

## **Chapter 66**

### **STREETS AND SIDEWALKS\***

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**\*Cross references:** Buildings and building regulations, ch. 18; traffic and vehicles, ch. 70; utilities, ch. 74.

**State law references:** Municipal authority to regulate streets and sidewalks, 30-A M.R.S.A. § 3009.

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### ARTICLE I. IN GENERAL

#### Sec. 66-1. Definitions.

The following words and phrases when used in this chapter shall have the meanings ascribed to them in this section. Whenever any words and phrases used in this chapter are not defined in this chapter but are defined in the laws of the state, then such definition shall be deemed to apply to such words or phrases.

*Accepted public easement* means an easement for public use by motor vehicles and otherwise over privately owned land as defined in 23 M.R.S.A. § 3021(2). It becomes accepted by being laid out by the city, by receipt of a deed, pursuant to a discontinuance as provided in 23 M.R.S.A. § 3026(1), or by recognition of a prescriptive use or other dedication. It shall be considered a public way or highway for purposes of the city's police power. However, there shall be no city obligation to maintain and repair such easement.

*Accepted street* means a street or way that has been laid out or accepted by the state, the county commissioners or the city council. The land where the accepted street is located may either be owned in fee by a governmental unit or an easement may have been acquired. An accepted street shall be equivalent to a town way as defined in 23 M.R.S.A. § 3021(3). It shall also include any public way and highway.

*Private way*, for the limited purpose of naming streets pursuant to section 66-2, means any private road, drive or easement used for the access of motor vehicles and pedestrians either by virtue of prior use or by being shown on a subdivision plan when such private way has two or more residential structures with frontage on said private way. A private way may either be proposed or in existence. Nothing herein shall be construed as imposing upon the city any duties or obligations, not otherwise imposed by law or assumed by official action of the city, with respect to private ways.

*Street or highway* means an accepted street and/or an accepted public easement.

*Unaccepted street* means a street or way which has not been legally accepted or recognized by a governmental unit.

*Way* means an existing means of access for motor vehicles and pedestrians by virtue of prior use or by being shown on a recorded subdivision plan. A way may either be proposed or in existence.

(Code 1982, § 24-14; Ord. No. 99-20, 1-13-00)

**Cross references:** Definitions generally, § 1-2.

#### Sec. 66-2. Authority to name streets.

The several streets and private ways in the city shall continue to be called and known by such names until they shall be altered by the city council. The council may change or alter the name of any street, or public place or private way; and the council shall establish the names of all streets and public places hereafter laid out and accepted by the city or by any other authority within the city, or private ways which may come into existence by dedication or other process.

(Code 1982, § 24-1; Ord. No. 99-20, 1-13-00)

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### **Sec. 66-3. Procedure for numbering houses.**

The following procedures shall be followed in the assignment of door numbers to buildings constructed under the provisions of the building code to the end that street numbers of buildings hereafter constructed or altered may follow a logical and consistent pattern and thus lessen confusion and misunderstanding regarding such numbers:

- (1) On approval of an application for a permit required by the building code, the building official shall give written notice to the city engineer of the type of construction or alteration planned on the premises described in the application. Such notice shall contain an adequate description of the premises, the location of the proposed construction or alteration within such premises, and the number of units of occupancy for residential, commercial or industrial purposes which will exist on such premises after completion of all work described in the application.
- (2) The assessor shall forthwith determine the number which shall designate and identify and be affixed to the entrance of the unit of occupancy. He shall, so far as practicable, issue odd numbers for one side of a street and even numbers for the other side.
- (3) After the assessor assigns the door numbers and notifies the city engineer of such assignments, the engineer shall notify the property owner as described in the application, by mail, of the door number so assigned. Such notice shall direct the property owner to display the assigned number within a period of seven days following receipt of notice, and henceforth, in a prominent place on or near the front of the building so that such can be readily seen from the street. Such notice shall further state that violation of such order shall constitute an offense for each day of violation. Such notice shall advise the property owner to communicate information as to the new number or numbers to the several utilities, the post office and others similarly interested.

(Code 1982, § 24-2)

### **Sec. 66-4. Placing substances on highway; duty to remove.**

No person shall throw or place or cause to be thrown or placed upon any highway any glass, glass bottle, nails, tacks, wire, scrap metal, crockery, cans or other substances harmful to the feet of persons or animals or to tires or wheels of vehicles. Whoever accidentally, or by reason of an accident, drops from his hand or vehicle any such substance upon any highway shall forthwith make all reasonable efforts to clear such highway of the substance.

(Code 1982, § 24-3)

**State law references:** Maine Litter Control Act, 17 M.R.S.A. § 2261 et seq.

### **Sec. 66-5. Allowing substances to accumulate on passageways.**

No person shall allow any dirt, sand or gravel emanating from any unsurfaced private driveway or private walk to be washed onto the surface of any street or sidewalk. Whenever, in the opinion of the director of public works, any such street or sidewalk shall have become dangerous to foot or vehicular passage due to the accumulation of dirt, sand or gravel from any source aforesaid, the director shall order the titleholder to the land upon which such walk or

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driveway is situated to correct such condition and to clean the street or sidewalk of such dirt, sand or gravel. If the titleholder refuses to comply with the directive within a reasonable time, then the street or sidewalk shall be cleaned of the dirt, sand or gravel by the department and the cost thereof shall be charged to the titleholder.

