

CITY OF LEWISTON

MORATORIUM ON SHELTERS

WHEREAS, during the past two years, partly in response to the COVID 19 pandemic, two different temporary shelters opened in the City of Lewiston, operated for a period of time and closed; and

WHEREAS, on April 22, 2020, a temporary, 60-bed shelter opened at the Lewiston Armory, at 65 Central Ave., Lewiston, and operated 24 hours/day, 7 days/week until July 17, 2020; and

WHEREAS, the private operator running the temporary Armory shelter hired the Lewiston Police Department to be located outside the Armory to be available for security and safety, at an estimated cost of \$180,000; and

WHEREAS, during the period that the temporary Armory shelter was open, the on-site Lewiston Police officers initiated approximately 100 calls to the Lewiston Police Department for service at the shelter address, including calls for disorderly behavior, drunkenness, drug use, mental health support, medical assistance, criminal trespass warnings, fights, and drinking in public; and the Lewiston Police Department received a number of complaints from area residents that alleged a variety of offenses related to the shelter, including public drinking, trespass, public indecency, drug use, intoxication, and theft of packages; and

WHEREAS, on July 1, 2020, a temporary shelter opened in a portion of the Ramada Inn, at 490 Pleasant St., Lewiston, and operated 24 hours/day, 7 days/week until September 30, 2021; and

WHEREAS, during the period that the temporary Ramada shelter was open, approximately 89 calls for Lewiston Police Department service were made alleging a variety of offenses in some way associated with the temporary shelter guests, including calls for disturbances, medical calls, mental health calls, drugs, intoxication, and trespass; and

WHEREAS, the operation of the two temporary shelters in the City during the past two years has revealed the challenges that shelters pose for City resources; and

WHEREAS, currently shelters are conditionally permitted in a portion of the City, but the City's current Zoning and Land Use ordinances do not adequately address the use; and

WHEREAS, during the time this moratorium is in effect, the City intends to undertake a planning process that incorporates the lessons of the two temporary shelters, including consideration of the appropriate siting of such facilities, such as proximity to residences, schools, business districts, and other land uses; review and possible amendment of the City's existing

regulations governing shelters; consideration of whether shelters should be required to apply for and hold a local license and, if so, what the licensing criteria should be; and, consideration of the necessity for changes to the Zoning and Land Use Code and the City's public facilities; and

WHEREAS, absent such a planning process, the development of additional shelters in the City may overburden public safety and other public facilities in the City; and,

WHEREAS, absent such a planning process, existing land use ordinances, comprehensive plans, regulations, or other law are inadequate to prevent serious public harm from the development of additional shelters in the City, including by adversely impacting the uses of other properties in the area, residents' quality of living, the ability of property owners to use their properties, or ability of property owners to improve and increase the values of their properties; and

WHEREAS, these circumstances create the need for a moratorium, pursuant to 30-A M.R.S. § 4356, on the issuance of any permits and/or licenses for shelters to prevent a shortage or an overburden of public facilities that would otherwise occur and because the application of existing comprehensive plans, land use ordinances or regulations or other applicable laws is inadequate to prevent serious public harm from the development of shelters in the City;

NOW, THEREFORE, be it ordained by the City Council of the City of Lewiston, Maine, in City Council assembled that, based on the foregoing findings, the following moratorium provisions are hereby adopted:

1. Moratorium Declared.

The City does hereby declare a moratorium on development proposals involving shelters at a site on which a shelter currently does not exist.

No person or organization shall develop, construct or operate a new, no or low barrier shelter within the City for which a development review approval for a conditional use has not been determined to be complete by vote of the Planning Board prior to March 28, 2022 without complying with whatever ordinance amendment or amendments the City may enact as a result of this moratorium. No new application for a license or a permit to develop, construct or operate a new shelter within the City shall be accepted, processed, approved, denied, or in any other way acted upon by any official, officer, board, body, agency, agent or employee of the City while this moratorium ordinance remains in effect.

2. Definitions

As used in this Ordinance, the following term has the following meanings:

Shelter. The term shelter means a facility operated by a for-profit entity, not-for-profit corporation or a religious organization providing free temporary overnight housing in a dormitory-

style, barrack-style, or per-bed arrangement to homeless individuals and includes a use listed under NAICS 624221, which is entitled “Temporary Shelters.” The term does not include the subsidy of housing using existing homes, apartments, hotels or motels.

Terms not defined in this Ordinance shall have the same meanings as they have in the Zoning and Land Use Code Ordinance and the Code of Ordinances.

3. Enforcement, Violation, and Penalties

This ordinance shall be enforced by the Code Enforcement Officer of the City. The development, expansion, or operation of a new shelter within the City in violation of this ordinance shall constitute a land use violation, and each day such use continues to exist shall constitute a separate violation, and the City shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties in accordance with 30-A M.R.S. § 4452 or City ordinance, injunctive relief, and its reasonable attorneys’ fees and costs in prosecuting any such violations.

4. Effective Date

This Ordinance takes effect at the expiration of thirty (30) calendar days after adoption by the City Council and shall remain in effect for a period of 180 days after March 28, 2022 unless earlier extended, repealed, or modified by the Lewiston City Council.

5. Applicability

Notwithstanding the provisions of 1 M.R.S. § 302 or any other law to the contrary, this Ordinance, when enacted, shall apply to any proposal involving a shelter for which a development review approval for a conditional use has not been determined to be complete by vote of the Planning Board prior to March 28, 2022, which is the applicability date of this Ordinance.

6. Severability

Should any section or provision of this Ordinance be declared by any court to be invalid, such a decision shall not invalidate any other section or provision.

7. Conflicting provisions.

Those provisions of the City's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise.