the two cities and the services provided. The resulting Study detailed how we can realize efficiencies of \$2.3 to 4.2 million dollars annually. While at the same time improving education and public safety. One city government is cheaper than two. More buying power for each tax dollar collected. Previous efforts to consolidate have gone nowhere due to turf battles and politics. If people are satisfied with current quality of life, taxes, services where they are now and where they will be in 20 years, they will vote against this. Huge challenges going forward. 70% of kids who graduate from high school don't stay. Decline in economy. If want government to change and shape our future, here is our chance. Once in a lifetime opportunity to make government effective and schools the best they can be. Governor said clout in state will increase. LA will enjoy a renaissance. World changes with or without us.

Gabrielle Russell, 271 Park Street, Lewiston – Spoke in favor of the consolidation, noted she is the co-chair of the ONE LA campaign. Will be having first baby very soon, thinking a lot about the future lately. What will my community look like in 5 years, 10 years, 20 years when my child starts kindergarten, high school, college? What will they do after college? Will there be economic opportunities to stay? So many friends have tried to live here and could not stay because not enough to offer for jobs. If merge, a great future where we celebrate our differences and heritage. Took her parents convincing to remain here. We are at a junction to be leaders in a unique way. Can keep things as they are, but will be hard to keep up.

Carl Sheline, 17 Cherrywood Drive, Lewiston – Spoke in favor of the consolidation, noted he is the co-chair of the ONE LA campaign. We have the power in Lewiston and Auburn to work better for all of us. The consolidation is non-partisan and is backed by democrats and republicans. With combined population will have more influence in Augusta, and receive more public funds to fix roads and bridges, put more police on the streets and give students more choices. Merging government will be more efficient. Don't waste tax money competing against each other for new jobs. Will direct resources to competing in state and New England for economic development. Combining will create opportunity and prosperity.

Charles A. Soule, 135 Bartlett Street, Lewiston – Spoke against the consolidation. He said he calls the process "Con-Exit". He noted a study by Rutgers University and combined cities did say money, but they found ways of spending it quickly. Concerned with hidden costs – new driver's licenses for everyone, new birth certificates, would people need to apply for new passports. Signs, GPS impact, city documentation, businesses would need to change all of their documents. Only people who want to merge have no vested interest or history in town. Wiping out veterans who fought in war for Lewiston's honor. Charter Commission was set up to advise both City Councils. Instead, they have morphed into the "yes" side. They were passing out One LA signs at their last Commission meeting. Have been advising neighbors to not vote against it. Lewiston had to pay a federal fine of \$150,000 in the past, Auburn does not want to have to pay that. Auburn has a smaller demographic than Lewiston so their current residents will be outnumbered. He graduated from Edward Little as the class president in 1973. Attended elementary school in Lewiston. Have Lewiston and Auburn interests at heart, opposed to merger. Thin long and hard before voting.

Robert Reed, 58 Albert Street, Lewiston – Spoke against the consolidation. Current chair of Finance Committee and former City Councilor. Lewiston is fortunate to have many Bates

students who graduate and remain here. Is the purpose of the merger to put up a wall so kids won't leave? Proponents of merger have said we will have stronger representation in Augusta, but the numbers don't work. Our population won't change, so our number of state representatives won't change. Portland will still have more population. The differences in our city cities is political, not because we have a river that runs through them. Nothing changes from merger – nothing in economy will change. What will make economy better with merger? No one can answer that. Has reviewed Study and it recommends cutting 15 executive positions. The people who remain will want more pay, they will want Portland pay. A leveling up of salaries. This could be \$1.1 to 1.6 million of \$2.3 million in savings, if done for department heads and deputies. The Report identifies transition and long term costs. Prices in Report are inflated. Report says average Lewiston home is \$140,000 and taxes are \$4,038. Not true. Average home is tax assessed at \$97,300 and pays \$2861 in taxes. Where did numbers in Report come from? They looked to census data instead of asking the City Assessor. They later admitted the other numbers are more accurate, but they have not issued a retraction. Unions in both cities have different pay scales and benefits.

Ronald Potvin, 291 Pond Road, Lewiston – Spoke against the consolidation and noted he is Vice Chair with the Coalition Against the LA Consolidation. Overriding concern here from many residents – will a merger trigger a revaluation of property values? Public needs to know financial impact. This was not address in Report. Another issue hearing from citizens – debt service remains in each city and remains separate. This will create a city with two separate tax rates. Lewiston trying to build up economic strength. If new people are coming to community, but have two separate tax rates, why would people move into the Lewiston side of the river? Resident of Lewiston for four years but this is the most important issue people will vote on. At this hearing, we are missing the Mayor and four City Councilors. Thank you to three who are here. Embarrassed by lack of leadership – most important issue city will be voting on.

James Howanic, 202 Pinewoods Road, Lewiston – Spoke against consolidation. Will vote against it for several reasons, but one main reason is that he is not as “down” on Lewiston as the pro-merger people seem to be. Has always been a big booster of this community. Not satisfied with current way we are, but certainly not the tired, old mill town that so many people make us out to be. So many positive changes in Lewiston in the past 20 – 30 years and more. Extremely well run city government, very impressed with administration, political team in place currently. Work well together and an inspiration to those of us who pay taxes in Lewiston. We don't need some big radical, quick fix like a merger. Focus on a couple of things such as how much debt we have, developing on Bates Mill #5, recruit LA College to move into the Mill. We have a Governor who is interested in Lewiston and is committed to helping. Develop Bates Mill, put a medical school there. If Vermont can have a medical school, so can Maine. With the medical infrastructure here, it could work. Housing problem north of Kennedy Park – requires a major city government focus. Lewiston is most underrated city in state. Notion that we are a dying old mill town is baloney – active businesses that are growing. Fancy restaurants on Lisbon and Lincoln St, Bates College kids walking into downtown. Don't need a merger to continue our successes.

With no one else interested in speaking, President Cloutier opened up the floor again to anyone who has already spoken and permitted them another five minutes to speak in response to any comments made by other speakers.

Charles Soule, 135 Bartlett Street, Lewiston – There is not a quorum of the City Council, so this does not count as a Special City Council meeting and another hearing will have to be held. City Administrator Ed Barrett said he will check with the City Attorney but would not be surprised if we will need to hold another hearing at a City Council meeting.

Lucien Gosselin, 625 College Street, Lewiston – To wrap up from previous comments - new Charter calls for 7 member Finance and Audit Committee with 2 members from School Committee, will include expanded duties and responsible than current Finance Committee. Names on municipal ballots will be listed randomly vs. alphabetical as is now. Detailed recall provision will be included. Transition – 2 years so current elected officials will finish out their term. Transition mirrored to election process. Helps private sector – one code of ordinances, one building code, etc. Streamlines it with one set of Codes. Helps businesses and citizens. New Charter is an enhancement and a better Charter.

Pauline Gudas, 6 Raymond Avenue, Lewiston – Disappointed rest of City Council and Mayor are not present – this speaks volumes. One of concerns as a tax payer and voter is that information on both sides is conflicting and not accurate or relevant to most voters. Whose numbers do you believe? Whose arguments and justifications do you believe? Unsure of issue – still many questions. Disappointing to hear that both City Councils were planning to put this out as a non-binding question but then the petition process started and now we have a binding referendum. As a tax payer and voter – whose side do we believe? What are the real expenses as a tax payer? Cost of new high school in Auburn? Cost of new parking garages in Lewiston under Bates Mill contract? Do contracts have to be renegotiated? Can Auburn share the wealth generated by the parking garages? Who do we believe? Where do we get accurate information? Where do we get the “right” numbers? An obligation of the City Council to provide it to the taxpayers and voters of Lewiston.

Heidi Sawyer, 206 Farwell Street, Lewiston – Unsure of issue – many unresolved questions. Has flip-flopped 100 times on this issue. Echo comments by Potvin and Gudas – disappointed with lack of Councilors present. In 25 years from now, what do I want this community to look like, be like for my son? I want it to be busy, active and lively, but not sure a merger is how we are going to get there. Will it be a weak Mayor, strong Mayor? Politics gets in the way. Is today the answer to merge? Is it the right time? Can we trust leaders to make it work?

Tina Hutchinson, 200 Rosedale Street, Lewiston – Was a member of one of the work groups. How did we want to combine the schools in an ideal world? We don’t work in an ideal world. One suggestion was to bring all special education kids back into the District. That would be great, but that requires classroom space, teachers, ed techs, meeting their needs. Two separate high schools – cost money. Can’t support merger. Will hurt kids.

Claire Gauvin, 378 College Street, Lewiston – In support of consolidation, thinking of future generations. Born here, raised family in MA, back in Lewiston. Kids in MA because don’t see any opportunity here. Graduated in 1962 from Lewiston. Was proud of Lewiston. Had rivalry with Auburn but great friends. Time to think outside the box, time to grow, time for new adventures. Everyone should work together – great ideas, great minds. See community grow instead of stuck. Fearful to do something new. Everyone wonders if new is good. Need to work together.

Robert Reed, 58 Albert Street, Lewiston – A merger makes an assessment in Lewiston mandatory. City Council held a workshop on this on Tuesday night. A shift of 5.2% of the tax base to the residential properties. Will get some benefit from homestead exemption. Cost to conduct assessment in Lewiston is \$750,000 to \$1 million dollars. Transition costs - \$5 million between two cities before merger happens – attorneys, severance pay to employees let go, redoing all ordinances, etc. Pro consolidation representatives had lunch recently with Governor and asked for \$5 million to help with transition costs. It was \$5 million in Princeton, NJ five years ago with a smaller population.

Gene Geiger, 7 Robitaille Circle, Lewiston – Disagree with transition costs. Management wages will not spike up \$1.6 million dollars. \$5 million in transition costs is way out of line. More like \$1 million. Did not ask the Governor for \$5 million on transition costs. Did ask Governor for any available funds to help with transition. Never got to a discussion about specific dollar amounts. Governor said merger would mean we would be the economic engine of Maine. And said would help entire state if we merge. Has been pushing for more merger.

Diane Grandmaison, 10 Jean Street, Lewiston – In support of consolidation, thinking of future. Believe need to look to future for children and grandchildren. This school addition and renovation was an investment in our kids – we need to view the merger the same way.

Hearing adjourned at 7:05 P.M.

A true record, Attest:

Kathleen M. Montejo, MMC
City Clerk
Lewiston, Maine

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 7

SUBJECT:

Public Hearing and Adopting an amendment to the City's Policy Manual regarding Proposed Amendments to the City's Public Participation Plan for the Community Development Block Grant Program.

INFORMATION:

Lewiston has been a Community Development Block Grant (CDBG) Entitlement Community since 1974. As such, the City annually receives an allocation of CDBG dollars that must be spent in accordance with regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) to insure that the dollars are used to meet three national objectives: providing decent, safe and sanitary housing; providing a suitable living environment; and expanding economic opportunities. In pursuit of these goals, the City is required to develop multi-year plans and annual budgets and work plans tied to these goals and the national priorities. An important element of this work is the Public Participation Plan that guarantees the public and other interested parties access to the process of allocating resources. HUD has recently changed the criteria that must be met to engage citizens in helping develop recommendations for the use of CDBG dollars. In addition, HUD recommended that our plan be expanded to also cover the HOME program and our CDBG Revolving Loan Funds. Our current *Community Development Grant Program Citizen Participation Plan* was last approved by the City Council on February 7, 2012. Staff has revised and updated the plan to meet the HUD required and recommended changes. Per HUD regulations, a public hearing must be held prior to Council approval of the revised plan. A copy of the plan is attached in both a clean and marked up version.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

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1) To conduct a public hearing on revisions to the Community Development Block Grant Program Citizen Participation Plan and

2) To approve the Citizens Participation Plan for the Community Development Program, City Policy Manual Number 13, as recommended by the City Administrator and the Economic and Community Development Director .

(Note - This vote will repeal the current Plan dated 2012 and will replace it in full with the attached 2017 Plan.)



COUNCIL RESOLVE

Resolve, Adopting Revised Community Development Block Grant Program Citizen Participation Plan.

Whereas, Lewiston has been a Community Development Block Grant (CDBG) Entitlement Community since 1974 and annually receives an allocation of CDBG dollars that must be spent in accordance with regulations promulgated by the U.S. Department of Housing and Urban Development (HUD); and

Whereas, these funds are intended to meet three national objectives: providing decent, safe and sanitary housing; providing a suitable living environment; and expanding economic opportunities; and

Whereas, in pursuit of these goals, the City is required to develop multi-year plans and annual budgets and work plans tied to these national priorities; and

Whereas, an important element of this work is a Public Participation Plan that guarantees the public and other interested parties access to the process of allocating resources; and

Whereas, HUD has recently changed the criteria that must be met to engage citizens in helping develop recommendations for the use of CDBG dollars; and

Whereas, the City's *Community Development Grant Program Citizen Participation Plan* was last approved by the City Council on February 7, 2012; and

Whereas, staff has revised and updated the plan to meet the HUD required changes; and

Whereas, in accordance with HUD regulations, a public hearing must be held prior to Council approval of the revised plan; and

Whereas, notice of that public hearing has been appropriately published to notify the public; and

Whereas, upon conclusion of that hearing and after consideration of any comments received, the revised plan should be approved;

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

The Revised Lewiston Community Development Grant Program Citizen Participation Plan attached hereto is hereby approved.

CITY OF LEWISTON CITIZEN PARTICIPATION PLAN FOR HUD FUNDED PROGRAMS

I. Introduction

In 1974, the City of Lewiston was designated as a Community Development Block Grant Entitlement City. These funds are used to fund administration and planning, social services, housing, commercial, and economic development programs, public facilities and infrastructure improvements, and acquisition, demolition and clearance of unsafe structures. Every year the City receives a formula based allocation of entitlement funding. Using CDBG funds to initially capitalize, and periodically recapitalize the programs; the City created housing and commercial revolving loan funds (RLF) used to rehabilitate properties, make general improvements and bring the properties to code. Projects are funded through low interest loans and grants with repaid money going back to the RLF. In 2001, Auburn and Lewiston formed a consortium with Auburn as the lead entity to receive HOME Investment Partnerships Program funds. This is an annual allocation from HUD and the funds are used for Homebuyer Assistance, Homeowner Rehabilitation, Rental Development and Tenant Security Deposits for homeless persons seeking permanent housing.

The Department of Housing and Urban Development (HUD) requires recipients of these grant funds to prepare a formal plan as a condition of receiving those funds known as the Citizen Participation Plan. The following is the City of Lewiston's Citizen Participation Plan written in accordance with Section 104((a) (3) of the Housing and Community Development Act of 1974, (42 U.S.C.5304(A) (3)), and 24 CFR Part 91 Sections 91.105 and 91.200.

II. Citizens Advisory Committee (CAC)

This Citizen Participation Plan (CPP) encourages participation from Lewiston residents in developing the 5-Year Consolidated Plan, any substantial amendments to the Consolidated Plan, and developing the annual action plans and performance reports. The City especially encourages participation by residents of Census Tracts 201, 202, 203 and 204, which constitute the CDBG target area and which is defined as a low and moderate income area. The City also encourages participation by low and moderate income persons, the homeless, persons with disabilities, immigrants and refugees, public housing authorities, and organizations representing these groups.

To ensure that all constituents are provided with an opportunity to be included in this important planning and implementation process, the City appoints and convenes a Citizens Advisory Committee (CAC) to assist in developing the specific goals and objectives of the Consolidated Plan, the Assessment of Fair Housing, and the annual Action Plan. Committee members are appointed by the Mayor to two year terms coinciding with the City's fiscal year (July 1- June 30). This seven-person Committee includes one Lewiston City Councilor, one representative from the Lewiston Planning Board, one voting City Administration appointed staff member; at

CITY OF LEWISTON CITIZEN PARTICIPATION PLAN FOR HUD FUNDED PROGRAMS

least two citizens from the City's low/moderate income population in Census Tracts 201-204, with the remainder from the community at large. The Committee is staffed by the Economic and Community Development Department.

Each year in December, at the beginning of the budget process, a Request for Application will be published in a newspaper of general distribution, placed on the website and emailed to applicants who have applied for funding in the past. Qualified agencies and organizations are encouraged to apply for funding. City staff offers two mandatory trainings for all applicants and provides technical assistance to groups representing persons who are of low-moderate income; as well as assistance to ethnic based community organizations that request help in developing proposals for funding assistance under any programs covered by the annual planning process of HUD funded programs. On the Economic and Community Development page under plans and reports, the City has available the Annual Action Plans which details the local government's funding decisions for activities for the last five years. The CAC will read, review, interview and score applications for funding from qualified applicants. The CAC will provide citizen input into the activities that will be funded by these sources during the budget process to ensure that the goals and objectives of the 5 year Consolidated Plan are reflected in the annual Action Plan and reviewed for progress and evaluated for appropriateness in the City's CAPER. During the first meeting of each budget year the CAC, will appoint a Chairperson among its members to serve as a facilitator of the meetings, spokesperson for the committee, and a liaison to the Economic and Community Development Department staff. The CAC will meet during the budget process to review and evaluate requests for funding. The CAC has an important role in this process which includes review of applications for appropriateness and compliance with the goals and objectives of the current Consolidated Plan, and to make a funding recommendation to the Lewiston's City Council for projects to be included in the next annual Action Plan.

The meetings of the CDBG Citizens Advisory Committee are open to the public with meeting times and dates published in advance in a publication of general circulation and on the City's website. Each year the Lewiston City Council will take action on the acceptance of the Action Plan according to the City's Budget timeline, with final approval by City Council no later than May 7th. Final approval will take place at a City Council Meeting following a public hearing. Notice of the City Council meeting and public hearing on the Consolidated Plan and Action Plan will be provided in the local newspaper at least 10 days before the hearing is to take place. Citizens will have a full 30 days from the date of publication to express concerns and comments by email on the City's website by using the following link <http://www.ci.lewiston.me.us/Directory.aspx?DID=7>, or by regular mail addressed to the Director, Economic and Community Development Department, 27 Pine Street, Lewiston, ME 04240.