(Code 1982, § 24-4)

### **Sec. 66-6. Driving over sidewalks.**

No person shall drive any horse, cart, carriage, truck, automobile, motor vehicle or other vehicle, except children's carriages drawn by hand, upon or over the sidewalks of any street in the city; except for the purpose of crossing such sidewalks over and upon an established driveway; provided, however, that operators of pushcarts licensed as roving diners shall not be prohibited from stopping, standing or parking such pushcarts on sidewalks in the course of business and in accordance with the provisions of section 22-169.

(Code 1982, § 24-5)

### **Sec. 66-7. Construction of sidewalks by landowners.**

Should an abutting landowner desire to construct a sidewalk, he shall lay such sidewalk of suitable material of a permanent nature, with or without curbstones as the director of public works may from time to time determine, the work to be done under the direction and approval of the director of public works.

(Code 1982, § 24-6)

### **Sec. 66-8. Alterations in sidewalks; installing posts, trees.**

No person shall tear or make any alteration in any sidewalk, or set up any posts or trees on any of the sidewalks, or any part of the street, without the consent of the director of public works.

(Code 1982, § 24-7)

### **Sec. 66-9. Altering, widening, establishing and discontinuing streets.**

- (a) Whenever application in writing is made to the city council to widen or alter any street, the council may refer such application to the director of public works, and it shall be the duty of the director to consider such application, and after giving notice as the law requires, the director shall proceed to examine the premises.
- (b) If, in the judgment of the director [of] public works, common convenience and public necessity require the widening or otherwise altering of such street outside the existing right-of-way, in whole or in part, the director will consult with the department of assessing to estimate the damage that any person may thereby sustain, and it shall be lawful for the city to apportion the damages so estimated on such parts thereof as to what may seem just, upon the lots or parcels of land adjacent to and bounded on such street in such proportions as in its opinion such lots or parcels of land are benefitted or made more valuable by such widening or otherwise altering or discontinuing of such street; and if any damages shall be sustained by, or betterments accrue to, any person by the

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discontinuing of any public or private way, the director of public works, when so required, shall report to the council what compensations they shall receive or betterments they shall pay, and also whether the damage is occasioned by the discontinuance of a public or private way.

- (c) Any person aggrieved by the decision or judgment of the council under this section may, as far as relates to damages, have them assessed by a committee or jury, as is by law provided.
- (d) The director of public works shall make a report of their actions in writing to the city council as soon as practicable after such services, as set out in this section, shall be performed, and such report shall be accompanied by an accurate survey and plan, giving the boundaries and measurements of such proposed widening or altering of such street; and such report as aforesaid having been accepted and after being adopted by an order of the council, such street shall be established and known as a public street, and the boundaries and measurements thereof, together with the plan and survey aforesaid, so laid out, accepted and established by the council, shall be duly recorded by the city clerk in a book kept for that purpose.

(Code 1982, § 24-8; Ord. No. 01-9, 7-5-01)

### **Sec. 66-10. Petitions to improve accepted streets and accepted public easements.**

With respect to accepted streets and accepted public easements on which lots have been sold or which have been actually used for travel prior to December 31, 1985, the abutters may, in writing, petition the city council to improve such streets or public easements by installing sewers, sidewalks, grading, curbing, graveling, paving and in any other way making a permanent roadway over the same, or a portion thereof. If the council is of the opinion that the petitioned-for improvement should be undertaken, it shall cause each feeholder of land adjacent to and bounded by such accepted street or accepted public easement to be advised of the estimated amount of the assessment to be made against him for such improvements, which must be deposited within six months with the city treasurer. Whenever 75 percent of the abutters in number or 75 percent of the abutters in terms of the relationship between their estimated assessments and the estimated total assessment for the entire project shall have made such deposits, then the council may authorize the director of public works to proceed with the project. When the improvements have been completed, the city shall then proceed to assess one-half of the cost thereof on the property adjacent to and bounded by such street or public easement in the manner and in accordance with the provisions of 23 M.R.S.A. § 3601 et seq., with the same right of appeal as provided therein. The amount so deposited with the city treasurer shall be applied towards the satisfaction of the assessment in each case, with any overpayment being returned to the depositor or any balance being collected according to the terms of 23 M.R.S.A. § 3601 et seq.

(Code 1982, § 24-9)

**State law references:** Highway assessments generally, 23 M.R.S.A. § 3601 et seq.

### **Sec. 66-11. Draining water onto streets.**

No person shall let out, empty, or direct on or towards the surface of any street, any cellar drain, sink drain or other drain, so that the water shall flow therefrom onto the street.

(Code 1982, § 24-10)

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### **Sec. 66-12. Removal of unlawful deposits of snow and/or ice from public sidewalks, public walkways, public streets and public easements.**

- (a) *Definition.* A winter-maintained public sidewalk or public walkway is one in which it has been identified by public policy and one in which the snow and/or ice has been removed within 72 hours of a snow and/or ice event.
- (b) *Unlawful to deposit.* It is unlawful for any person or entity to shovel, throw, plow or deposit or cause to be deposited snow and/or ice on any winter-maintained public sidewalk, public walkway or within or along the edge of the travel way of any public street or public easement. This provision shall be construed to include snow falling from the roof of any building upon such public sidewalk, public walkway, or within or along the edge of the travel way of any public street or public easement.

*Exception:* In the event that there is insufficient space to place the snow and/or ice on the property, it may be carefully windrowed along the travel way in such a way as to not impede any motor vehicles. The volume of snow placed in this fashion may not exceed 0.25 cubic yards per linear foot.

- (c) *Owners duty to inspect and remove unlawfully deposited snow and/or ice within 72 hours.* The owner of land and the person(s) in possession of such land abutting a public street or public easement have an affirmative obligation to inspect those portions of their property which have such frontage and to promptly remove within 72 hours any snow and/or ice that has been shoveled, thrown, plowed or deposited on any winter-maintained public sidewalk or public walkway and within or along the edge of the travel way of any public street and/or public easement found along such property.

The owner of, and any person having responsibility for, property abutting the area of the public street and/or winter-maintained public easement, public sidewalk, public walkway or property where snow has been deposited shall be presumed to have deposited same and shall be liable for violations of this article in the absence of evidence to the contrary. Notwithstanding the aforesaid, any owner of and/or any person having responsibility for property abutting the area of the public street and/or public easement, public sidewalk and public walkway where any snow and/or ice has been deposited in violation of this chapter shall remove the snow and/or ice.

- (d) *Enforcement.* It shall be the duty of the director of planning and code enforcement, the police chief, the director of public works, or their duly authorized representatives to enforce the provisions of section 66-12 of this Code and to prosecute any and all persons violating any such provisions. Enforcement procedures as set out in chapter 50, article II of the Lewiston Code of Ordinances shall apply to enforcement of this chapter, except that the specific penalties listed in subsection (c) herein will apply instead of those listed in section 50-45.

Notwithstanding any provisions in this chapter 66 to the contrary, due to the public nuisance and threat to public health created by the presence of snow and/or ice on public sidewalks, public walkways, or in and/or at the edge of the travel way of public streets and public easements in violation of subsections 66-12(a) and (b), the director of planning and code enforcement, the police chief, the director of public works, or their designees are authorized to fine violators, without any prior notification, in accordance with subsection 66-12(d).

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- (e) *Penalties.* Violators of any provisions of this chapter shall for the first offense receive a fine equal to twice the removal costs for the snow and/or ice. The minimum fine is \$200.00, plus accrued interest, attorney's fees and court costs. A second violation or any subsequent violations occurring within two years of a previous violation shall result in a fine equal to three times the removal costs for the removal of snow and/or ice. The minimum fine is \$400.00, plus accrued interest, attorney's fees and court costs. Such fees shall be charged each time the city removes snow and/or ice deposited in violation of this section, whether or not additional notice has been given.
- (f) *Responsibilities not transferable.* No contract or agreement between the owner or operator and the occupant relating to the compliance with the terms of section 66-12 shall be effective in relieving any person of the responsibility for compliance with the provisions of this section as described.

(Code 1982, § 24-11; Ord. No. 08-12, 1-15-09)

### **Sec. 66-13. Sledding and skating regulated.**

- (a) No person shall coast, skate or slide in the streets or on the sidewalks with handsleds, ice/roller skates, skateboards or otherwise in any part of the city where such activity shall endanger or incommode travelers.
- (b) Anyone who violates any of the provisions of this section may have his sled, skates or skateboard impounded by the authority of the chief of police for a period not to exceed five days for the first offense, for a period not to exceed ten days for the second offense, and for a period not to exceed 30 days for any subsequent offense.

(Code 1982, § 24-12)

**State law references:** Municipal authority to designate public streets and sidewalks whereon persons may slide with any vehicle, 23 M.R.S.A. § 2851.

### **Sec. 66-14. Special street sales; parking; musicians.**

All other ordinances to the contrary notwithstanding, the council may, by majority vote, at any regular or special meeting, authorize merchants having business establishments in the city to conduct special street sales, so-called, during limited periods of time, and to display and sell their merchandise on the sidewalk area fronting their respective business establishments or in other designated areas. The council may order that parking of motor vehicles in the areas of such street sales be prohibited, and that musical groups be permitted to perform during, and in the areas of, such street sales. The council shall designate the areas in which such street sales may be permitted and the dates and hours during which they may be conducted.

(Code 1982, § 24-13)

### **Sec. 66-15. Temporary festival or special event zones.**

The city council shall be authorized to create temporary festival or special event zones within the city. These zones shall authorize individuals and organizations the ability to manage and assign fees to street vendors, street performers, roving carts, carnivals, public parking activity in authorized city-owned parking areas, general outdoor entertainment, and use of other city-owned public areas with conditions specifically stated in the city council action. As the

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conditions for the creation of these temporary zones may change from year to year, all actions must be renewed annually by the city council.

