

# **LEWISTON CITY COUNCIL WORKSHOP AGENDA**

**Tuesday, February 14, 2012**

**City Council Chambers**

**6:00 p.m. Workshop**

Pledge of Allegiance to the Flag.

Moment of Silence.

## **WORK SESSION**

1. Proposal to Establish a Joint Lewiston/Auburn Bike-Ped Committee
2. Fireworks Regulation
3. Political Signs
4. Joint Agency Budget Process
5. Land Disposition/Lien Foreclosure Policy

LEWISTON CITY COUNCIL  
AGENDA  
FEBRUARY 14, 2012  
6:00 P.M.

1. Proposal to Establish a Joint Lewiston/Auburn Bike Ped Committee 1-2

Councilor Saddlemire has requested that the Council consider establishing a joint committee to work on issues involving non-motorized transportation in the Twin cities. Among others, one of the initial focuses of this committee would be participating in the planned update of the Androscoggin Transportation Resource Center's (ATRC) regional bicycle and pedestrian plan. Attached please find a draft outlining the proposed purpose and composition of this committee.

2. Firework Regulation 3-14

The sale and use of fireworks are now legal in Maine. Communities may, however, adopt their own regulations in this area. The last Council considered various regulatory options but did not come to a conclusion. Please see the attached memo that outlines various options for Council consideration.

3. Political Signs 15-24

County Commissioner Elaine Makas recently appeared before the Council and requested it consider an ordinance restricting the placement of political signs in the public right away. Please see the attached memo from Gil Arsenault on this subject.

4. Joint Agency Budget Process 25-26

There has been discussion between the Mayors and Managers of Lewiston and Auburn regarding the potential to establish a joint committee of the two Councils to undertake preliminary reviews of the budget submissions from our joint agencies. There was preliminary discussion of this approach at the last Council meeting, but no consensus was reached. Please see the attached memo.

5. Land Disposition/Lien Foreclosure Policy 27-39

The City currently has a policy outlining the procedures for the acquisition, purchase, sale, transfer, or liquidation of land or other real property. Combining all of these topics in a single policy creates complexity and confusion and difficulties in applying the policy to situations as they arise. Staff is proposing that this policy be repealed and replaced by two separate new ones. The first would govern land disposition only. The second would establish a policy on how properties with matured tax and sewer liens are handled. Copies of the current policy and the two proposed ones are attached.

## **The Lewiston-Auburn Bike-Ped Committee**

### **Mission/Purpose**

The mission of the Lewiston-Auburn Bike-Ped Committee is to

- develop and recommend policies to the respective governing bodies that take into account and support non-motorized transportation in the Twin Cities;
- advise the respective public works and engineering departments on how non-motorized users can be accommodated in street, highway, and open space projects;
- participate in the Androscoggin Transportation Resource Committee's update of its regional long-range bicycle-pedestrian plan;
- monitor the implementation of that plan within the Twin Cities; and
- promote bicycle-pedestrian education.

### **Composition**

The committee will be comprised of 7 voting members: 1 councilor and two Auburn residents appointed by the Mayor of Auburn; 1 councilor and two Lewiston residents appointed by the Mayor of Lewiston; and 1 representative from a local business jointly selected by the Mayors. Any vacancy on the committee shall be filled through an appointment made in the same manner as outlined above. The Committee shall annually select a Chair Person. In the event that any member is absent for 3 consecutive meetings without being excused by the Chair of the Committee, that individual shall forfeit committee membership.

### **TERM**

The Committee shall remain in existence until September 1, 2015. At least sixty days prior to this date, the respective Mayors shall consult and shall make a recommendation to the respective City Councils as to the continued existence of the Committee. If the Mayors fail to make a recommendation, the Committee shall continue in existence until one or both Councils take action to either extend its term or discontinue the Committee.

### **STAFF SUPPORT**

The City Manager of Auburn and the City Administrator of Lewiston shall each assign a staff member as a primary point of contact with the respective municipal organizations. The Manager and Administrator shall provide the Committee with access to other members of the municipal staffs as may be required.

### **MEETINGS AND REPORTS**

The Committee shall establish the times and places of its meetings, taking care to meet periodically in each community. Meetings shall be open to the public and notice of such meetings shall be posted by the respective City Clerks. The Committee may invite such others as may be knowledgeable regarding bike and pedestrian issues to provide information for their consideration. The Committee shall prepare summaries of its meetings and shall

make them available to the elected officials of both communities.

**Outcomes/Specific Activities:**

The L-A Bike-Ped Committee would achieve its mission through the following:

- Serving as the primary resource representing Lewiston and Auburn in the update of the ATRC Regional Long-Range Bicycle-Pedestrian Plan;
- Developing and recommending policies and ordinances for passage by the City Councils in support of non-motorized transportation;
- Planning and coordinating educational events with local partners such as schools, bicycle shops, and biking and run/walk events;
- Assessing and commenting on existing transportation projects in regard to bicycle and pedestrian accommodations including ATRC approved projects, municipally initiated projects, and improvements originating from Traffic Movement Permits; and
- Participating with appropriate city departments and committees in planning coordinated multi-modal transportation systems in L-A and the surrounding region to ensure that such systems take into account the needs of pedestrians and bicyclists and that motorized and non-motorized systems are well coordinated.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



February 9, 2012

To: Honorable Mayor and Members of the City Council  
Fr: Ed Barrett  
Su: Fireworks Ordinance

### Background

On January 1, 2012, the sale, possession, and use of fireworks became legal in the State of Maine. As the authority having jurisdiction for our community, the Lewiston City Council has the ability to adopt an ordinance limiting or banning the use, sale, and possession of fireworks.

The prior City Council debated this issue at length and looked in detail at three options.

#### Option 1 – Outright Ban

This would prohibit the sale or use of fireworks in the entire City at all times.

#### Option 2 – Prohibit in Urbanized Areas; Permitted in Rural

This would prohibit the use of fireworks in the urbanized portion of the community at all times while allowing them in the rural areas, with urban and rule tied to the City's firearms discharge zones (see attached map). Certain restrictions would apply. They would be prohibited:

- (1) on all public property, including all public parks, public rights of way, and School Department property;
- (2) on any day specified by the Fire Chief as presenting a high fire danger as identified by posting such designation on the City website;
- (3) within 75 feet of any building.

Sale of fireworks could either be permitted city-wide, within the rural area only, or prohibited.

#### Option 2A – Prohibit in Urbanized Areas; Heavily Restrict in Rural

This is a variant of option 2 that was developed by the last Council during discussion. It would completely ban fireworks in the no firearms discharge zone. It would severely restrict use in more rural areas to only specified hours on July 4<sup>th</sup>, New Year's Eve, and New Year's Day. In addition, it would prohibit the sale of fireworks everywhere in Lewiston.

### Option 3 – Restricted Use – Discharge Zones 1 and 2

This would allow the use of consumer fireworks during certain hours on a year round basis in the more rural areas of the community while limiting them to the 4<sup>th</sup> of July, New Year's Eve, and New Year's Day in the more urban areas. Sale and possession would also be permitted.

Drafts of all options are attached.

### **Specific Issues to Be Considered**

#### Where Use is Permitted

Should fireworks be completely banned? Should they be allowed under any circumstances in our urban areas? Rural areas?

If Allowed, Under What Restrictions?

Issues include: limiting hours; limiting use to specific holidays such as the 4<sup>th</sup> of July, New Year's Eve, and New Year's Day.

#### Sale of Fireworks

Should the sale of fireworks be prohibited? Allowed in rural areas only? Allowed City-wide.

### **Other Information**

Please see the attached memo from Chief Bussiere regarding actual incidents reported for 2010 and 2011.

### **Staff Position:**

Staff initially developed option 3 in the event that the Council would not support an absolute ban. It allows for the most extensive use of fireworks that we would be willing to test, pending actual experience and problems or issues that might result. We would not recommend anything that would further broaden what this option allows. Staff would be more comfortable in supporting stricter limits as outlined in options 1 and 2.

From an enforcement point of view, the easiest option is to completely ban the sale and use of fireworks throughout the City.

### **Procedure**

Under the City Charter, all ordinances must receive a first and second reading and be subject to a public hearing. In addition, if any substantive changes are made in an ordinance after the initial notice of public hearing has been published, the entire process must start over. This requirement contributed, in part, to the difficulty the prior Council encountered in adopting regulations.

If the Council reaches a strong consensus on a preferred option, that option could be placed on the next Council agenda for first reading and public hearing. If there remains doubt as to the final direction likely to be chosen, two or more of the options could be separately placed on the agenda for first reading and referral in order to reduce the processing time that would be required if each option is dealt with on a sequential basis.

To: Edward Barrett  
City Administrator

From: Michael Bussiere  
Chief of Police

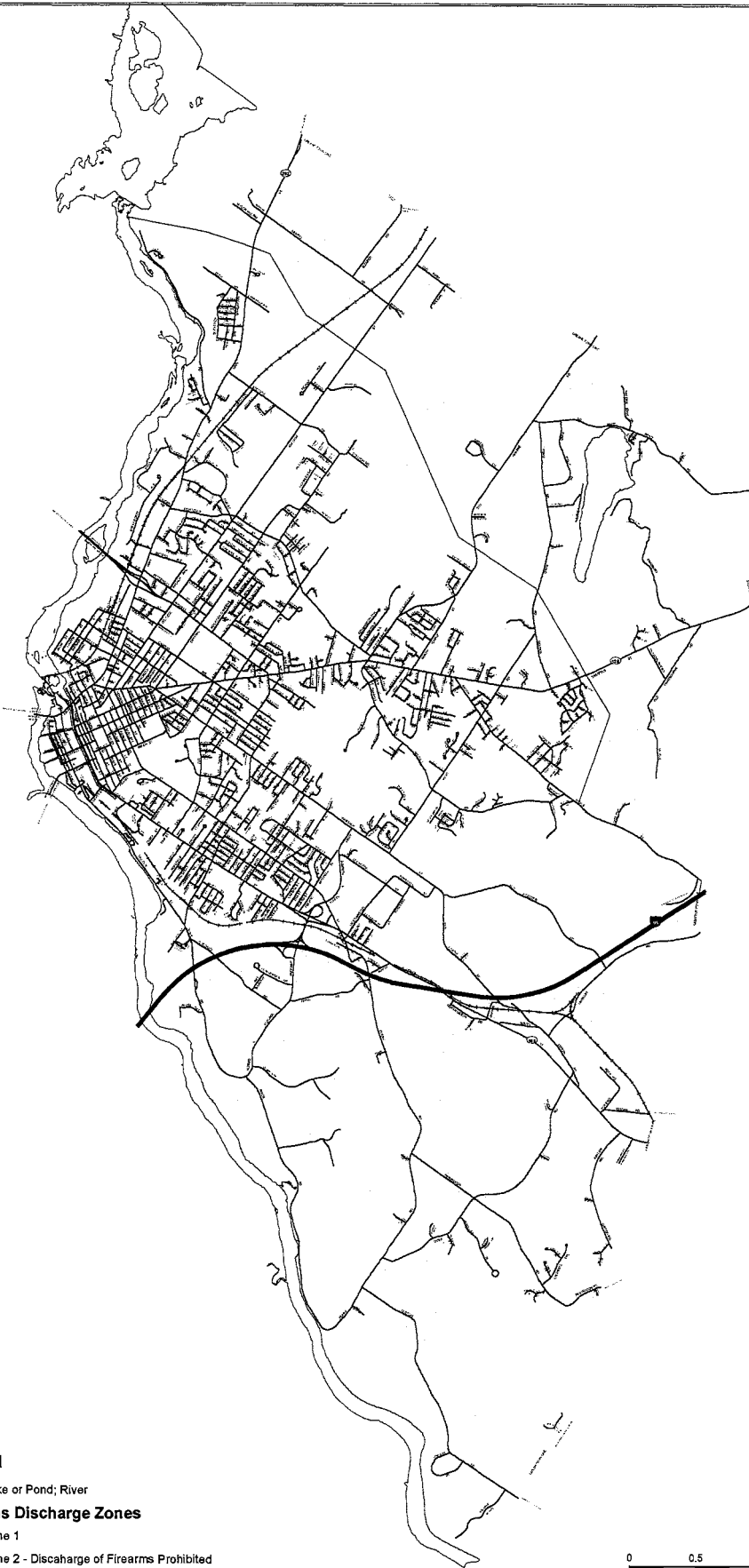
Re: Synopsis of Calls For Service involving reported Fireworks for 2010, 2011

Date: February 8, 2012


I had the Crime Analyst, Andrew Robitaille cull the data regarding reported fireworks violation for 2010 and 2011. In the year 2010, there were 31 incidents of fireworks violations and another nine reports of shots fired that were discovered to be fireworks upon officer's investigation for a total of 40 calls. Of all of those reports, the majority of them occurred throughout the month of July but the geographic concentration showed no predominance for where the reports were coming from, every section of the city had multiple reports throughout the course of the year.

In the year 2011, there were 25 incidents of fireworks violations and another five reports of shots fired that were discovered to be fireworks upon officer's investigation for a total of 30 calls for service, a 25% decrease from the year 2010. Again, the geographic distribution is all over the city with the majority of the incidents occurring after 07/01/11.

To date in 2012, there have been two incidents, which occurred on Merrill Rd. and Mitchell St. on January 1st and January 2nd respectively. It is important to note in many of these incidents, the perpetrators were not discovered or were gone from the area upon arrival of officers and therefore quite often no charges are filed nor contraband seized. Historically, most calls for service involving fireworks occur around the July 4<sup>th</sup> holiday.




**Legend**

 Lake or Pond; River

**Firearms Discharge Zones**

Zone 1

 Zone 2 - Discharge of Firearms Prohibited



May 2011 City of Lewiston  
The City of Lewiston shall not be held liable for damages due to dissemination, and makes no warranty of accuracy of this map. Any modification to this map, if it is not approved, or any use of this map, please notify it's a city by email: [pl@lewismaine.gov](mailto:pl@lewismaine.gov)

# City of Lewiston, Maine

## Firearms Discharge Zones



[www.lewismaine.gov](http://www.lewismaine.gov)



OPTION 1 - OUTRIGHT BAN

Sec.--=--. Sale and use of consumer fireworks prohibited.

(a) **Definitions.** The following definitions shall apply in this section:

- (1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:
  - a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule. With a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.
- (2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

(b) **Prohibition.** No person shall use, possess with the intent to use, sell, possess with the intent to sell or offer for sale consumer fireworks in the City of Lewiston.

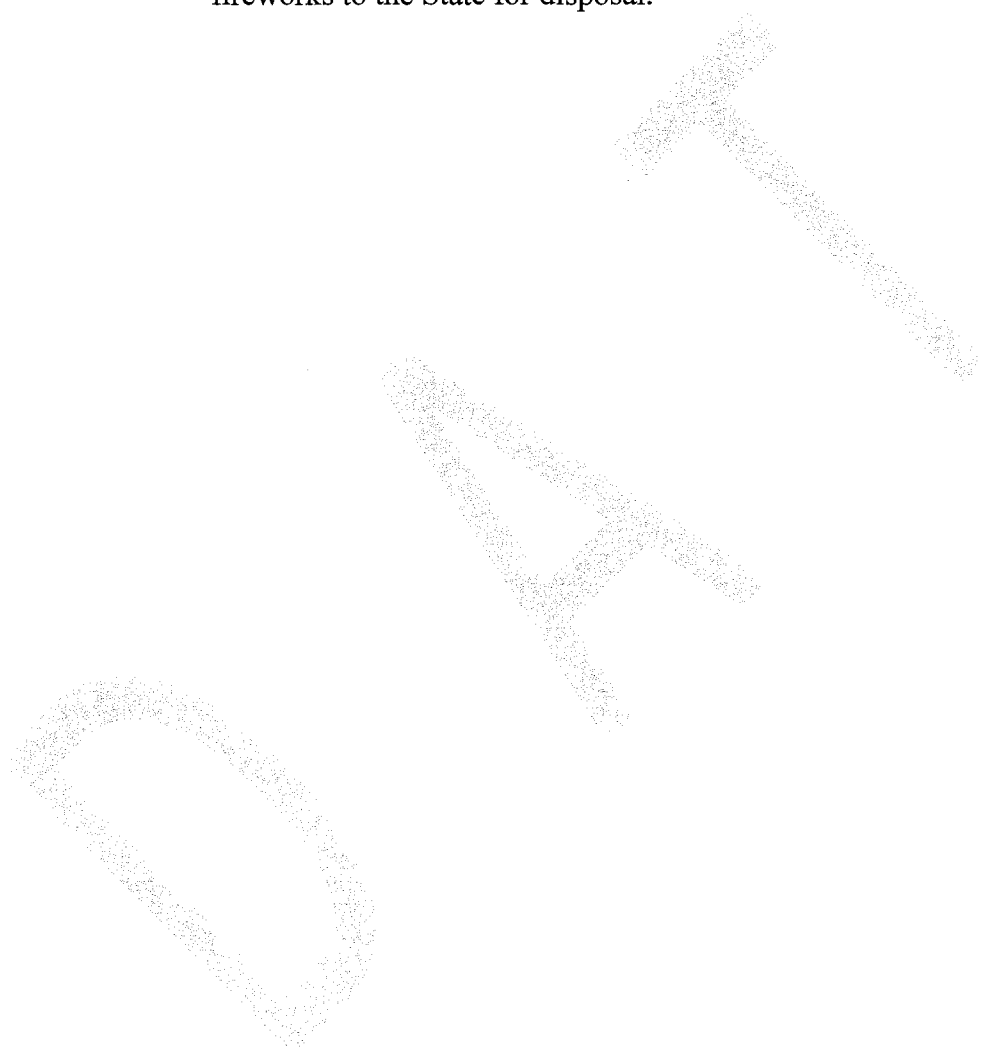
(c) **Exception.** This section does not apply to a person issued a fireworks display permit by the City of Lewiston and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

(d) **Violations.**

- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Lewiston in violation of this ordinance shall receive a citation.

(2) The civil penalty set in accordance with the city’s policy manual as approved by the city council shall be imposed for the issuance of citations. The Civil penalties imposed are cumulative.

(e) **Seizure and disposal of fireworks.** The City may seize consumer fireworks that the City has probable cause to believe are used, possessed or sold in violation of this section and shall forfeit seized consumer fireworks to the State for disposal.



**OPTION 2 - PROHIBITED IN URBANIZED AREAS;  
PERMITTED IN RURAL**

**Sec. ---. Sale and Use of consumer fireworks.**

**(a) Definitions.** The following definitions shall apply in this section:

- (1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:
  - a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition, and that may produce a burst of color or sound at or near the height of flight.
- (2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

**(b) Fireworks Restricted Use.** The use, discharge or ignition of fireworks within the City of Lewiston's restricted fire arms zone, Zone 2 as defined in Chapter 50, Section 107 of this Code, is prohibited. The use, discharge or ignition of fireworks within the City of Lewiston's restricted fire arms zone, Zone 1 as defined in Chapter 50, Section 107 of this Code, is permitted.

- (1) The use, discharge, or ignition of fireworks is prohibited on all public property, including all public parks, public rights of way, and School Department property;
- (2) The use, discharge, or ignition of fireworks is prohibited on any day specified by the Fire Chief as presenting a high fire danger as identified by posting such designation on the City website;
- (3) The use, discharge, or ignition of fireworks shall not be permitted in close proximity to any building in the City of Lewiston by maintaining a distance of no less than 75' from said building;

(c) **Exception.** This section does not apply to a person issued a fireworks display permit by the City of Lewiston and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

(d) **Violations.**

- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Lewiston in violation of this ordinance shall receive a citation.
- (2) The civil penalty set in accordance with the city's policy manual as approved by the city council shall be imposed for the issuance of citations. The Civil penalties imposed are cumulative.

(e) **Sale of Fireworks.** The sale of fireworks in the City of Lewiston shall be **(permitted city-wide, within the rural area only, or prohibited)** within the City of Lewiston.

(f) **Seizure and disposal of fireworks.** The City may seize consumer fireworks that the City has probable cause to believe are used, possessed, or sold in violation of this section. Seized consumer fireworks shall be forwarded to the State for disposal.

**OPTION 2A - PROHIBITED IN URBANIZED AREAS;  
HEAVILY RESTRICT IN RURAL**

**Sec. ---. Sale and Use of consumer fireworks.**

**(a) Definitions.** The following definitions shall apply in this section:

- (1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:
  - a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition, and that may produce a burst of color or sound at or near the height of flight.
- (2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

**(b) Fireworks Restricted Use.** The use, discharge or ignition of fireworks within the City of Lewiston's restricted fire arms zone, Zone 2 as defined in Chapter 50, Section 107 of this Code, is prohibited.

The use, discharge or ignition of fireworks within the City of Lewiston's restricted fire arms zone, Zone 1 as defined in Chapter 50, Section 107 of this Code, is permitted on and only on the dates of December 31, January 1, and July 4 provided, however, that:

- (1) The use, discharge, or ignition of fireworks is prohibited on all public property, including all public parks, public rights of way, and School Department property;
- (2) The use, discharge, or ignition of fireworks is prohibited on any day specified by the Fire Chief as presenting a high fire danger as identified by posting such designation on the City website;

- (3) The use, discharge, or ignition of fireworks shall not be permitted in close proximity to any building in the City of Lewiston by maintaining a distance of no less than 75' from said building;
- (4) No fireworks will be permitted before 10 a.m. and after 10 p.m. on July 4<sup>th</sup>;
- (5) No fireworks will be permitted before 10 a.m. on December 31<sup>st</sup>; and
- (6) No fireworks will be permitted between the hours of 1 a.m. and 10 a.m. or after 10 p.m. on January 1<sup>st</sup>.

**(c) Exception.** This section does not apply to a person issued a fireworks display permit by the City of Lewiston and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

**(d) Violations.**

- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Lewiston in violation of this ordinance shall receive a citation.
- (2) The civil penalty set in accordance with the city's policy manual as approved by the city council shall be imposed for the issuance of citations. The Civil penalties imposed are cumulative.

**(e) Sale of Fireworks.** The sale of fireworks in the City of Lewiston shall be prohibited within the City of Lewiston.

**(f) Seizure and disposal of fireworks.** The City may seize consumer fireworks that the City has probable cause to believe are used, possessed, or sold in violation of this section. Seized consumer fireworks shall be forwarded to the State for disposal.

**OPTION 3 - RESTRICTED USE - DISCHARGE ZONES 1 AND 2**

**Sec. ---. Sale and Use of consumer fireworks.**

**(a) Definitions.** The following definitions shall apply in this section:

- (1) Consumer fireworks shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3<sup>rd</sup>-party testing laboratory as conforming with United States Consumer Product Safety Commission standards in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:
  - a. Missile-type rockets, as defined by the State Fire Marshal by rule;
  - b. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
  - c. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability, that rise into the air upon ignition, and that may produce a burst of color or sound at or near the height of flight.
- (2) Display means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

**(b) Fireworks Restricted Use.** The use, discharge or ignition of fireworks within the City of Lewiston is permitted with the following restrictions;

- (1) The use, discharge, or ignition of fireworks is prohibited on all public property, including all public parks, public rights of way, and School Department property;
- (2) The use, discharge, or ignition of fireworks is prohibited on any day specified by the Fire Chief as presenting a high fire danger as identified by posting such designation on the City website;
- (3) The use, discharge, or ignition of fireworks shall not be permitted in close proximity to any building in the City of Lewiston by maintaining a distance of no less than 75' from said building;
- (4) The use of fireworks in Zone 1; shall only be permitted as follows:
  - No fireworks will be permitted before 10 a.m. and after 10 p.m. on July 4<sup>th</sup>;
  - No fireworks will be permitted before 10 a.m. on December 31<sup>st</sup>; and

- No fireworks will be permitted between the hours of 1 a.m. and 10 a.m. or after 10 p.m. on January 1<sup>st</sup>.
- (5) The use of fireworks in Zone 2; shall only be permitted as follows:
- No fireworks will be permitted before 10 a.m. on December 31<sup>st</sup>; and
  - No fireworks will be permitted between the hours of 1 a.m. and 10 a.m. or after 10 p.m. on January 1<sup>st</sup>.
  - No fireworks will be permitted before 10:00 a.m. and after 10:00 p.m. on all other days.
- (c) **Exception.** This section does not apply to a person issued a fireworks display permit by the City of Lewiston and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.
- (d) **Violations.**
- (1) Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the City of Lewiston in violation of this ordinance shall receive a citation.
  - (2) The civil penalty set in accordance with the city's policy manual as approved by the city council shall be imposed for the issuance of citations. The Civil penalties imposed are cumulative.
- (e) **Sale of Fireworks.** The sale of fireworks in the City of Lewiston shall be permitted within the City of Lewiston.
- (f) **Seizure and disposal of fireworks.** The City may seize consumer fireworks that the City has probable cause to believe are used, possessed, or sold in violation of this section. Seized consumer fireworks shall be forwarded to the State for disposal.



## MEMORANDUM

TO: Mayor Robert E. Macdonald  
Members of the City Council

FR: Gildace J. Arsenault, Director of Planning and Code Enforcement

RE: Political Signs

DT: February 9, 2012

Attached please find the following documents:

Amended political sign provisions as contained in the Zoning and Land Use Code that became effective on April 5, 2008 (note: I have include the amended version as it shows the current as well as the provisions in effect prior to April 5, 2008)

M.R.S.A. Title 23, §1913-A, Sections 1(H) and 6

M.R.S.A. Title 23, §1917, Section 5

Pursuant to Article XII, Section 16(b)(1) of the Zoning and Land Use Code, political signs (signs bearing messages relating to an election, primary, or referendum) may be placed within or outside of public right-of-ways; however, they are prohibited from being placed within or outside of public right-of-ways adjacent to city owned property including schools, parks, cemeteries, and municipally owned buildings. In accordance with the Zoning and Land Use Code and M.R.S.A. Title 23, §1913-A, Section 1(H), political signs may be erected six weeks prior to an election, primary, or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter. Title 23, §1913-A, Section 6 prohibits political signs from being located within the interstate system. Neither the Zoning and Land Use Code or State Law restricts size associated with political signs nor are there any limitations as to the placement of individual signs with respect to number, proximity to other political signs, etc.

The Zoning and Land Use Code does not contain any specific authorization enabling staff to remove political signs that create safety problems. M.R.S.A. Title 23, §1917 Section 5 provides for immediate removal of illegal signs located within the public right-of-way by the Commissioner of the Maine Department of Transportation (MDOT) and it is the position of the MDOT that municipalities may remove illegal political signs located within the public right-of-way. Illegal signs are deemed to be signs that create public safety issues and/or are located within the interstate system. Consistent with MDOT's position on the removal of illegal political signs, staff removes such signs as necessary.

It is uncommon for the placement of signs to create public safety hazards; however, staff does remove a small number of signs for safety reasons and many signs are removed that have been placed in front of and/or on City owned property.

Notwithstanding Title 23, it is my opinion that there is merit to having specific language in the Zoning and Land Use Code authorizing staff to remove illegal political signs; however, I do not believe that any other changes are warranted at this time. Given the nature of our political process, I believe that communities should be consistent with State Law so that the rules do not vary to any appreciable degree from community to community.

I plan to attend your workshop on February 14, 2012 to provide any assistance that you may require.

No. 08-04  
Effective: 05/15/2008

**AN ORDINANCE PERTAINING TO ZONING AND LAND USE PERFORMANCE  
STANDARDS RELATIVE TO POLITICAL SIGNS**

**THE CITY OF LEWISTON HEREBY ORDAINS:**

**APPENDIX A**

**ZONING AND LAND USE CODE**

**ARTICLE XII.**

**PERFORMANCE STANDARDS**

**Sec. 16. Signs.**

(b) *Signs permitted in all districts.*

(1) The following types of signs may be erected in all zoning districts without obtaining a permit from the code enforcement official:

c. *Temporary signs.* Temporary signs listed below shall not be placed in a position that will impair vision, obstruct traffic, or in any manner create a hazard or nuisance to the general public.