During the year, outside of the regular application process, projects for funding in excess of

CITY OF LEWISTON

CITIZEN PARTICIPATION PLAN FOR HUD FUNDED PROGRAMS

\$10,000 that fall outside of the Program Guidelines, may be presented to the City Council for review and approval. A description of the project; the amount of the funding requested will follow the same public notification process as the regular application process. The action will take place as a public hearing using the same public process as described in the previous paragraph.

III. Consolidated Plan and Assessment of Fair Housing Development:

The Consolidated Plan is a planning document that outlines and guides CDBG and HOME program expenditures for a five-year period. At the same time, the City will prepare an Assessment of Fair Housing, a process to analyze the local fair housing landscape and set fair housing priorities and goals which will identified in the Consolidated Plan. (the “Plans”) It is designed to be a collaborative process through which Lewiston establishes a unified vision for community development actions and strategies. It creates the opportunity for strategic planning and citizen participation to take place in a comprehensive context. The Consolidated Plan identifies specific courses of actions for the CDBG funding the City receives. It builds on local assets and responds to the needs of the community and sets forth program goals, specific objectives, annual goals, and benchmarks for measuring progress.

In the preparation of the Plans the City shall encourage the participation of local and regional institutions, Continuums of Care, and other organizations (including businesses, developers, nonprofit organizations, philanthropic organizations, and community-based and faith-based organizations) in the process of developing and implementing the Plans. The City shall encourage the participation of public and private organizations and shall consult with broadband internet service providers, organizations engaged in narrowing the digital divide, agencies whose primary responsibilities include the management of flood prone areas, public land or water resources, and emergency management agencies in the process of developing the Plans.

Working in conjunction with the Lewiston Housing Authority, the City shall encourage the participation of residents of public and assisted housing developments (PHA) (including any resident advisory boards, resident councils, and resident management corporations) in the process of developing and implementing the AFH and the consolidated plan, along with other low-income residents of targeted revitalization areas in which the developments are located. The City shall make an effort to provide information to the PHA about the Plans activities related to its developments and surrounding communities so that the PHA can make this information available at the annual public hearing(s) required for the PHA Plan.

The City will explore alternative public involvement techniques and quantitative ways to measure efforts that encourage citizen participation in a shared vision for change in communities

CITY OF LEWISTON CITIZEN PARTICIPATION PLAN FOR HUD FUNDED PROGRAMS

and neighborhoods, and the review of program performance; *e.g.*, use of focus groups and the Internet.

During development of the Plans, the City of Lewiston shall:

A.) Provide to its citizens, public agencies and other interested parties data from HUD as well as any other supplemental information gathered from local sources; state the amount of assistance that the City expects to receive from CDBG and HOME funded programs; describe the range of activities that may be undertaken using these funds; include the estimated amount that will benefit persons of low and moderate income; identify what steps will be taken to minimize displacement of persons and how displaced persons are to be assisted. This information will be made available during the public planning meetings.

B.) Publish the proposed Plans in a manner that affords citizens, public agencies, and other interested parties a reasonable opportunity to examine its contents and to submit comments. This information will be summarized and published in a local newspaper of general circulation in the Lewiston area. The summary will include a description of the contents and purposes of the proposed Plans and will be available for review at the following link <http://www.ci.lewiston.me.us/index.aspx?NID=13> on the Economic and Community Development page of the City's website. Email notification of the same will be provided to agencies that have historically applied for CDBG funds and other partner agencies and stakeholders, such as the Lewiston Housing Authority, Healthy Neighborhood Planning Council and Pine Tree Legal. Citizens and interested parties can utilize The "Notify Me" tool that allows citizens to follow the process by providing their email address. An email will be sent as the planning process commences.

C.) Copies will be available at the City of Lewiston's Economic and Community Development Department offices and at Lewiston Public Library, Lewiston, ME,

D.) Hold two public hearings on housing and community development needs before the proposed Plans are published for comment.

1.) The City shall give at least 10 days notice of the hearing to citizens by: publishing notices in newspapers of general circulation in Lewiston which includes information on the purpose, time and location of the hearing; and posting on the City's web site and Facebook page. The City shall hold the public hearing in City Hall, 27 Pine Street, Lewiston Maine at a time and date intended to maximize the participation of interested citizens.

2.) Where a significant number of non-English speaking residents can be reasonably expected to participate, the City will provide a qualified interpreter at the public hearing to

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accommodate the needs of these residents.

E.) The City will accept public comments on the proposed Consolidated Plan for a period of not less than thirty (30) days from the date the public notice is placed in the newspaper of general circulation and on the Economic and Community Development Page of the website under "Plans and Resources" <http://www.ci.lewiston.me.us/index.aspx?NID=131> .

F.) In developing the final Plans the feedback received verbally, in writing, or online during the comment period and at the public hearing will be considered. A summary of the feedback received, including comments received but not incorporated into the final Plans will be included as an attachment to the document. For comments not incorporated, the attachment will explain the reasoning for the exclusion.

IV. Amendments to the Consolidated Plan and the Assessment of Fair Housing

There are two types of amendments to the Plans, substantial and minor amendments. The following subsections identify what constitutes an amendment and the threshold for determining the type of amendment, including the public notification and approval process.

A. Substantial Amendment:

Any one of the actions listed below in Section IV (A) (a-c) shall constitute a substantial amendment to the Plans:

- 1.) A change in the City's allocation priorities or change in the method of distribution of funds covered by the Plans;
- 2.) Implementation of an activity using funds from any program covered by the Plans (including program income) not previously described in the action plan; or,
- 3.) A change in the purpose, scope, location, or beneficiaries of a program funded by HUD programs as listed in the Action Plan section of the adopted Plans.

2. Public Hearing Requirements for a Substantial Amendment:

To provide citizens with an opportunity to comment on a substantial amendment, public notice will be published at least 10 days before a public hearing. The public notice will include a summary of the proposed change and its potential effect on households of low and

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moderate income persons. The summary must be published in a newspaper of general circulation and placed on the Economic and Community Development Department Page on the City's website under Plans and Resources. Included in the notice will be the opportunity for interested citizens to comment for a period of not less than thirty (30) days prior to implementing the amendment. The published summary must state that written comments must be submitted to the City by a specified date.

Any comments or views of citizens and units of general local government received online, in writing or orally during the comment period or at public hearings must be considered in adopting a substantial amendment to the Plans. The City shall attach a summary of these comments or views to the substantial amendment as finally approved.

B. Minor Amendment:

A minor amendment is defined as a change that does not exceed 10% of the amount of the CDBG Program budget (which includes the annual allocation, reprogrammed funds, and program income) for the year in which the amendment is being considered.

2. Public Hearing Requirements for a Minor Amendment:

There are no public hearing requirements for a minor amendment.

V. Performance Reports Associated With the Consolidated Plan

When preparing performance reports associated with the Consolidated Plan, the City shall:

A.) Provide citizens with reasonable notice and an opportunity to comment on performance reports associated with the Consolidated Plan. Reasonable notice must include a summary of what has been accomplished and its effect on households of low and moderate income. The summary must be published in a newspaper of general circulation in Lewiston and notify interested citizens and groups that they have the opportunity to provide comments for a period of not less than fifteen (15) days before the performance report is submitted to HUD. The published summary must indicate that written comments must be submitted by a specified date to the City.

B.) Consider any comments or views of citizens received online, in writing or orally in preparing the performance report. The City shall attach a summary of these comments or views to the performance report.

VI. Availability of the Plans and Related Documents to the Public

**CITY OF LEWISTON
CITIZEN PARTICIPATION PLAN FOR HUD FUNDED
PROGRAMS**

A.) The City shall make available to the public free of charge and upon request the final Consolidated Plan as adopted, any substantial amendments, and any associated performance reports. Upon request, the City will make these documents available in a form accessible to persons with disabilities.

B.) Comments may be made online at www.ci.lewiston.me.us/Directory.aspx?DID=7 , or in writing, or verbally to the Director, Economic and Community Development Department, City Hall, 27 Pine Street, Lewiston, Maine 04240. All comments submitted to the Economic and Community Development Department will be filed. Prior to filing, appropriate responses will be submitted by the Economic and Community Development Director or his/her designee.

VII. Complaints Associated with the Consolidated Plan and Related Documents

The City will provide a substantive written response to every written citizen complaint related to the Consolidated Plan, substantive amendments, and associated performance reports within fifteen (15) working days.

VIII. Accessibility to Those with Disabilities or Language Barriers

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities and/or in the delivery of its programs, activities, and services based on an individual's ethnic origin, color, religion, gender, sexual orientation, age, physical or mental disability, veteran status, or inability to speak English.

With proper notice, the City will endeavor to accommodate the needs of those unable to participate in the process as designed. This policy includes but is not limited to providing translation services.

For more information about this policy, contact or call Compliance Officer at 207-513-3000 (TTY) 207-513-3007.

IX. Effective Date

This is the 1st Amendment to the Citizens Participate Plan adopted on February 7, 2012. Once approved it will replace the current document and will be in effect until amended.

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I. — Introduction

~~The~~

~~In 1974, the City of Lewiston was designated as a Community Development Block Grant Entitlement Community in 1974. Every year since then, the City has received a formula based allocation of CDBG funds. City. These funds are used for programs including housing rehabilitation to fund administration and planning, social services, housing, commercial, and economic development loans programs, public facilities and infrastructure improvements, and financial assistance to social services agencies, acquisition, demolition and clearance of unsafe structures. Every year the City receives a formula based allocation of entitlement funding. Using CDBG funds to initially capitalize, and periodically recapitalize the programs; the City created housing and commercial revolving loan funds (RLF) used to rehabilitate properties, make general improvements and bring the properties to code. Projects are funded through low interest loans and grants with repaid money going back to the RLF. In 2001, Auburn and Lewiston formed a consortium with Auburn as the lead entity to receive HOME Investment Partnerships Program funds. This is an annual allocation from HUD and the funds are used for Homebuyer Assistance, Homeowner Rehabilitation, Rental Development and Tenant Security Deposits for homeless persons seeking permanent housing.~~

The Department of Housing and Urban Development (HUD) requires recipients of these grant funds to prepare a formal plan as a condition of receiving those funds known as the Citizen Participation Plan ~~as a condition of receiving those funds. What follows. The following~~ is the City of ~~Lewiston's~~ Lewiston's Citizen Participation Plan written in accordance with ~~Section 104((a)(3) of the Housing and Community Development Act of 1974, (42 U.S.C.5304(A) (3)), and 24 CFR Part 91 Sections 91.105 and 91.200.~~

II. — ~~CDBG~~ Citizens Advisory Committee (CAC)

This Citizen Participation Plan (CPP) encourages participation from Lewiston residents in developing the 5-Year Consolidated Plan, any substantial amendments to the Consolidated Plan, and developing the annual action plans and performance reports. The City especially encourages participation by residents of Census Tracts 201, 202, 203 and 204, which constitute the CDBG target area and which is defined as a low and moderate income area. The City also encourages participation by low and moderate income persons, the homeless, persons with disabilities, ~~and of immigrants and refugees, public housing authorities, and organizations representing these groups.~~

To ensure that all constituents are provided with an opportunity to be included in this important planning ~~and implementation process, the City appoints and convenes a~~ ~~CDBG~~ Citizens Advisory Committee (CAC) to assist in developing the specific goals and objectives of

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the Consolidated Plan, the Assessment of Fair Housing, and the annual Action Plan, ~~and the Consolidated Annual Performance and Evaluation Report (CAPER).~~ Committee members are appointed by the Mayor to two year terms coinciding with the ~~City's~~ City's fiscal year (July 1- June 30). This seven-person Committee includes one Lewiston City Councilor, one representative from the Lewiston Planning Board, ~~and~~ one voting City Administration appointed staff member. ~~Of the 4 remaining members,~~ at least two ~~must be~~ citizens from the ~~City's CDBG Target Area (City's low/moderate income population in~~ Census Tracts 201-204), with the remainder from the community at large. The Committee is staffed by the Economic and Community Development Department.

~~The role of the CAC is to provide citizen input into the CDBG~~

~~Each year in December, at the beginning of the budget process, a Request for Application will be published in a newspaper of general distribution, placed on the website and emailed to applicants who have applied for funding in the past. Qualified agencies and organizations are encouraged to apply for funding. City staff offers two mandatory trainings for all applicants and provides technical assistance to groups representing persons who are of low-moderate income; as well as assistance to ethnic based community organizations that request help in developing proposals for funding assistance under any programs covered by the annual planning process of HUD funded programs. On the Economic and Community Development page under plans and reports, the City has available the Annual Action Plans which details the local government's funding decisions for activities for the last five years. The CAC will read, review, interview and score applications for funding from qualified applicants. The CAC will provide citizen input into the activities that will be funded by these sources during the budget process to ensure that the goals and objectives of the 5 year Consolidated Plan are reflected in the annual Action Plan and reviewed for progress and evaluated for appropriateness in the City's City's CAPER. During ~~its~~ the first meeting, of each budget year the CAC, will appoint a Chairperson ~~from~~ among its members to serve as a meeting-facilitator, ~~a of the meetings~~, spokesperson for the committee, and a liaison to the Economic and Community Development Department staff. The ~~CDBG~~-CAC will meet during the ~~CDBG~~-budget process to review and evaluate requests for ~~CDBG~~-funding. The ~~CAC's~~ CAC has an important role in this process which includes reviewing funding review of applications for appropriateness and compliance with the ~~national objectives of the CDBG program, verifying that the~~ goals and objectives described in the funding request address the goals and objectives in the ~~of the~~ current ~~consolidated plan~~ Consolidated Plan, and recommending to the Lewiston ~~make a funding recommendation to the Lewiston's~~ City Council ~~the appropriate activities and funding levels for~~ projects to be included in the next annual Action Plan.~~

The meetings of the CDBG Citizens Advisory Committee are open to the public with meeting times and dates published in advance in a publication of general circulation and on the City's website. —Each year the Lewiston City Council will ~~act to accept~~ take action on the acceptance of the Action Plan according to the ~~City's~~ City's Budget ~~timeline,~~ with ~~final~~ final

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~~approval by City Council approval~~ no later than May ~~1st~~ 7th. Final approval will take place at a City Council Meeting following a public hearing. Notice of the City Council meeting and public hearing on the Consolidated Plan and Action Plan will be provided in the local newspaper ~~approximately 10 days before the hearing is to take place~~ at least 10 days before the hearing is to take place. Citizens will have a full 30 days from the date of publication to express concerns and comments by email on the City's website by using the following link <http://www.ci.lewiston.me.us/Directory.aspx?DID=7>, or by regular mail addressed to the Director, Economic and Community Development Department, 27 Pine Street, Lewiston, ME 04240.

During the year, outside of the regular application process, projects for funding in excess of \$10,000 that fall outside of the Program Guidelines, may be presented to the City Council for review and approval. A description of the project; the amount of the funding requested will follow the same public notification process as the regular application process. The action will take place as a public hearing using the same public process as described in the previous paragraph.

III. — Consolidated Plan and Assessment of Fair Housing Development:

The Consolidated Plan is a planning document that outlines and guides CDBG and HOME program expenditures for a five-year period. At the same time, the City will prepare an Assessment of Fair Housing, a process to analyze the local fair housing landscape and set fair housing priorities and goals which will identified in the Consolidated Plan. (the "Plans") It is designed to be a collaborative process through which Lewiston establishes a unified vision for community development actions and strategies. It creates the opportunity for strategic planning and citizen participation to take place in a comprehensive context. The Consolidated Plan identifies specific courses of actions for the CDBG funding the City receives. It builds on local assets and responds ~~to the needs of the community~~ and sets forth program goals, specific objectives, annual goals, and benchmarks for measuring progress.

In the preparation of the Plans the City shall encourage the participation of local and regional institutions, Continuums of Care, and other organizations (including businesses, developers, nonprofit organizations, philanthropic organizations, and community-based and faith-based organizations) in the process of developing and implementing the Plans. The City shall encourage the participation of public and private organizations and shall consult with broadband internet service providers, organizations engaged in narrowing the digital divide, agencies whose primary responsibilities include the management of flood prone areas, public land or water resources, and emergency management agencies in the process of developing the Plans.

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Working in conjunction with the Lewiston Housing Authority, the City shall encourage the participation of residents of public and assisted housing developments (PHA) (including any resident advisory boards, resident councils, and resident management corporations) in the process of developing and implementing the AFH and the consolidated plan, along with other low-income residents of targeted revitalization areas in which the developments are located. The City shall make an effort to provide information to the PHA about the Plans activities related to its developments and surrounding communities so that the PHA can make this information available at the annual public hearing(s) required for the PHA Plan.

The City will explore alternative public involvement techniques and quantitative ways to measure efforts that encourage citizen participation in a shared vision for change in communities and neighborhoods, and the review of program performance; e.g., use of focus groups and the Internet.

During development of the ~~Consolidated Plan~~Plans, the City of Lewiston shall:

A.) ~~Make available~~ Provide to its citizens, public agencies, and other interested parties ~~information that includes data from HUD as well as any other supplemental information gathered from local sources; state~~ the amount of assistance that the City expects to receive from ~~the Community Development Block Grant (CDBG) program and HOME funded programs; describe~~ the range of activities that may be undertaken using these funds; ~~including; include~~ the estimated amount that will benefit persons of low and moderate income ~~and plans to~~; identify what steps will be taken to minimize displacement of persons and to assist any persons ~~show~~ displaced. persons are to be assisted. This information will be made available ~~before the adoption of the Consolidated Plan~~during the public planning meetings.

B.) _____ Publish the proposed ~~Consolidated Plan~~Plans in a manner that affords citizens, public agencies, and other interested parties a reasonable opportunity to examine its contents and to submit comments. This information will be summarized and published in a local newspaper of general circulation in the Lewiston area. The summary will include a description of the contents and purposes of the proposed ~~Consolidated Plan~~Plans and will be available for review in its entirety at the City's at the following link <http://www.ci.lewiston.me.us/index.aspx?NID=13> on the Economic and Community Development Department. An electronic copy will be placed on the City's page of the City's website. Email notification of the same will be provided to agencies that have historically applied for CDBG funds and other partner agencies and stakeholders, such as the Lewiston Housing Authority, Healthy Neighborhood Planning Council and Pine Tree Legal. Citizens and interested parties can utilize The "Notify Me" tool that allows citizens to follow the process by providing their email address. An email will be sent as the planning process commences.