(Ord. No. 03-11, 8-14-03)

**Secs. 66-16--66-35. Reserved.**

### ARTICLE II. PERMITTED USES

#### **Sec. 66-36. Tables, chairs and benches on sidewalks or public ways.**

- (a) Any business holding a valid city food service establishment business license issued by the City of Lewiston is permitted to place tables, chairs, and benches on or above any city sidewalk or public way (not used for vehicular traffic) and must comply with the following conditions:
- (1) Be situated in front of the physical boundaries of the authorized business so as not to exceed the physical dimensions of the facility exterior as it is situated within the structure or building unless specifically authorized to do so by the city;
  - (2) Be consistent and compatible in style and color, be easily cleanable, made of metal or wood which may be painted, stained or covered with a plastic coating, and be of sufficient weight so as not to be moved by wind gusts of 40 miles per hour;
  - (3) Only be placed during operational hours and removed at the end of operational hours each day;
  - (4) Be temporarily removed in any instance where the objects or devices: restrict or prevent the city from conducting normal or emergency sidewalk maintenance operations or under any condition in which there is a request for temporary removal from the police department, fire department, public works department relating to maintenance or public safety activity; or removed in conjunction with special events;
  - (5) Provide adequate trash receptacles;
  - (6) Ensure that there is no less than six feet of passable area, clear of any obstructions, for pedestrians;
  - (7) Comply with all applicable provisions of the City Code;
  - (8) Any damage to public property, including but not limited to grease stain, shall be repaired by the public works department at the expense of the business at issue.
  - (9) The police department, fire department, or public works department may on an annual basis prohibit any business from placing tables, chairs, and benches on sidewalks or public ways in situations whereby such activity results in adverse impacts to adjoining businesses, pedestrians or motorists.
- (b) Any business located in the Centreville District holding a valid city food service establishment business license issued by the City of Lewiston is permitted to place tables,

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chairs, benches, and barriers not to exceed 42" in height on or above any city sidewalk or public way (not used for vehicular traffic) and must comply with above items (1), (2), (4), (5), (6), (7), (8), (9) and the following conditions:

(1) Notwithstanding item (3) above, tables chairs, benches, and barriers may be located on sidewalks continuously from May 15 to October 15;

(2) Notwithstanding Appendix A, Article XII, Section 16 of the Code of Ordinances of the City of Lewiston, the business name may be placed one or more times on barriers without a sign permit; however, no other advertising is permitted.

(3) Payment and receipt of an annual permit issued by the public works department.

(Ord. No. 03-11, 8-14-03; Ord. No. 11-08, 9-15-11)

### **Sec. 66-37. City exemption.**

The City of Lewiston is exempt from all provisions restricting or prohibiting the placement of any object or device, temporary or permanent, on or above any city sidewalk, street, easement or public way unless explicitly stated within the City Code.

(Ord. No. 03-11, 8-14-03)

### **Sec. 66-38. Temporary signage.**

Any commercial establishment is permitted to place one temporary sign per business location on or above the sidewalk or public way (not used for vehicular traffic) that must:

- (1) Not exceed, relative to the entire sign structure, eight square feet per side consistent with the city sign ordinance, Appendix A, Article 12, section 16(C)(2) a.2;
- (2) Not display any other commercial logo or business other than the name and logo of the authorized retail establishment and those items being sold by the establishment;
- (3) Be placed in a manner which provides for no less than five feet of passable area for pedestrians nor in a manner which creates an obstruction interfering with vehicular traffic site lines;
- (4) Must be of sufficient weight so as not to be moved by under normal meteorological conditions;
- (5) Be temporarily removed in any instance where the objects or devices: Restrict or prevent the city from conducting normal or emergency sidewalk maintenance operations or under any condition in which there is a request for temporary removal from the police department or fire department relating to public safety activity; or removed per request or special order from the city administrator or city council to temporarily remove items in conjunction with special events;
- (6) Comply with all applicable provisions of the City Code;
- (7) Shall only be placed during operational hours and must be removed at the end of

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operational hours each day.

(Ord. No. 03-11, 8-14-03)

### **Sec. 66-39. Vending, dispensing machines, drop boxes, and other merchandise devices.**

No person, organization or other entity may place any vending, dispensing, drop boxes (such as those used by parcel and mail delivery services) and any other merchandise or product device or unit on any sidewalk or public way (not used for vehicular traffic) without the specific authorization of the city clerk's office who shall, with the prior approval of the code enforcement office, approve the specific location for each unit; approve the units placement insuring that it is adequately secured so as not to pose a safety risk to pedestrians or vehicles; insure that the unit presents a reasonable physical appearance; will require annual permitting and fee for each unit in accordance with the city fee schedule; and possess the authority to waive any fee for any unit which does not require the public to pay for merchandise or products dropped into or contained within the unit. All vending, dispensing and other merchandise or product units authorized under this section must comply with all applicable provisions of the city code. The city will reserve the right to request that the owner of any unit authorized in this section be temporarily removed.

The city code enforcement office shall have the authority to order any units removal, after reasonable notice has been given to the owner, if the unit is not compliant with the conditions of this section.

(Ord. No. 03-11, 8-14-03)

### **Secs. 66-40--66-70. Reserved.**

## ARTICLE III. OBSTRUCTIONS

### **Sec. 66-71. Obstructing sidewalk.**

- (a) Unless otherwise permitted or authorized in this chapter, no person, organization or other entity shall pile, deposit or place or cause or permit to be piled, deposited or placed any rubbish, wood, coal, merchandise, dirt, impediment or obstruction of any kind, upon or over any sidewalk; nor to occupy or obstruct any sidewalk so as to interfere with the convenient use of the sidewalk by all pedestrians.
- (b) The prohibition set out in subsection (a) of this section shall not extend to any goods and articles or merchandise that may be exposed or exhibited for sale in front of any shop; provided, that the articles do not extend more than one foot from the building into or upon the sidewalk.

(Code 1982, § 24-44; Ord. No. 03-11, 8-14-03)

### **Sec. 66-72. Cellar doors, openings regulated.**

No person shall erect, construct, maintain or keep any cellar door, or passageway into any cellar, basement or opening of any kind, extending into, or occupying any part of any street or sidewalk, unless such doorway, passageway, or opening be kept covered with a suitable and substantial plank covering or grate, level with the sidewalk or street.

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(Code 1982, § 24-45)

### **Sec. 66-73. Permission, bond required to move building.**

- (a) The provisions of this section shall supplement the requirements of the building code relative to the moving of buildings.
- (b) No person shall haul, move or transport any building through any street in the city without first obtaining permission to do so from both the chief of police and the director of public works. The latter is empowered to require the posting of a bond with good and sufficient sureties in a sum adequate to indemnify the city for any loss or damage sustained by such moving. Any person aggrieved by a decision of either of the foregoing officials may appeal to the city council at their next posted meeting.

(Code 1982, § 24-46)

**State law references:** Municipal permits required when moving heavy objects, state permits required when state ways are used, 29 M.R.S.A. § 1703.

### **Sec. 66-74. Auction sales regulated.**

No goods or other property shall be sold at an auction in any street or upon any sidewalk or other public place within the city, or from a building to any person on any street, without a permit from the council or some other person legally authorized to grant permits.

(Code 1982, § 24-47)

**State law references:** Local license for auctions required, 32 M.R.S.A. § 255.

### **Sec. 66-75. Awnings and shades.**

No person shall place, establish or maintain any awning or shade before his place of business or dwelling house over any part of any street or sidewalk unless the awning or shade is safely made, fixed, supported and maintained so as in no way to incommode pedestrians, and so that the lowest part of such awning or shade shall be at least eight feet in height above the sidewalk or street. (Code 1982, § 24-48)

### **Sec. 66-76. Permit required; exceptions; inspection, removal.**

- (a) No person shall obstruct with construction work or barriers or obstructions of any kind any street or sidewalk in the city without first obtaining a permit in writing from the director of public works and without faithfully complying with the conditions of such permit, except that, in cases of emergency, such necessary obstruction may be made without first obtaining such permit, provided that the director is notified thereof within a reasonable time thereafter.
- (b) Any person causing an obstruction pursuant to this section shall promptly notify the director of public works that such obstruction has been completed, and it shall be the duty of the director to inspect such obstruction. Whenever, in the opinion of the director, the obstruction does not conform to the conditions of the permit issued, he shall order such person to conform to such conditions or to remove such obstruction and charge the cost thereof to the person responsible for the obstruction.

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(Code 1982, § 24-49)

**Secs. 66-77--66-95. Reserved.**

### ARTICLE IV. DESIGN AND IMPROVEMENTS

**Sec. 66-96. Administration and enforcement.**

The city shall adopt standards for the design and construction of streets and sidewalks in the City of Lewiston through the issuance of a policy (hereinafter, the "Policy for the Design and Construction of Streets and Sidewalks" or the "street and sidewalk policy"). Such street and sidewalk policy shall apply to public and private streets and sidewalks, and mobile home park roads. The administration and enforcement of the design and construction standards required by this article and the policy for the laying out and acceptance of streets and sidewalks shall rest with the director of public services.

The city's policy for design and construction of streets and sidewalks shall be contained in the city's regulatory standards manual.

(Code 1982, § 24-60; Ord. No. 07-02, 3-22-07)

**Sec. 66-97. Waiver of design or construction standards for acceptance of streets.**

No way shall be laid out or accepted as a street unless constructed in accordance with the conditions and specifications contained in the policy for the design and construction of streets and sidewalks, with the following exceptions:

- (1) If a way substantially meets the requirements of the policy for the design and construction of streets and sidewalks, a waiver of some of the specifications contained in the policy for design and construction of streets and sidewalks may be granted by joint agreement of the director of public services and the city engineer after determining that such a waiver is appropriate because of prior city actions, previous development, unique physical site constraints imposed by public policy imperatives, including the preservation of natural resources, habitat, and wetlands, or the promotion of urban small-lot redevelopment, or undue hardship; and
- (2) The way was existing and in use prior to December 31, 1985.

Such acceptance shall be at the discretion of the city council and under whatever conditions it may impose, including sharing in construction and upgrading costs and obtaining deeds and/or indemnity agreements from all abutters. Such ways shall conform to the design or construction standards to the fullest extent practicable.

(Code 1982, § 24-61; Ord. No. 07-02, 3-22-07)

**Sec. 66-98. Compliance to be at owner's expense; bond.**

Compliance with the conditions and specifications of this article, when applicable to private property, shall be at the sole expense of the property owner, his agent, and/or the

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developer of the improvements, and will render a street constructed on private land eligible for consideration by the city council for the laying out and acceptance as a street for the use of the city. Provided, however, that a street may be eligible for acceptance as aforesaid if the property owner shall post a bond with the city clerk in an amount to be determined by the city council on recommendation of the director of public services, guaranteeing compliance with the requirements and specifications of this article and indemnifying the city against claims for property damage and personal injury suffered upon such street prior to the performance of the conditions of such bond. Failure to comply with the conditions of such bond within one year from the date of the acceptance of such street constitutes a breach thereof, in which event the city council shall fulfill the requirements of this article and recover the cost thereof in an action upon such bond to be brought in the name of the city. The city council shall require the joint written certification of the director of public services and the city engineer that all the specifications have been complied with, or that a bond has been posted as provided in this section.