5. *Political signs.* Signs of a temporary nature bearing political messages relating to an election, primary or referendum may be placed within or outside the right-of-way in accordance with the timelines established in M.R.S.A. Title 23, §1913-A, Section 1(H). Political signs located within or outside the right-of-way are prohibited on or in front of City owned property including schools, parks, cemeteries, and municipally owned buildings. relating to political candidates, election issues, or similar matters may be placed for a period of not more than thirty-two (32) days prior to the election. Such signs shall be removed within two (2) days following the election.

(g) *Prohibited signs.* The following signs are prohibited in all areas of the city, except as otherwise provided in these regulations:

(3) *Signs in street right-of-way.* No sign except political signs, traffic and similar public safety signs, erected in accordance with the Code of Ordinances, official business directional signs erected in accordance with subsection (e) of these regulations, and publicly erected information kiosks, special intracommunity service signs, or sign boards and signs approved by the city council advertising civic events and function shall be located in the public right-of-way of any street or highway.

No. 08-04  
Effective: 05/15/2008

### **REASON FOR PROPOSED AMENDMENT**

The Zoning and Land Use Code currently prohibits political signs from being erected with in right-of-ways in Lewiston. Individuals involved with political campaigns and referendums question this prohibition, since it is stricter than state law. M.R.S.A. Title 23, §1913-A, Section 1(H) allows for signs to be erected with the right-of-way no more than 6 weeks prior to an election, primary, or referendum and to be removed not later than one week thereafter. In addition, Maine Municipal Association's legal department has suggested that Lewiston's current ordinance may conflict with a citizen constitutional free speech rights. The proposed amendment will make Lewiston's ordinance consistent with State law and will only prohibit political signs within or outside the right-of-way on or in front of City owned property.

### **CONFORMANCE WITH COMPREHENSIVE PLAN**

Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community. . . (see Economy, Policy 1, Strategy C, p 39).

NOTE: Additions are underlined; and deletions are ~~struck-out~~.

## Maine Revised Statutes

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- §1913-A PDF
- §1913-A WORD/RTF
- STATUTE SEARCH
- CH. 21 CONTENTS
- TITLE 23 CONTENTS
- LIST OF TITLES
- DISCLAIMER
- MAINE LAW
- REVISOR'S OFFICE
- MAINE LEGISLATURE

**§1913**                      **Title 23:**                      **§1914**

**HIGHWAYS**

**Part 1: STATE HIGHWAY LAW**

**Chapter 21: MAINE TRAVELER INFORMATION SERVICES**

**§1913-A. Categorical signs**

**1. Types of signs.** The following signs may be erected and maintained without license or permit under this chapter as follows:

- A. Signs of a duly constituted governmental body, a soil and water conservation district or regional planning district; [1981, c. 318, §3 (NEW).]
- B. Signs located on or in the rolling stock of common carriers, except those which are determined by the commissioner to be circumventing the intent of this chapter. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle; [1981, c. 318, §3 (NEW).]
- C. Signs on registered and inspected motor vehicles, except those which are determined by the commissioner to be circumventing the intent of this chapter. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle; [1981, c. 318, §3 (NEW).]
- D. Signs, with an area of not more than 260 square inches, identifying stops or fare zone limits of motor buses; [1981, c. 318, §3 (NEW).]
- E. Signs showing the place and time of service or meetings of religious and civic organizations, in the municipality or township. Each religious or civic organization may erect no more than 4 signs. No sign may exceed in size 24 inches by 30 inches; [1981, c. 318, §3 (NEW).]
- F. Memorial signs or tablets; [1981, c. 318, §3 (NEW).]

G. Hand-held or similar signs not affixed to the ground or buildings; [1999, c. 152, Pt. G, §2 (AMD).]

H. Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be placed within the right-of-way prior to 6 weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter; and [1999, c. 152, Pt. G, §2 (AMD).]

I. Adopt-A-Highway Program signs allowed under section 1117. [1999, c. 152, Pt. G, §3 (NEW).]

[ 1999, c. 152, Pt. G, §§2, 3 (AMD) .]

## **2. Types of signs outside the right-of-way.**

The following signs may be erected and maintained outside of the public right-of-way without license or permit under this chapter as follows:

A. Signs erected by a public, civic, philanthropic, charitable or religious organization announcing an auction public supper, lawn sale, campaign or drive or other like event or soliciting contributions; [1981, c. 318, §3 (NEW).]

B. Signs erected by fairs and expositions within the county where the activity is located; [1981, c. 318, §3 (NEW).]

C. Signs bearing religious messages and signs showing the time and place of services or meetings of religious and civic organizations; [1981, c. 318, §3 (NEW).]

D. Signs erected by nonprofit historical and cultural institutions. Each institution which has certified its nonprofit status with the commissioner, may erect not more than 2 signs with a surface area not to exceed 50 square feet per sign; [1991, c. 387, §1 (AMD).]

E. Signs bearing political messages; and [1991, c. 387, §1 (AMD).]

F. [1997, c. 635, §2 (RP).]

G. Signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and

sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 5 miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 4 signs pursuant to this paragraph and the total number of signs erected by that producer under this paragraph and section 1911, subsection 2 may not exceed 6. [1997, c. 635, §3 (NEW).]

[ 1997, c. 635, §2, 3 (AMD) .]

**3. Regulations.** The commissioner may promulgate regulations and orders, including prohibitions, to protect highway safety and implement the intent of this chapter.

The signs referred to in this section shall be subject to regulation, including prohibition, as set forth in section 1922.

[ 1981, c. 318, §3 (NEW) .]

**4. Zones.** The commissioner may promulgate regulations permitting signs, including signs bearing commercial messages, in any zone or area of the State, together with regulations concerning the dimensions, construction, illumination and other characteristics of such signs if the Attorney General certifies to the commissioner that the United States Supreme Court has determined that signs in such zones or areas must be permitted.

[ 1981, c. 318, §3 (NEW) .]

**5. Prohibited practices.** None of the signs referred to in this section may be erected or maintained on any traffic control signs or devices, public utility poles or fixtures or upon any trees. None of these signs may be painted or drawn upon rocks or other natural features.

[ 1981, c. 318, §3 (NEW) .]

**6. Interstate system.** None of the signs referred

to in this section, other than signs conforming with subsection 1, paragraphs B and C and logo signs erected pursuant to section 1912-B, may be located within the right-of-way limits of the interstate system or within 660 feet of the nearest edge of the interstate system and erected in such a fashion that the message may be read from the interstate highway.

[ 1995, c. 416, §2 (AMD) .]

SECTION HISTORY

1981, c. 318, §3 (NEW). RR 1991, c. 2, §89 (COR). 1991, c. 387, §§1,2 (AMD). 1995, c. 416, §2 (AMD). 1997, c. 635, §§2,3 (AMD). 1999, c. 152, §§2,3 (AMD).

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**Office of the Revisor of Statutes**

**7 State House Station**

**State House Room 108**

**Augusta, Maine 04333-0007**



## Maine Revised Statutes

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**§1916**                      **Title 23:**                      **§1917-A**  
**HIGHWAYS**  
**Part 1: STATE HIGHWAY LAW**  
**Chapter 21: MAINE TRAVELER**  
**INFORMATION SERVICES**

### §1917. Removal of unlawful signs

**1. Notice to remove.** The owner of a sign which was or is unlawfully erected or maintained either prior to or after the effective date of this chapter shall be in violation of this chapter until the sign is removed. The owner of the sign shall remove the sign within 30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the commissioner. If the identity of such owner is not known or reasonably ascertainable by the commissioner, such notice may instead be sent to the owner of the land on which the sign is placed.