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C.)__ Copies will be available at the City of ~~Lewiston's~~Lewiston's Economic and Community Development Department offices and at ~~the~~-Lewiston Public Library, Lewiston, ME,

D.) __ Hold ~~at least one~~two public ~~hearing~~hearings on housing and community development needs before the proposed ~~Consolidated Plan is~~Plans are published for comment.

1.) ___ The- City shall give ~~adequate~~advance~~at least 10 days~~ notice of -the hearing -to citizens -by: publishing notices in newspapers of general circulation in Lewiston which ~~include~~includes information on the purpose, time, and location of the hearing; and posting on the ~~City's website~~City's web site and Facebook page. The City shall hold the public hearing in City Hall, 27 Pine Street, Lewiston Maine at a time and date intended to maximize the participation of interested citizens.

2.)_____ Where a significant number of non-English speaking residents can be reasonably expected to participate, the City will -provide -a- qualified interpreter at the public hearing to accommodate the needs of these residents.

E.)__ The City will accept public comments on the proposed Consolidated Plan for a period of not less than thirty (30) days from the date the public notice is placed in the newspaper of general circulation and on the Economic and Community Development Page of the website under "Plans and Resources" <http://www.ci.lewiston.me.us/index.aspx?NID=131>.

F.) ___ In ~~de vel oping~~developing the final ~~Consolidated Plan,~~Plans the -feedback received -verbally-~~or,~~ in writing-, or online during -the -comment -period -and -at -the -public hearing -will -be considered.- A summary of the feedback received, including comments received but not incorporated into the final ~~Consolidated Plan,~~Plans will be included -as -an attachment -to the document.- For comments not incorporated, the attachment will explain the reasoning for the exclusion.

IV. Amendments to the Consolidated Plan and the Assessment of Fair Housing

There are two types of amendments to the ~~Consolidated Plan~~Plans, substantial ~~amendments~~ and minor amendments. The -following -subsections -identify -what -constitutes -an -amendment and -the threshold for determining ~~what constitutes a substantial~~the type of amendment, including the public notification and approval process.

A. ~~If any.~~ Substantial Amendment:

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~~Any one of the following actions is proposed, it will listed below in Section IV (A) (a-c) shall constitute a substantial amendment to the plan: Plans:~~

- ~~1.) A change in the City's allocation priorities or priorities or change in the method of distribution of funds covered by the Consolidated Plan Plans;~~
- ~~2.) Implementation of an activity using funds from any program covered by the Consolidated Plan Plans (including program income) not previously described in the action plan; or,~~
- ~~3.) A change in the purpose, scope, location, or beneficiaries of a program funded by the Community Development Block Grant (CDBG) HUD programs as listed in the Action Plan section of the adopted Consolidated Plan Plans.~~

2. Public Hearing Requirements for a Substantial Amendment:

~~To provide Any one of the actions listed in Section IV (A) (1-3) shall constitute an amendment to the Consolidated Plan.~~

~~B.) Minor Amendment to the Consolidated Plan, Public Notification and Meeting Requirements: A minor amendment is defined as a change that does not exceed 10% of the amount of the CDBG Program budget (which includes the annual allocation, reprogrammed funds, and program income) for the year in which the amendment is being considered. A minor amendment will require a 7 day notice of public meeting posted at City Hall and citizens with an opportunity to comment on the City's website providing the date and time of the City Council meeting at which the minor amendment will be presented and voted upon. Any comments received at or in advance of the public meeting will be recorded and filed with the City Council meeting minutes.~~

Requirements:

~~A substantial amendment to the plan shall be any change that exceeds 10% of the amount of the CDBG Program budget (as defined in above) for the year in which the amendment is being considered. public notice will be published at least 10 days before a public hearing. The public To provide citizens with reasonable notice and an opportunity to comment on substantial amendments to the Consolidated Plan, reasonable notice must will include a summary of the proposed change and its potential effect on households of low and moderate income persons. The summary must be published in a newspaper of general circulation and include an placed on the Economic and Community Development Department Page on the City's website under Plans and Resources. Included in the notice will be the opportunity for written comment by interested citizens and groupst o comment for a period of not less than thirty (30) days prior to implementing the amendment. The~~

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published summary –must state that written comments must be submitted to the City by a specified date.

Any comments or views of citizens and units of general local government received online, in writing or orally during the comment period or at public hearings must be considered in adopting a substantial amendment to the ~~Consolidated Plan, Plans~~. The City –shall –attach– a summary of these comments or views to the substantial amendment as finally approved.

B. Minor Amendment:

A minor amendment is defined as a change that does not exceed 10% of the amount of the CDBG Program budget (which includes the annual allocation, reprogrammed funds, and program income) for the year in which the amendment is being considered.

2. Public Hearing Requirements for a Minor Amendment:

There are no public hearing requirements for a minor amendment.

V. Performance Reports Associated With the Consolidated Plan

When preparing performance reports associated with the Consolidated Plan, the City shall:

A.) Provide citizens with reasonable notice and an opportunity– to comment on performance reports associated with the Consolidated Plan. Reasonable notice must include a summary of what has been accomplished and its effect on households of low and moderate income. The summary must be published in a newspaper of general circulation in Lewiston and–_notify interested citizens and groups that they have the opportunity to provide comments for a period of not less than fifteen (15) days before the performance report is submitted to HUD. The published summary must indicate that written comments must be submitted by a specified date to the City.

B.) Consider –any comments –or views –of citizens –~~re.eeived~~received online, in writing –or orally –~~at public hearings, if held,~~ in preparing– the performance report. The City shall attach a summary of these comments or views to the performance report.

VI. Availability of the ~~Consolidated Plan~~Plans and –Related –Documents to the Public

A.) The City shall make available to the public free of charge and upon request the final Consolidated Plan as adopted, any substantial amendments, and any associated performance

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reports. Upon request, the City will make these documents available in a form accessible to persons with disabilities.

B.) ~~Written~~ Comments ~~should~~ may be ~~mailed to:~~ made online at www.ci.lewiston.me.us/Directory.aspx?DID=7 , or in writing, or verbally to the Director, Economic and Community Development, ~~Department.~~ City Hall, 27 Pine Street, Lewiston, Maine 04240. ~~All~~ in writing comments submitted ~~to the Economic and Community Development Department will be filed.~~ Prior to filing, appropriate responses will be submitted by the Economic and Community Development Director or his/her designee.

VII. Complaints Associated with the Consolidated Plan and Related Documents

The City will provide a substantive written response to every written citizen complaint related to the Consolidated Plan, substantive amendments, and associated performance reports within fifteen (15) working days.

VIII. Accessibility to Those with Disabilities or Language Barriers

The City of Lewiston does not discriminate against or exclude individuals from its municipal facilities and/or in the delivery of its programs, activities, and services based on an individual's ethnic origin, color, religion, gender, sexual orientation, age, physical or mental disability, veteran status, or inability to speak English.

With proper notice, the City will endeavor to accommodate the needs of those unable to participate in the process as designed. This policy includes but is not limited to providing translation services.

For more information ~~about this~~ policy, contact ~~or call~~ Compliance ~~Officer~~ at 207-513-3000 (TTY) 207-513-3007.

IX. Effective Date

This ~~Citizen Participation is the 1st Amendment to the Citizens Participate Plan was adopted by the Lewiston City Council during a public hearing dated on~~ February 7, 2012. Once approved it will replace the current document and will be in effect until amended.

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 8

SUBJECT:

Public Hearing on Reallocation of Community Development Block Grant Funds.

INFORMATION: Under CDBG regulations, Lewiston can have no more than 1.5 times its annual allocation plus accumulated program income unspent 60 days before the beginning of the new fiscal year. This past winter, HUD changed their policies so that program income in Revolving Loan Funds (RLF's) is now included in this calculation. As of that date this year, Lewiston had 1.74 times the annual allocation in undrawn funds and program income at the 60 day mark. HUD has asked the City to take action to come into line with this spending requirement over the coming year. Based on current projections and issues that have arisen delaying certain planned projects, we estimate that the City will need to spend approximately \$484,000 on other projects to be in compliance with the spending requirement. A workshop was held with the City Council last Tuesday to discuss this issue and possible solutions. Among them were proposals to fund certain projects not originally included in the CDBG budget. These include: \$200,000 for materials to build the replacement Beech Street bridge over the lower canal into Simard Payne Park; \$50,000 for environmental review, concept design and engineering for the sports field to be constructed at the prior Hudson Buss Site; \$35,000 for environmental, engineering and civil design for the Universally Accessible Playground planned for Marcotte Park; and up to \$250,000 to assist Tree Street Youth in construction of new space for the younger grades. These are preliminary proposals and staff continues to evaluate other potential uses of these funds. We are, however, required to hold a public hearing on any significant change in the CDBG budget followed by a 30 day public comment period before any action can be taken. Appropriate notice has been published. Should the Council wish to modify these initial recommendations, a new hearing and comment period will be required. Greater detail is provided on the attached memo.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EATB/kmm

REQUESTED ACTION:

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To conduct a Public Hearing on revisions to the Community Development Block Grant Program Budget.

Economic and Community Development

Lincoln Jeffers

Director

Lewiston



2007



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Reallocation of CDBG Funds to meet HUD Requirements
Date: October 10, 2017

Lewiston has been a Community Development Block Grant (CDBG) Entitlement Community since 1974. As such, the City annually receives an allocation of CDBG dollars that must be spent in accordance with regulations promulgated by the U.S. Department of Housing and Urban Development (HUD) to ensure that the dollars are used to meet three national objectives:

- Provide decent, safe and sanitary housing
- Provide a suitable living environment
- Expand economic opportunities

Within these broad goals, communities have considerable latitude as to how their CDBG funds are invested. However, the regulations associated with the use of the funds are complex, diverse, and have many checks and balances to ensure that federal dollars meet the national objectives but do not run counter to other federal goals such as protecting the environment, supporting historic preservation, and ensuring that well qualified low bid contractors pay fair wages (Davis Bacon wage rates) on CDBG funded projects.

Problem

Under CDBG regulations, a CDBG Entitlement Community such as Lewiston can have no more than 1.5 times its annual allocation plus accumulated program income unspent 60 days before the beginning of the new fiscal year. This is known as the spend down requirement. This past winter, HUD changed their policies so that program income in Revolving Loan Funds (RLF's) is now included in this calculation. City staff received notice of this change midwinter. Since then, we were not able to put enough Commercial RLF money on the streets to meet the spend down requirement before the May 1st deadline. As of that date this year, Lewiston had 1.74 times the annual allocation in undrawn funds and program income at the 60 day mark. HUD has asked the City to take action to come into line with the spend down requirement over the coming year.

Current Situation

This year, the city received \$800,805 in CDBG funds. That means we can have no more than a total of \$1,201,208 in unspent CDBG funds and program income on May 1, 2018. Today we need to spend \$784,000 by May 1st to be in compliance with this requirement. When the administrative costs of running the

program and payments to social service agencies are subtracted from that amount, the City will need to spend approximately \$484,000 on other projects to be in compliance.

A number of projects and issues have contributed to this spend down shortfall. Among them are:

- HUD's policy change requiring that program income from our revolving loan funds be included in the spend down calculation;
- Delay's in the Continental Roof Rehabilitation Project, where we had anticipated that \$250,000 would be used from the Commercial RLF¹;
- Delays in purchasing equipment and construction of the Handicapped Accessible Playground in Marcotte Park related to fund raising activities and the need for civil design work on the site;
- A determination that the Council approved reallocation of \$150,000 from the Commercial RLF for improvements related to the relocation of the recreational fields at Franklin Pasture could not meet HUD's requirements.²

If the spend down requirement is not met, the City loses any amount over the 1.5 times cap and is at risk for reductions in future funding.

Potential Projects

Over the last few weeks, there have been several meetings between Administration, Finance, Public Works, and Economic and Community Development to identify projects that could be quickly undertaken to allow the City to meet HUD's required spend down. The recommended projects include:

1. **\$200,000 - Beech Street Bridge** - for materials to build the replacement bridge over the lower canal into Simard Payne Park
2. **\$50,000 - Hudson Bus Athletic Field**- for environmental review, concept design and engineering

¹ Negotiations on the obligations of the owners for receiving of the grant were protracted, the scope of services for the work were constrained by the amount of funding available, the owners were unwilling to commit to the requirements of receiving the funds when they had active buyer interest in the mill, and at this point, the winning bidder for the work cannot start on the repairs until next spring.

² In June, the Council approved reallocating \$150,000 from the CDBG capitalized Commercial Revolving Loan Fund to fund improvements related to the relocation of the recreational fields at Franklin Pasture, including lighting and a pitcher's mound. As we moved through the regulatory steps to get federal approval to make those investments, it became apparent we would not be able to spend the money quickly enough to help meet our spend down requirement. Further exacerbating the issue is a HUD mandated environmental review, which is different from other federal environmental reviews, that need to be completed with a "Finding of No Significant Impact" (FONSI) before any dollars can be spent on the project. If we want to use CDBG dollars for the playing fields, we would need to stop all site work and construction of the school until the environmental review was complete. We argued that the playing fields were a separate construction project from the school, but HUD determined that the playing fields were only being rebuilt because the school was being built where the playing fields had been.

3. **\$35,000 - Shane's Inspiration**- for environmental, engineering and civil design³
4. **Up to \$250,000 - Tree Street Youth** – to assist in construction of new space for the younger grades.

Funding for these projects could be transferred from the CDBG program's Commercial Revolving Loan Fund, which currently has a \$608,550 balance. The program also generates approximately \$120,000 annually in program income. City staff continues to communicate with several downtown building owners who have inquired about utilizing the Façade, Life Safety, Elevator, or Commercial Loan Programs. However, there is no active application in house. These funds can be partially restored through future year CDBG funding should any of the projects now under discussion come to fruition.

All previously named city departments are focused on making sure the spend down requirement will be met. A staff meeting is scheduled for October 31st to determine progress and further refine the strategy as more information becomes available.

Requested Action

We are asking the Council to hold a public hearing at its November 21, 2017 meeting to consider reallocating funds from the Commercial RLF program to the uses outlined above.

HUD requires a 30 day public comment period when substantial changes to the 5 Year Consolidated Plan or Annual Action Plan (budget for expenditures) are contemplated. These recommendations rise to that level. Public notice of these proposed changes was published in the October 7th Sun Journal. A workshop on the spend down issue and proposed funding reallocations will be held on October 10th. A public hearing on the changes will be held on October 17th. Public comment will be taken until 4 pm on November 8th. The Council is slated to take action on the proposed changes at its November 21st meeting.

Citizen Participation

On a related note, HUD has changed the criteria that must be met to engage citizens in helping develop recommendations for the use of CDBG dollars. Lewiston has a master policy called *Community Development Grant Program Citizen Participation Plan* that was last approved by the City Council on February 7, 2012. A public hearing on the proposed changes to that document will be held on October 17th, with council action scheduled for November 21st. Public notice of the 30 day public comment period was published on October 7th. The document is currently available for review on the Economic and Community Development department's web page on the City's web site at <http://www.ci.lewiston.me.us/index.aspx?NID=131> (see Draft Citizen Participation Plan link).

³ The funding for this will come from the existing CDBG allocation of \$175,000 for this project. The change here is to include these elements of the work in the project description.

The proposed changes to this policy that most directly impact the current proposal to reallocate certain CDBG funds deal with the issue of significant changes to the project funding plan that occur during the funding year. They are:

“During the year, outside of the regular application process, projects for funding in excess of \$10,000 that fall outside of the Program Guidelines may be presented to the City Council for review and approval. A description of the project and the amount of the funding requested will follow the same public notification process as the regular application process. The action will take place as a public hearing using the same public process as described in the previous paragraph.”

“2. Public Hearing Requirements for a Substantial Amendment:

To provide citizens with reasonable notice and an opportunity to comment on substantial amendments to the Plans, reasonable notice must include a summary of the proposed change and its potential effect on households of low and moderate income. The summary must be published in a newspaper of general circulation and the Economic and Development Department Page under Plans and Resources on the City’s website and include an opportunity for comment by interested citizens and groups for a period of not less than thirty (30) days prior to implementing the amendment. The published summary must state that written comments must be submitted to the City by a specified date. Any comments or views of citizens and units of general local government received online, in writing, or orally during the comment period or at public hearings must be considered in adopting a substantial amendment to the Plans. The City shall attach a summary of these comments or views to the substantial amendment as finally approved.”

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 9

SUBJECT:

Amendments to the City Policy Manual for Miscellaneous Fees regarding penalties for ordinance violations regarding noise, nuisance parties and poles in sidewalks.

INFORMATION:

The City Council recently approved two new ordinances regulating noise and nuisance parties, as well as an ordinance amendment regarding items on or blocking city sidewalks. In order to allow for effective enforcement, penalties must be established for violations of these ordinances. The attached page outlines the proposed amendments to the City's Policy Manual on Miscellaneous Fees and Penalties.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/kmm

REQUESTED ACTION:

1	2	3	4	5	6	7	M
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To approve the proposed amendments to the City Policy, Policy Number 81 - City Department Miscellaneous Fees and Penalties, as recommended by the City Administrator, Police Chief and Director of Public Works.

(Note - Full copy of the amendment is attached; additions are underlined.)

Chapter 50 Offenses and Miscellaneous Provisions – Unlawful Noise - Penalties

The following are civil violation penalties:

<u>First violation</u>	<u>\$ 100</u>
<u>Second violation within 12 months</u>	<u>200</u>
<u>Further violations within 12 months</u>	<u>300</u>

Note: These penalties are outlined in the City Code of Ordinances Chapter 50 Offenses and Miscellaneous Provisions, Article I In General.

Chapter 50 Offenses and Miscellaneous Provisions – Nuisance Parties - Penalties

The following are civil violation penalties:

<u>A violation of section 50-16(b) Duty to control premises</u>	<u>\$ 300</u>
<u>A violation of section 50-16(c) Order to cease and disperse</u>	<u>500</u>
<u>A violation of section 50-17(b) Second nuisance party</u>	<u>500</u>
<u>A violation of section 50-17(c) Third or more nuisance party</u>	<u>1,000</u>

Note: These penalties are outlined in the City Code of Ordinances Chapter 50 Offenses and Miscellaneous Provisions, Article I In General.