(Code 1982, § 24-62; Ord. No. 07-02, 3-22-07)

### **Sec. 66-99. Acceptance of public easements.**

- (a) Any way which does not meet the requirements for a waiver under the provisions of section 66-97 may be considered for acceptance by the city as a public easement. An accepted public easement is not an accepted street and the city has no obligation to construct, maintain or repair such an accepted public easement or provide municipal services. In order to be accepted as a public easement, the following is necessary:
- (1) The way does not or cannot meet the requirements for a waiver under section 66-97;
  - (2) A waiver of the specifications contained in the policy for design and construction of streets and sidewalks must be granted by the joint agreement of the director of public services and the city engineer after determining that such a waiver is appropriate because of prior city actions, previous development, or undue hardship;
  - (3) The way where the accepted public easement is to be located was existing and in use prior to December 31, 1985;
  - (4) The way connects two existing accepted streets or is the sole means of access for two or more lots, at least two of which contain residential, commercial or industrial buildings; and
  - (5) A quitclaim deed is obtained from all of the abutters to the city creating a public easement and the abutters agree to indemnify and save the city harmless from all liability.

(Code 1982, § 24-63; Ord. No. 07-02, 3-22-07)

### **Sec. 66-100. Acceptance of prescriptive or dedicated ways as accepted streets.**

Any way in the city for which there is no record of a laying out or acceptance by the state, county or the city, which has been used as a public street for at least 20 years or has otherwise been dedicated to public use, for which municipal services have been provided during this entire period of time, and which meet all of the design, width and construction standards

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contained in the policy for design and construction of streets and sidewalks, may be declared to be an accepted street by the city council. Quitclaim deeds from abutters are not required. Such action shall constitute evidence of an acceptance of such public streets that have previously been dedicated to public use by prescription or otherwise.

(Code 1982, § 24-64; Ord. No. 07-02, 3-22-07)

### **Sec. 66-101. Standards for construction of streets.**

Except as provided in section 66-97 of this article, the construction or substantial repair of any public or private street or sidewalk, existing as of the effective date of this article shall comply with the City of Lewiston Policy for the Design and Construction of Streets and Sidewalks. In addition, streets and sidewalks constructed to serve a subdivision must meet any additional requirements contained in the subdivision regulations of the city.

(Code 1982, § 24-65; Ord. No. 07-02, 3-22-07)

### **Sec. 66-102. Requirements for street acceptance.**

Except as provided in section 66-97 of this article, no private way shall be accepted as a public street unless it meets all applicable requirements of the City of Lewiston Policy for Design and Construction of Streets and Sidewalks.

(Code 1982, § 24-66; Ord. No. 07-02, 3-22-07)

### **Sec. 66-103. Acceptance of prescriptive or dedicated ways as accepted public easements.**

Any way in the city for which there is no record of a laying out or acceptance by the state, county or the city, which has been used by the public for at least 20 years, or has otherwise been dedicated to public use, but which cannot meet all of the design, width and construction standards contained in the city's policy for design and construction of streets and sidewalks, may be declared to be an accepted public easement by the city council provided a waiver of the specifications contained in the city's policy for design and construction of streets and sidewalks is granted by the joint agreement of the director of public services and the city engineer after determining that such a waiver is appropriate because of prior city action, previous development, or undue hardship. Quitclaim deeds from abutters are not required. Such action shall constitute evidence of an acceptance of such public easements that have previously been dedicated to public use by prescription or otherwise.

(Code 1982, § 24-67; Ord. No. 07-02, 3-22-07)

### **Secs. 66-104--66-125. Reserved.**

## ARTICLE V. PARADES

### DIVISION 1. GENERALLY

### **Secs. 66-126--66-135. Reserved.**

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### DIVISION 2. PERMIT

#### **Sec. 66-136. Definitions.**

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

*Parade* means any march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in this city.

*Parade permit* means a permit as required by this division.

(Code 1982, § 26-246)

**Cross references:** Definitions generally, § 1-2.

#### **Sec. 66-137. Required.**

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the chief of police.

(Code 1982, § 26-247)

#### **Sec. 66-138. Exceptions.**

This division shall not apply to:

- (1) Funeral processions;
- (2) Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities;
- (3) A governmental agency acting within the scope of its functions.

(Code 1982, § 26-256)

#### **Sec. 66-139. Application.**

- (a) A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer not less than ten days before the date on which it is proposed to conduct the parade. The chief of police, where good cause is shown therefor, shall have the authority to consider any application under this division which is filed less than ten days before the date the parade is proposed to be conducted.
- (b) The application for a parade permit shall set forth the following information:
  - (1) The name, address and telephone number of the person seeking to conduct such parade.
  - (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.

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- (3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct.
- (4) The date when the parade is to be conducted.
- (5) The route to be traveled, the starting point and the termination point.
- (6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals and description of the vehicles.
- (7) The hours when such parade will start and terminate.
- (8) The location by streets of any assembly areas for such parade.
- (9) The time at which units of the parade will begin to assemble at any such assembly area or areas.
- (10) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf.
- (11) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should issue.

(Code 1982, § 26-248)

### **Sec. 66-140. Standards for issuance.**

The chief of police shall issue a permit as provided for under this division when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (2) The conduct of the parade will not require the diversion of so great a number of police officers of this city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to this city;
- (3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of this city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire;
- (6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provide disorderly conduct or create a disturbance;
- (7) The parade is scheduled to move from its point of origin to its point of

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termination expeditiously and without unreasonable delays en route; and

- (8) The parade is not to be held for the sole purpose of advertising any product, cause, goods or event and is not designed to be held purely for private profit.