[ 1981, c. 318, §4 (RPR) .]

**2. Commissioner to remove sign.** If the owner fails to remove the sign as required, the commissioner shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner.

[ 1981, c. 318, §4 (RPR) .]

**3. Interpretation of chapter.** Nothing in this chapter may be interpreted to alter, abridge or in any way interfere with any duty or obligation of a sign owner to remove signs which were nonconforming and illegal prior to January 1, 1975, under the United States Code, Title 23, section 131, as enacted by Public Law 89-285, 89 Congress S. 2084, the "Agreement for carrying out National Policy relative to Control of Outdoor Advertising in Areas adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System" dated December 27, 1967, and as amended on January 3, 1968, executed by and between the United States of America and the State of Maine, under the Maine Revised Statutes, Title 32, sections 2711 to 2723.

The intent of this subsection is to preclude any presumption that this chapter is intended to extend the period of use of any sign which became nonconforming and illegal before January 1, 1975,

under the state agreement of December 27, 1967, as amended January 3, 1968, and Title 32, sections 2711 to 2723.

[ 1981, c. 318, §4 (RPR) .]

**4. Compensation subject to litigation.**

Whenever the compensation to be paid for removal of any sign is the subject of litigation, pending the litigation such sign shall be removed as provided in subsections 1 and 2.

[ 1981, c. 318, §4 (RPR) .]

**5. Summary removal of illegal signs within the public right-of-way.** Signs which are erected in nonconformance with this chapter and which are within the limits of any public right-of-way shall be subject to immediate removal by the commissioner.

[ 1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §§13-15 (AMD). 1981, c. 318, §4 (RPR).

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**Augusta, Maine 04333-0007**



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator




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February 9, 2012

To: Honorable Mayor and Members of the City Council  
Fr: Edward A. Barrett  
Su: LA Joint Agency Budget Review Committee

Over the last several years, Lewiston and Auburn have struggled to develop a workable procedure to evaluate and coordinate the process of adopting budgets for a variety of joint agencies including the Lewiston-Auburn Growth Council, LA Arts, LA911, Great Falls TV, the Airport, and the Transit Committee. The communities also jointly fund the Liberty Festival, although it is not considered a joint agency and has not been handled as such.

Two years ago, a joint meeting was held where the various agencies presented their budgets. This format did not lend itself to give and take among and questioning by the Councils given the large number of elected officials involved and the time required to move through the various presentations. While both sets of municipal officers heard the presentations, there was no mechanism to facilitate a coordinated decision making process.

Last year, no joint meeting was held (in part because of frustration on the part of some Auburn Councilors with the prior year's process), and it was difficult to coordinate the budget process with each community acting separately.

This year, the Mayors and Managers have discussed establishing a joint budget committee composed of two Councilors from each community who, with the assistance of the Managers and Finance Directors, would meet with, review, and discuss the various budgets and present a recommendation to each Council for consideration. This recommendation would be advisory and would not prohibit each Council from meeting individually with one or more of the agencies should they wish. The committee's budget work would be in public, and any Councilors who wished to attend its meetings would be welcome to do so.

The intent of this proposal is to increase the level of budgetary scrutiny given to these agencies and to provide a common recommended base from which the cities can begin the decision making process. It should allow for more detailed policy maker review of

the proposed budgets, more in-depth discussion, and provide an opportunity for Councilors from both communities to work closely together and build a working relationship.

This proposal was initially discussed at the end of the last Council meeting. At that time, some concerns were expressed regarding this approach, particularly the limited number of Councilors who would be directly involved in the initial budget reviews and in developing a recommendation for the Councils.

An alternative approach was also mentioned which would delegate to the respective Managers and Finance Directors the initial task of meeting with the agencies to undertake a technical review of their budget submissions and to make a joint recommendation to the Councils. This would allow for some initial scrutiny and budget refinement (for example, analyzing any proposed salary or benefit adjustments) and presenting both Councils with a common starting point.

The City of Auburn has discussed the proposed joint committee approach and designated two of its members to serve. I have informed Auburn of the discussion at the last Council meeting and that we will be having additional discussion at Tuesday's workshop.

As budget season is approaching, the Council should decide how it wishes to proceed in the near future and, to the extent possible, coordinate that approach with the City of Auburn.

## **PROPERTY DISPOSITION**

### **1.0 Purpose**

The purpose of this Policy is to provide guidelines for City staff to follow in handling and processing real property in the City's possession which is considered excess to the City's needs.

### **2.0 Policy**

It is the City's policy to periodically review real property in the City's possession to determine whether retention, sale, or lease of such property is in the best interest of the City and to respond in a timely fashion to requests from private parties seeking to purchase or lease such property.

### **3.0 Determination of Willingness to Sell or Lease City-Owned Property**

#### **3.1 City Initiated Sale or Lease.**

**3.1.1** The Planning and Code Department of the City will periodically review real property currently owned by the City but not in active use for municipal purposes to determine whether these properties should be retained or considered for sale or lease. Once properties have been identified for which there is no current City use, the Department will notify the City Administrator.

**3.1.2** The City Administrator will then notify all Department Heads of the property or properties being considered for sale and offer them the opportunity to indicate any potential use or need their department might have for the property, including its potential for land banking against future uses.

**3.1.3** After consideration of the responses of the various Departments, the Administrator will make a determination if the property should be declared surplus or retained for potential future use.

#### **3.2 Private Sector Request to Purchase or Lease**

**3.2.1** All requests from the private sector for the purchase or lease of City property shall be directed to the City Administrator.

- 3.2.2 The Administrator shall notify all Department Heads of the request and provide them with the opportunity to identify any current or potential use which the City may have for the property.
- 3.2.3 After consideration of the responses of the various Departments, the Administrator will make a determination of whether the property should be declared surplus or retained for current or potential future use.
- 3.2.3 Once the Administrator has determined a property to be surplus, the Planning Board will be asked to review and make a recommendation on whether to proceed with its disposition. A recommendation from the Planning Board will remain valid for three years; however, should circumstances change during this period, the Administrator may seek an updated review and recommendation.

#### **4.0** Procedure for Disposition of Surplus Property – Substandard Lots

- 4.1 Vacant lots that do not meet minimum space and bulk standards for construction may, at the discretion of the City Administrator, be offered for sale or lease to abutting property owners. If one or more of these owners express an interest in the property, the City Administrator shall make a recommendation to the City Council on the disposition of the property.
- 4.2 The following factors will be considered in determining whether the property should be sold:
  - 4.2.1 The proposed sale price or lease rate, if any, as compared to an estimate of the value of the property prepared by the City Assessor;
  - 4.2.2 The proposed use of the property;
  - 4.2.3 The value of any proposed improvements to the property;
  - 4.2.4 The impact of the sale or lease of the property on the assessed value of the adjacent property in the same ownership; and
  - 4.2.5 The extent to which the sale or lease will support overall City policy in the area or neighborhood within which the property is located.