Chapter 66 Streets and Sidewalks - Utility Pole in Sidewalk – Penalties

A violation of this provision of the Code shall be subject to a \$1,000 fine in addition to the requirement that the pole be relocated and that any damage done to the sidewalk be repaired. Failure to remove and repair within a 10 day period shall result in an additional fine of \$1,000. Further \$1,000 fines shall accrue for each subsequent ten day period during which the pole remains and/or the sidewalk is not repaired. Fines for continuing violations beyond the 10 day period may be waived by the Director of Public Works during any period when, in the Director’s opinion, such work is deemed impracticable due to winter weather conditions.

Note: These penalties are outlined in the City Code of Ordinances Chapter 66 Streets and Sidewalks, Article I In General.

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

LEWISTON CITY COUNCIL

MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 10

SUBJECT:

Public Hearing and Approval of Resolve to authorize city staff to submit a Brownfield Clean Up Grant for Bates Weave Shed and to accept the federal grant funds if the grant is awarded.

INFORMATION:

The City is seeking a federal grant to address environmental issues at the Bates Weave Shed which is owned by the City. This agenda item is for the City Council to conduct a public hearing for citizen input on the City's application for the federal grant and also to authorize city staff to apply for the grant. Additional details are contained within the background material.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/Kmm

REQUESTED ACTION:

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- 1) To conduct a Public Hearing regarding the City's application for a Brownfield Clean Up Grant for the Bates Weave Shed, and
- 2) To approve the Resolve to authorize city staff to submit a Brownfield Clean Up Grant for Bates Weave Shed and to accept the federal grant funds if the grant is awarded.



CITY OF LEWISTON, MAINE

October 17, 2017

COUNCIL RESOLVE

Resolve, to authorize staff to submit a Brownfield Cleanup Grant for Bates Weave Shed and to accept the federal grant funds if the grant is awarded

Whereas, the Bates Weave Shed (also known as Bates Mill #5) is owned by the City of Lewiston; and

Whereas, it was used for industrial purposes beginning in 1914; and

Whereas, several environmental assessments that have been conducted since the City took ownership of the Bates Mill Complex indicate the building has a legacy of environmental issues from these prior industrial uses; and

Whereas, Bates Mill LLC has an option to purchase the Bates Weave Shed and Tom Platz, the principal of Bates Mill LLC has been working for approximately the last two years to secure tenants for the space, is engaged in creating architectural and civil designs for the building, has a traffic study underway, is working through the process to have the building be eligible for state and federal historic tax credits, and is actively negotiating leases for the building; and

Whereas, for the redevelopment of Bates Weave Shed to be able to secure financing the building must have the environmental legacy issues properly mitigated; and

Whereas, the federal Environmental Protection Agency has issued a Notice of Funds Available for Brownfield Clean Up and a request for grant proposals; and

Whereas, successfully securing a Brownfield Cleanup Grant will result in lower costs to the City in partnering in the redevelopment of the building; and

Whereas, if the grant is approved, a 20% match is required, which the city can meet by allocating Community Development Grant Funding or other sources approved by the City Council, including in kind donations;

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

City staff is authorized to apply for an EPA Brownfield Grant in an amount of up to \$200,000; and furthermore, if the grant is approved, the City Council approves receipt of the funds and authorizes city staff to execute the attendant paperwork associated with the approval.

Economic and Community Development

Lincoln Jeffers

Director



To: Honorable Mayor and Members of the City Council
From: Lincoln Jeffers
RE: Public Hearing for Bates Mill #5 Brownfield Clean Up Grant
Date: October 11, 2017

Background

Brownfields are former industrial and commercial sites that's redevelopment potential may be adversely impacted because of past uses. Brownfield sites are often the sites around which communities grew, being the sites of industry, jobs and commerce. They are often in physically desirable sites, located on rivers, ports, and rail; and are served by transportation networks and other public utilities. But for their environmental legacies, they are desirable sites for redevelopment. Lewiston's mills are prime examples of Brownfield sites.

Over the last several decades, environmental laws have become more strident. Responsible parties are held accountable whenever possible; but, especially on historic sites, the original polluters may no longer be in existence. Lenders require environmental assessments on all commercial real estate properties they finance. The assessments determine if environmental issues are present, and if so, who is the likely responsible party. For a bank to lend on a property, it must receive a clean bill of environmental health or assurance from a regulatory authority that whatever environmental issues may be present pose no risk to public health.

Recognizing the redevelopment potential of Brownfield sites and the limited private sector funding for assessment, clean up, and redevelopment, the federal government has capitalized grant programs administered by the Environmental Protection Agency (EPA) that provide funding to assist municipalities and other government and nonprofit entities to evaluate and clean up Brownfield sites.

Since 1994, Lewiston has received over \$2.6 million in EPA Brownfield assessment and clean up grants as well as \$500,000 to establish a Brownfield Clean Up Revolving Loan Fund. The City has used the funds to assess and identify environmental issues at Brownfield sites throughout the City, supporting redevelopment.

Requested Action

The EPA has issued a Notice of Funds Available, requesting applications for Brownfield funding. Applications are due on November 16, 2017. Past Phase I, Phase II, and Targeted Brownfield Assessments at Bates #5 have identified issues of concern that include lead paint, asbestos containing materials, universal waste (old fluorescent light fixtures and ballasts), and limited areas and stained concrete in the hydroelectric generating and transformer rooms with PCB levels above acceptable levels. For the project to be eligible for financing, these issues must be addressed. Environmental issues like those just articulated are what EPA Brownfield Grants are intended to address.

Last winter, the City applied for brownfields clean-up grant for this project. However, one of the qualifying threshold criteria was missed and the application was not successful.

The City acquired the Bates Mill Complex by tax lien foreclosure. Under current environmental laws, we are not considered a responsible party for environmental conditions created before the City took ownership. As such, we are eligible to receive and spend Brownfield funds on clean up so long as the city is the owner of the property.

When the City sold the rest of the Bates Mill Complex to Bates Mill Limited Liability (Tom Platz, Managing Partner), the city agreed to an Environmental Remediation Plan that addressed the identified environmental issues in the complex. The developer has the same expectation with the conveyance of Mill #5.

Tom Platz continues to move forward with the project, and we expect to be in front of the City Council this winter to take action on the Bates Mill #5 related legal documents that will define the public/private partnership that will result in redevelopment of the building.

Up to \$200,000 is available for each Brownfield Clean Up grant. That funding requires a 20% match from other sources. The match can be cash, in kind, or some combination. CDBG funds are an eligible match source for EPA Brownfield Grants. The City allocated \$40,000 of CDBG funds in the FY2018 program year to meet the match for last year's grant application. The Council will need to again authorize commitment of the match for this year's application. Efforts will be made to reduce the match requirement with in-kind contributions that can better be defined as the work progresses.

EPA guidelines require that a public hearing be held to solicit public comments about the grant, and that a draft of the grant be available for review. The October 17th City Council meeting will serve as the public hearing. Notice of the public hearing was published in the Sun Journal on October 13th.



**Draft Analysis of Brownfields Cleanup Alternatives – Preliminary Evaluation
Bates Mill #5 (Weave Shed), 15 Canal Street, Lewiston, Maine**

Prepared for the City of Lewiston

I. Introduction & Background

a. Site Location

The site is located at 15 Canal Street in Lewiston, Maine (the Site). See Figure 1 for a Site Location Map.

b. Previous Site Use(s) and any previous cleanup/remediation

Previous investigations stated the building was constructed in 1912. Historic records reviewed indicate the building was utilized as a weave shed until Faribeu left the property in the early 2000s leaving the building vacant.

c. Site Assessment Findings

Prior to taking ownership of the parcel, the City of Lewiston hired Beacon Environmental Consultants, LLC (Beacon) to prepare an ASTM Phase I Report for the property, dated December 2016. The ASTM Phase I Report identified Recognized Environmental Conditions (RECs) associated with this property in the form of Polychlorinated Biphenyl (PCB) impacted concrete within the former power generating area as well as de minimus conditions in the form of asbestos and lead-based paint.

Previous environmental investigations associated with the Site are summarized in Table 1, which describes the type of the investigation, date, and contractor completing the investigation.

Table 1: Summary of Previous Investigations

Type of Investigation	Contractor Conducting Investigation	Date of Investigation	Field Work Completed
Phase II ESA	Summit Environmental Consultants, Inc. (Summit)	1999	Building materials, soil and groundwater sampling
Brownfields Removal	Summit	2002	Removal of contaminated materials from within trenches
Phase I ESA	Summit	2011	Site visit of the power generating portion of the property
Phase II ESA	Summit	2012	PCB, Lead-based paint sampling
Phase I ESA	Beacon	December 2016	Site visit

d. Project Goal

The planned reuse for the Site is a mixed commercial use including a hospital-related business and a YMCA.

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

II. Applicable Regulations and Cleanup Standards**a. Cleanup Oversight Responsibility**

The cleanup will be overseen by the Maine Department of Environmental Protection (MEDEP). In addition, all documents prepared for this site are submitted to the state environmental department. This ABCA was completed by Beacon Environmental Consultants, LLC (Beacon) for, and at the request of, the City of Lewiston (the Client).

b. Cleanup Standards for major contaminants

The City currently anticipates that the state standards for commercial use will be used as the cleanup standards.

c. Laws & Regulations Applicable to the Cleanup

Laws and regulations that are applicable to this cleanup include the Federal Small Business Liability Relief and Brownfields Revitalization Act, the Federal Davis-Bacon Act, state environmental law, and town by-laws. Federal, state, and local laws regarding procurement of contractors to conduct the cleanup will be followed.