(Code 1982, § 26-250)

### **Sec. 66-141. Notice of permit rejection.**

If the chief of police disapproves the application for a parade permit, he shall mail to the applicant, within five days after the date upon which the application was filed, a notice of his action.

(Code 1982, § 26-251)

### **Sec. 66-142. Alternative permit.**

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within two days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate permit shall conform to the requirements of, and shall have the effect of a parade permit under, this division.

(Code 1982, § 26-252)

### **Sec. 66-143. Contents.**

Each parade permit shall state the following information:

- (1) Starting time;
- (2) The streets to be traversed by the parade;
- (3) The maximum length of the parade;
- (4) Such other information as the chief of police shall find necessary to the enforcement of this division.

(Code 1982, § 26-253)

### **Sec. 66-144. Fee.**

There shall be no fee for a parade permit.

(Code 1982, § 26-249)

### **Sec. 66-145. Revocation.**

The chief of police shall have the authority to revoke a parade permit upon application of the standards for issuance as set forth in this division.

(Code 1982, § 26-254)

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### **Sec. 66-146. Compliance with permit and laws.**

A permittee under this division shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(Code 1982, § 26-255)

### **Secs. 66-147--66-159. Reserved.**

## **ARTICLE VI. OUTER LISBON STREET TRAFFIC IMPACT FEE**

### **Sec. 66-160. Purpose.**

This article imposes an impact fee on land development requiring development review under Appendix A, Article XIII of the City of Lewiston's Zoning and Land Use Code. These fees will be used to upgrade roads and related facilities necessitated by new development that impacts traffic along Outer Lisbon Street, as defined herein. It also provides for the placement of impact fee revenues into a traffic impact fee trust fund established for that purpose and for the administration of the Outer Lisbon Street Traffic Impact Fee Ordinance, including the expenditure of funds derived from traffic impact fees and the refunds of unexpended funds.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-161. Legislative findings.**

The Lewiston City Council finds, determines and declares as follows:

- (1) The city will need to upgrade and expand road infrastructure along Outer Lisbon Street as a result of expected development in the area. To maintain adequate levels of service along Outer Lisbon Street, the existing road system must be expanded to accommodate future traffic increases safely and without decreasing current levels of service. This must be done to promote and protect the public health, safety and welfare;
- (2) The State of Maine has authorized municipalities to adopt impact fees for various purposes, including the construction of off-site capital improvements such as roads and traffic control devices, pursuant to 30-A M.R.S.A. § 4354;
- (3) The imposition of impact fees is a preferred method of insuring that new development bears a proportionate share of the cost of capital investments necessary to accommodate such development. Appropriate locations for new development in Lewiston and the capital improvements necessary to accommodate such development are consistent with the city's comprehensive plan and capital improvements program;
- (4) New development generates additional traffic, necessitating the acquisition of rights-of-way, road construction and road improvements;
- (5) The impact fee has been derived from the city's determination that development along Outer Lisbon Street will require that road capacity is expanded by widening it to five lanes or through similar infrastructure upgrades. The city anticipates funding ten percent of the necessary road improvements, with remaining funding

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provided by state and federal sources. The city's effort to seek alternative sources of funding will reduce the amount of the impact fee sought under this article to five percent of the cost of impacts created by new development.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-162. Title, authority, and applicability.**

- (a) *Title.* This article shall be known and may be cited as the "Outer Lisbon Street Traffic Impact Fee Ordinance."
- (b) *Authority.* The Lewiston City Council has the authority to enact this ordinance pursuant to 30-A M.R.S.A. § 4354 and its statutory and constitutional home rule powers.
- (c) *Applicability.* This article shall apply to all development requiring a traffic movement permit issued on or after August 9, 2005 that would require an expansion of road capacity along Outer Lisbon Street based on the four-lane alignment that existed on August 9, 2005.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-163. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

*"Capital improvement"* includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any public infrastructure, including but not limited to:

- (1) Construction of new through lanes;
- (2) Construction of new turn lanes;
- (3) Construction of new bridges;
- (4) Construction of new drainage facilities in conjunction with new roadway construction;
- (5) Purchase and installation of traffic signalization (including new and upgraded signalization);
- (6) Construction of curbs, medians, and shoulders;
- (7) Relocating utilities to accommodate new roadway construction;
- (8) Construction of public utilities to accommodate new development;
- (9) Construction or implementation of interim measures to address increased transportation capacity needs or demands created by new development during the period prior to construction of permanent improvements.

Capital improvements do not include site-related improvements defined herein.

*"Developer"* is a person or entity commencing a land development activity which generates or attracts traffic on Outer Lisbon Street and which requires a traffic movement

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permit.

*"Development"* is any change in land use or any construction of buildings or structures or any change in the use of any structure along Outer Lisbon Street which requires a traffic movement permit.

*"Expansion of road capacity"* means all road and intersection capacity enhancements, including but not limited to: extensions, widening, intersection improvements, upgrading signalization, and expansion of bridges.

*"Mandatory or required rights-of-way dedications and/or roadway improvements"* means such non-compensated dedications and/or roadway improvements as required by a traffic movement permit.

*"Outer Lisbon Street"* includes all land serviced by Lisbon Street, from its intersection with Pleasant Street to the Lewiston/Lisbon town line;

*"Roads"* means and includes arterial streets and transportation facilities associated with the arterial and state-aid highway network along Outer Lisbon Street and under the jurisdiction of the city or the State of Maine.

*"Site related improvements"* are capital improvements and right-of-way dedications for direct access improvements to and/or within the development in question. Direct access improvements include but are not limited to the following:

- (1) Access roads leading to the development;
- (2) Driveways and roads within the development;
- (3) Acceleration and deceleration lanes, and right and left turn lanes leading to those roads and driveways; and
- (4) Traffic control measures for those roads and driveways.

*"Traffic movement permit"* is a permit obtained from the City of Lewiston or Maine Department of Transportation for any development that generates 100 or more passenger car equivalents at peak hour.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-164. Imposition of traffic impact fee.**

- (a) Any developer who, on or after August 9, 2005, requires a traffic movement permit along Outer Lisbon Street is hereby required to pay a traffic impact fee in the manner and amount set forth in this article. Preliminary determinations regarding whether a proposed development will generate traffic along Outer Lisbon Street shall be made by the developer and provided to the city's department of planning and code enforcement and, if necessary, the city's traffic engineer at the developer's expense. Actual impacts shall be determined by a traffic study prepared by a traffic engineer at the developer's expense and approved by the city's consulting engineer, unless the developer agrees with the city's determination.
- (b) No traffic movement permit or building permit for any activity requiring payment of an impact fee pursuant to this article shall be issued unless and until the traffic impact fee

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hereby required has been paid.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-165. Computation of traffic impact fee.**

- (a) Any development requiring a traffic movement permit, which, in the city's judgment, requires the creation of a fifth travel lane shall pay a traffic impact fee equal to five percent of the cost of upgrading Outer Lisbon Street's four-lane configuration existing as of August 9, 2005 to five lanes (four travel lanes and an center turning lane) sufficient to address impacts created by the development, based on a traffic engineering study and the size and nature of the development.
- (b) Planning and code enforcement staff shall apply the impact fee to the development and shall make a final determination as to the amount of the fee to be imposed, net of any applicable credits. Staff may request additional information from the developer if necessary to apply the fee. The developer may submit its own calculation of costs and any other information related to the impact of the development on Outer Lisbon Street. Staff shall consider information submitted by the developer, but is not required to accept information it deems to be inaccurate or unreliable.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-166. Payment of fee.**

- (a) The developer shall pay the traffic impact fee required by this article to the department of planning and code enforcement prior to the issuance of a traffic movement permit or building permit.
- (b) All funds collected shall be properly identified as traffic impact fees and promptly transferred for deposit in the traffic impact fee trust fund to be used solely for the purposes specified in this article.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-167. Traffic impact fee trust fund established.**

- (a) There is hereby established a traffic impact fee trust fund, to be used to accomplish the goals of this article, in accordance with section 66-168 of this article.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-168. Use of funds.**

- (a) Funds collected from traffic impact fees shall be used for the purpose of capital improvements to, and the expansion of, transportation facilities associated with Outer Lisbon Street.
- (b) No funds shall be used for periodic or routine maintenance.
- (c) Funds shall be used exclusively for capital improvements within the traffic impact fee area.

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- (d) In the event that bonds or similar debt instruments are issued for advanced provision of capital facilities for which traffic impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (a) of this section.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-169. Refund of fees.**

- (a) If a building permit is surrendered or expires without commencement of construction, the developer shall be entitled to a refund, without interest, of the impact fee paid as a condition for its issuance, except that the city shall retain three percent of the impact fee paid to offset a portion of the costs of collection. A request for a refund shall be made in writing to the department of planning and code enforcement not later than 15 days after the expiration of the permit.
- (b) Any funds not expended or obligated by contract by the end of the calendar quarter immediately following 15 years from the date the fee was paid shall, upon application of the developer, be returned to the developer, provided the developer submits an application for refund of the fee to the city planning and code enforcement department within 180 days of the end of the 15-year period.

(Ord. No. 05-17, 11-17-05)

### **Sec. 66-170. Credits**

- (a) A credit against the impact fee otherwise due may be given when a developer is required to make road improvements other than an expansion from a four-lane to five-lane configuration pursuant to a traffic movement permit. Credit shall be limited to road improvements associated with Outer Lisbon Street intersections, pursuant to the traffic movement permit. In no event shall credit be given for site related improvements, as defined in this article.
- (b) Credit shall be calculated in the following manner for the above referenced road improvements as required by the aforementioned traffic movement permit: 50 percent of the value of required road improvements as determined pursuant to section 66-165 may be applied as credit against the impact fee. In no event shall the credit exceed the amount of the otherwise applicable impact fee, or be applied against unrelated impact fee items.
- (c) The developer shall provide documentation indicating the cost of the improvements required for the project versus the impact fee. The city shall consider the documentation submitted by the developer but is not required to accept any documentation which it deems to be inaccurate or unreliable.
- (d) A credit under this section will be made up to the amount of the impact fee otherwise due, and will not result in any payment of funds to the developer in the event the credit due under this section exceeds the impact fee assessed.

(Ord. No. 05-17, 11-17-05; Ord. No. 06-03, 3-23-06)

### **Sec. 66-171. Severability.**

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If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

(Ord. No. 05-17, 11-17-05)