#### **5.0** Procedure for the Disposition of Surplus Property – Potentially Developable

In instances where surplus property may be redeveloped or developed, that property may be marketed by one of a number of methods based on

the nature and estimated value of the property and any specific plans or policies which development of the property might either further or hinder. The following methods may be used to market the property, including a combination of two or more.

- 5.1 Request for Proposals.** The City may use a Request for Proposals process. This process is generally best suited to significant development parcels for which the City has specific expectations as to the nature, type, and value of the anticipated development.
  - 5.2 Real Estate Broker.** The City may contract with a real estate broker to find a buyer. This method may be most applicable to individual properties or groups of properties that the City is seeking to redevelop or develop for a specified purpose such as single family housing and/or multi-family housing renovation.
  - 5.3 Formal Bid.** The City may advertise for formal bids. This method may be most applicable in instances where the City believes that multiple parties may be interested in the property and the nature of the development or redevelopment is such that the City does not anticipate placing additional restrictions on what is to happen on the property after its sale.
  - 5.4 Self-Brokerage.** The City may employ a sell by owner approach. This would generally be applicable to situations such as the sale of individual lots within a residential or commercial subdivision.
  - 5.5 Direct Negotiation.** Where alternative methods have failed to produce an acceptable sale and/or in instances where the City has been directly approached by an individual or organization with a proposal that matches or exceeds the City's expectations for development on the parcel, the City may entertain direct negotiations with a private party who expresses interest in purchasing a property.
  - 5.6** The City Administrator shall recommend to the City Council the disposition method or methods to be used at the time the Council is asked to approve disposition of the property.
- 6.0 Council Approval of Disposition**
- 6.1** The final decision to accept a bid, proposal, or offer to purchase City-owned property must be made by the City Council.
  - 6.2** The normal process for transferring a city-owned property will be by way of municipal quitclaim deed. Warranty deeds may be approved in instances where such action is recommended by the City Administrator for good and reasonable cause.

## **PROPERTIES WITH MATURED TAX OR SEWER LIENS**

### **1.0 Purpose**

The purpose of this Policy is to provide guidelines for City staff to follow in handling and processing properties on which property taxes or sewer liens have or will soon mature and to ensure that such properties are handled in a consistent manner that protects the best interests of the City.

### **2.0 Policy on Properties with Matured Liens**

It is the City's policy to collect, to the greatest extent possible, all real property taxes and sewer charges which are due in a timely fashion and in accordance with applicable state statutes. It is also our policy to work with individual citizens who make a good faith effort to meet their obligations. The City will take possession of properties on which tax or sewer liens have matured only after other alternatives have been exhausted and/or where such action meets the City's community development and revenue collection needs.

### **3.0 Situation Where City May Take Possession of Property**

Under state law, the City becomes the owner of a property at the point where a lien matures. The City does not, however, become liable for the property until sixty days after the City becomes aware that the property has been abandoned or upon asserting possession of the property, an action which indicates that the City will no longer consider allowing the prior owner to redeem the property. The City will consider taking possession of properties with matured tax or sewer liens under the following circumstances.

3.1 Vacant and Blighted. Properties which are vacant and considered blighted will generally be taken unless:

3.1.1 The property owner pays all amount due to the City for any and all purposes.

3.1.2 The property owner enters into a legally binding commitment to bring the property into full compliance with the City's codes within a reasonable period of time, such period to generally not exceed 12 months.



- 3.2 Non-conforming Structures. Properties which do not conform to current land use and zoning policies may be taken by the City. This decision will be based on a consideration of the following factors:
- 3.2.1 The extent of the non-conformity;
  - 3.2.2 The effect of the property on surrounding properties and uses;
  - 3.2.3 The condition of the property including its overall appearance and the presence or absence of any code violations;
  - 3.2.4 The willingness and ability of the property owner to pay all amounts due to the City, to address code issues, and to take steps to mitigate adverse impacts which the non-conforming use may have on surrounding properties.
- 3.3 Vacant Land. The City may take possession of any vacant parcels on which liens have matured. This decision will be based on the following considerations:
- 3.3.1 The willingness and ability of the property owners to pay all amounts due to the City;
  - 3.3.2 The ratio between the amount owed the City and the assessed value of the property;
  - 3.3.3 The extent to which the property has a negative impact on surrounding properties and/or has been found to be in violation of City ordinances.
- 3.4 Owner Occupied Residences. As a general guideline, it is not the City's intent to take possession of owner occupied single family residences unless continued occupancy of the residences poses a direct and immediate threat to the health, safety and welfare of the residents or those of neighboring properties or the City determines that the owner/resident is capable of meeting his or her obligations to the City but refuses to do so.
- 3.4.1 Where it is determined that continued occupancy of the property poses a direct and immediate threat to the residents or those of neighboring properties, the City may take possession of the property. City staff shall work with the residents to locate alternative safe and affordable housing.
  - 3.4.2 Where it is determined that the owner/resident is capable of meeting his or her obligations and refuses to do so, the City may take possession of the property. Factors which may be

considered in determining whether a good faith effort is being made to meet these obligations may include:

- 3.4.2.1 Willingness to enter into and meet the requirements of workout agreements;
- 3.4.2.2 Application for the Homestead or other available exemptions;
- 3.4.2.3 Application for the Maine Residents Property Tax Program and agreement to assign all payments from the program toward amounts due to the City;
- 3.4.2.4 Exploration of other options to meet obligations to the City including, but not limited to, applications for a hardship abatement, exploration of a reverse mortgage, or any other proposal or activity that will result in payment to the City and correction of existing code violations.

3.5 Other Circumstances. The City may take possession of properties on which liens have matured under other circumstances not listed above, regardless of the condition of the property, when it is determined that doing so is in the best interests of the City and its residents. Without limitation, such circumstances may include the following:

- 3.5.1 Ownership of the property is required for construction or maintenance of necessary public facilities such as roads, utility facilities, parks, recreational trails, schools, or public buildings.
- 3.5.2 The property is located in a designated Community Development Project area and City ownership is required to facilitate a redevelopment project.
- 3.5.3 Ownership of the property is required for expansion of a City-owned commercial, industrial, or business park.
- 3.5.4 Ownership of the property is required to facilitate an environmental remediation project.
- 3.5.5 The City Council determines that ownership of the property is in the public interest for other identifiable reasons.

#### **4.0 Procedure**

After sewer or tax liens have matured, the responsible City staff will take the necessary steps to ensure that the City's lien interests have been perfected, and that owners are notified of the status of their property and the necessity to make immediate arrangements to meet their obligation. Where called for by this policy, staff will compile the necessary

information to enable the City Council to make the determination of whether to take actual possession of a property.

- 4.1 Lien Perfection. Staff will ensure that all legally required notices have been sent and that all legal requirements have been met, including notification of any institutions or individuals holding a mortgage interest in the property.
- 4.2 Code Compliance. Once staff has determined that the City is legally authorized to foreclose the lien and take possession of the property, the Code Enforcement Officer will be provided with a list of these properties. Code will inspect them to determine their compliance with building, property maintenance, and life safety codes and their conformance with the City's Comprehensive Plan and Land Development Code.
- 4.3 Notification. The property owner will be notified via certified mail that the City has a matured lien on the property in question and that acceptable arrangements must be made within thirty days of the date of the notice to pay all amounts due and, if necessary, commit to the steps to bring the property into compliance with all City Codes.
- 4.4 Where staff determines that the property in question poses a hazard to individuals or surrounding property, or where the property owner has a history of failing to meet his or her obligations to the City and/or to meet the City's Codes, the requirements of 4.2 and 4.3 may be eliminated.
- 4.5 During the 30 day period outlined in section 4.3 above, staff shall endeavor to meet with the property owners in question and attempt to reach an agreement as to payment of amounts due as well as on the steps which the property owner will take, if necessary, to bring the property into compliance with the applicable City Codes.