In addition, all appropriate permits (asbestos transport/disposal manifests) will be obtained prior to the work commencing.

III. Evaluation of Cleanup Alternatives - Asbestos and Universal Waste

a. Cleanup Alternatives Considered

To address asbestos and universal waste at the Site, two different alternatives were considered, including Alternative #1: No Action and Alternative #2: Abatement.

b. Cost Estimate of Cleanup Alternatives

To satisfy EPA requirements, the effectiveness, implementability, and cost of each alternative must be considered prior to selecting a recommended cleanup alternative.

Effectiveness

- Alternative #1: No Action is not effective in controlling or preventing the exposure of receptors to contamination at the Site.
- Alternative #2: Removal and off-site disposal of identified ACM and Universal Waste will meet remedial objectives; therefore, will provide protection to human health and the environment by removing the potential for airborne asbestos from the Site. Additionally, the potential for future indirect exposure will be eliminated as the source materials will be permanently removed. Implementation of this alternative could have potential short-term adverse effects on site workers. Removal and handling of ACM could result in particulate emissions. Risk to site workers during abatement activities will be minimized by adhering to the MDEP Asbestos Management regulations and OSHA regulations. Off-site transportation of ACM will comply with MDEP Asbestos Management Regulations and U.S. Department of Transportation (DOT) regulations to reduce potential exposure of the general public during transport to the disposal facility.

Implementability

- Alternative #1: No Action is easy to implement since no actions will be conducted.
- Alternative #2: This alternative uses well demonstrated and readily available technologies. It is anticipated that removal of ACM can be completed safely with selective demolition. A MEDEP licensed Asbestos Abatement Contractor using trained and licensed personnel will conduct asbestos removal activities.

Removal of ACM will facilitate future actions at the Site. Selective building demolition will be performed using conventional construction equipment and technologies. ACM removal, handling and transportation of ACM will be performed using current abatement methods as required by MEDEP regulations.

ACM will be properly wetted, bagged, and containerized for hauling and disposal at a secure landfill facility licensed to accept asbestos waste.

Submission of an Asbestos Project Notification to the MEDEP will be required prior to commencement of selective demolition and asbestos removal.

Cost

- There will be no costs under Alternative #1: No Action.
- It is estimated that Alternative #2: Abatement costs will be on the order of \$.

Table 2: Option 1 – Removal and Off-Site Disposal of ACM

Asbestos Abatement	\$125,000.00
Universal Waste Removal	\$40,000.00
Environmental Professional Oversight and Grant Assistance	\$10,000.00
15% Contingency on the abatement costs	\$26,250.00
Total	\$201,250.00
Say Total	\$205,000.00

c. Recommended Cleanup Alternative

The recommended cleanup alternative is Alternative #2: Abatement. Alternative #1: No Action cannot be recommended since it does not address site risks. Alternative #2: Abatement – non-friable asbestos will be transported to the Town of Hartland’s landfill, for disposal. For these reasons, Alternative 2: Abatement is the recommended alternative.

IV. Evaluation of Cleanup Alternatives – PCB impacted concrete

a. Cleanup Alternatives Considered

To address PCB impacted concrete at the Site, three different alternatives were considered, including Alternative #1: No Action, Alternative #2: Encapsulation, and #3 Concrete removal.

b. Cost Estimate of Cleanup Alternatives

To satisfy EPA requirements, the effectiveness, implementability, and cost of each alternative must be considered prior to selecting a recommended cleanup alternative.

Effectiveness

- Alternative #1: No Action is not effective in controlling or preventing the exposure of receptors to contamination at the Site.
- Alternative #2: Encapsulation of the PCB-impacted concrete with a USEPA TSCA approved sealant (Sikaguard or something similar) will provide protection to human health and the environment but will; however require Institutional Controls to prevent the sealant from being impacted by future activities.
- Alternative #3: Removal and off-site disposal of PCB-impacted concrete will meet remedial objectives; therefore, will provide protection to human health and the environment by removing the potential for PCB migration on the Site.

Additionally, the potential for future indirect exposure will be eliminated as the source materials will be permanently removed. Implementation of this alternative could have potential short-term adverse effects on site workers. Removal and handling of PCB-impacted concrete could result in particulate emissions. Risk to site workers during abatement activities will be minimized by adhering to the MEDEP remediation regulations and OSHA regulations. Off-site transportation of PCB-impacted concrete will comply with U.S. Department of Transportation (DOT) regulations to reduce potential exposure of the general public during transport to the disposal facility.

Implementability

- Alternative #1: No Action is easy to implement since no actions will be conducted.
- Alternative #2: Encapsulation of PCB-impacted concrete uses well demonstrated and readily available technologies. An OSHA 40-hour trained contractor would be required to perform this task.

Construction of a wall may be required to prevent access to an area of the former power generating portion of the facility.

- Alternative #3: This alternative uses well demonstrated and readily available technologies. It is anticipated that removal of PCB-impacted concrete can be completed safely with selective demolition. A OSHA 40-hour trained contractor would be required to perform this task.

Removal of PCB-impacted concrete will facilitate future actions at the Site. Selective building demolition will be performed using conventional construction equipment and technologies.

Submission of an Asbestos Project Notification to the MEDEP will be required prior to commencement of selective demolition and asbestos removal.

Cost

- There will be no costs under Alternative #1: No Action.
- It is estimated that Alternative #2: Encapsulation of concrete will be on the order of \$35,000.
- It is estimated that Alternative #3: Concrete removal will be on the order of .

Table 3: Option 2 – Encapsulation of PCB-impacted Concrete

Concrete Encapsulation	\$20,000.00
Environmental Professional Oversight and Grant Assistance	\$10,000.00
15% Contingency on the PCB encapsulation	\$4,500.00
Total	\$34,500.00
Say Total	\$35,000.00

Table 4: Option 3 – Removal of PCB-impacted Concrete

Concrete Removal and Disposal	\$80,000.00
Concrete Replacement	\$40,000.00
Environmental Professional Oversight and Grant Assistance	\$15,000.00
15% Contingency on the PCB encapsulation	\$20,250.00
Total	\$155,250.00
Say Total	\$160,000.00

c. Recommended Cleanup Alternative

The recommended cleanup alternative is Alternative #2: Encapsulation. Alternative #1: No Action cannot be recommended since it does not address site risks and Alternative #3 is too expensive for the potential reuse. For these reasons, Alternative 2: Encapsulation is the recommended alternative.

V. Total Remedial Costs

Table 5: Recommended Options

Asbestos and Universal Waste Abatement	\$205,000.00
PCB Encapsulation	\$35,000.00
Say Total	\$240,000.00

Please feel free to contact me with questions concerning the remedial alternatives presented in this focused ABCA.

Sincerely,
BEACON ENVIRONMENTAL CONSULTANTS, LLC



John K. Cressey, C.G.
President

LEWISTON CITY COUNCIL
MEETING OF OCTOBER 17, 2017

AGENDA INFORMATION SHEET:

AGENDA ITEM NO. 11

SUBJECT:

Authorization to accept transfer of forfeiture funds.

INFORMATION:

The Lewiston Police Department is requesting that the City Council authorize the acceptance of funds, in the amounts outlined below, as reimbursement for costs associated with assisting in a criminal investigation. The funds are available to the Lewiston Police Department due to its substantial contribution to the investigation of this or a related criminal case.

APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:

The City Administrator recommends approval of the requested action.

EAB/KMM

REQUESTED ACTION:

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That pursuant to Title 15, Maine Revised Statutes Annotated, Section 5824(3) and Section 5822(4)(A), the City Council hereby acknowledges and approves of the transfer of \$3,734.00, or any portion thereof, in the case of the State of Maine vs. Tania Howell, CR-17-2409 Court Records, being funds forfeited pursuant to the court process. It is further acknowledged that these funds shall be credited to the 'City of Lewiston Drug Enforcement Program' account.

STATE OF MAINE
Androscoggin, ss

UNIFIED CRIMINAL COURT
Docket No. CR-17-2409

State of Maine	}	
	}	
v.	}	Municipality of Lewiston
	}	Approval of Transfer
Tania Howell	}	15 M.R.S.A. §5824(3) & §5822(4)(A)
Defendant;	}	
	}	
And	}	
	}	
\$3,734.00 U.S. Currency	}	
Defendant(s) In Rem	}	

NOW COMES the municipality of Lewiston, Maine, by and through its municipal officers, and does hereby grant approval pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) to the transfer of the above captioned Defendant(s) in Rem (\$1,867.00 in U.S. Currency), or any portion thereof, on the grounds that the Lewiston Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the municipality of Lewiston, Maine does hereby approve of the transfer of the Defendant(s) In Rem, or any portion thereof, pursuant to 15 M.R.S.A. § 5824(3) & §5826(6) by vote of the Lewiston municipal legislative body on or about

Dated: _____

Municipal Officer
Lewiston, Maine
(Impress municipal legislative body seal here)