## **5.0 Policy on Lien Waivers**

Under state law, the City becomes liable for abandoned properties sixty (60) days after liens foreclose. Given this, there are circumstances where the City may wish to waive foreclosure in order to avoid liability or expenditures on a foreclosed property may not be justifiable. Such situations may include but not be limited to structures on leased property where the cost of demolition may not easily be recovered or properties which may expose the City to environmental liabilities. It is the City's policy to avoid, to the greatest extent possible, assuming liabilities for foreclosed properties which exceed the financial or community benefits associated with acquiring them.

## **5.1 Advance Review of Properties Facing Lien Foreclosure**

- 5.1.1** On or about November 15<sup>th</sup> of each year, Finance shall provide Code and Administration with a list of properties on which liens are scheduled to mature and on which the property owner has not agreed to acceptable arrangements to meet his or her responsibilities to the City. This list shall specifically identify structures located on leased land;
- 5.1.2** Code Enforcement shall review these properties to determine whether they are occupied or abandoned and their condition.
- 5.1.3** Code shall also identify any properties that may expose the City to environmental or other liabilities.
- 5.1.4** On or about December 1 of each year, Code shall submit a report to Administration on the result of these investigations.
- 5.1.5** Administration shall review this report and identify properties where it may be prudent for the City to consider waiving foreclosure and provide a recommendation to Council on properties where lien waiver should be considered.
- 5.1.6** Once the Council has waived foreclosure on a property or structure, Finance shall take the necessary steps to ensure that future 45 day foreclosure notices are not issued. These properties shall continue to be reviewed annually by Code and Administration to determine whether the City should continue to forego lien foreclosure or proceed to allow future liens to foreclose. Where the recommendation is for the City to allow foreclosure to proceed by issuing the 45 day notice, this recommendation shall be forwarded to the City Council for its consideration.
- 5.1.7** For mobile homes or other structures on leased property, the City may contact the land owner to determine if the owner is willing to accept the transfer of the ownership of the mobile home or structure and to take the necessary steps to remove or rehabilitate it should the City allow foreclosure to proceed. In such instances, the City Council will be asked to transfer the ownership of the structure once the City takes possession.

## **6.0 Council Action**

City Council approval is required to authorize the City to take possession of a property on which a lien has matured except where automatic possession has taken place due to abandonment of a property. Nothing in

this policy shall limit the discretion of the City Council from taking possession of a specific property based upon the Council's evaluation of that property and its determination as to what action, if any, is in the best interest of the City and its citizens.

## **7.0 Legal Rights**

This policy is not intended to create legal rights on the part of residents or taxpayers. Failure of the City to follow the guidelines or procedures established by this policy shall not constitute a defense or bar to the City's foreclosure of matured tax or sewer liens or to any legal titles derived from such foreclosures. Failure to follow the guidelines or procedures established by this policy shall not constitute a defense or bar to the City's collection of any taxes, sewer charges, or other charges owed.

## **8.0 Staff Responsibilities**

- 8.1 The Finance Director shall have overall responsibility for implementing this policy to include:
  - 8.1.1 Lien perfection;
  - 8.1.2 Property owner notification;
  - 8.1.3 Negotiating payment arrangements with property owners
  - 8.1.4 Providing Code and Administration with a list of potential lien foreclosures on or before November 15<sup>th</sup> of each year;
  - 8.1.5 Providing Code and Administration with a list of properties on which liens have been waived in prior years;
  - 8.1.6 Requesting support from other City staff as necessary.
  
- 8.2 The Planning and Code Enforcement Director shall be responsible for:
  - 8.2.1 Providing property inspection reports to City Administration;
  - 8.2.2 Determining property compliance with the City's Land Development Code;
  - 8.2.3 Negotiating agreements to bring properties into compliance with City Codes.
  
- 8.3 Administration shall be responsible for making recommendations to the City Council as to properties on which lien foreclosure should be waived and those where the City should consider taking possession.

## CURRENT POLICY

### PROCEDURES FOR THE ACQUISITION/PURCHASE, SALE, TRANSFER OR LIQUIDATION OF LAND OR OTHER REAL PROPERTY

The following procedures shall generally govern the sale, transfer or liquidation of municipal land or real property and the acquisition/purchase of land or other real property. Special, limited purpose acquisition procedures such as exercising tax liens, acquiring utility easements, or accepting streets are not affected.

#### OBJECTIVES

1. To insure that the acquisition/purchase, sale, transfer or liquidation of any land or other real property (herein referred to only as "property") reflects the strategic development and planning goals endorsed by the City Council.
2. To provide a streamlined process of input and review by the City Council, City Administrator's Office, and city staff to allow for timely decisions at all levels of city government.
3. To better outline the methods by which property is identified for acquisition, sale, transfer, or liquidation.
4. To provide a mechanism to insure that the City Council is provided with regular reports on the status of various targeted properties for acquisition, city owned empty parcels & occupied buildings, and other tax-acquired properties so that the Council standing committees may be kept current on properties which may serve the policy interests of the city.

#### **ACQUISITION/PURCHASE, SALE, TRANSFER OR LIQUIDATION OF PROPERTY**

1. All requests for the acquisition/purchase, liquidation, sale or transfer of property must be in writing and forwarded to the City Administrator who will assess the request and make a determination to forward the request based on one of several criteria: 1) Forward directly to the Planning Board (through the City Planner's Office) with the City Administrator's comments if Planning Board review is required but a full staff review is not necessary; 2) forward directly to the City Council if Planning Board nor further staff review is required; or 3) forward the request to the Development Director (or his/her designee) if further staff review is required.
2. In all cases where the Development Director is required to review a request, the Development Director (or his/her designee) will coordinate the staff review process and recommend the release, acquisition or retention of the property to the Planning Board and to the City Administrator.
3. In cases where Planning Board review is required, and if there is a Planning Board recommendation on file, the City Administrator determines if he/she desires an updated review and recommendation. If the property has received no prior Planning Board review or requires an updated review by the Development Department, then the procedures outlined in item 4 below are followed. If a current Planning Board review for the property is on file, the City Administrator will direct the Development Department to review the current property information with all appropriate departments for any updated commentary. The Development Department shall, upon completion of the Development Department's full review, obtain final comments from the City Administrator. The City Administrator will forward the recommendations from his/her office and the Planning Board to the

## **PROCEDURES FOR THE ACQUISITION/PURCHASE, SALE, TRANSFER OR LIQUIDATION OF LAND OR OTHER REAL PROPERTY**

appropriate standing committee no less than seven days prior to any Council action unless waived by the City Administrator. The standing committee may then request additional information or further clarification from the City Administrator prior to any final City Council action.

4. If Planning Board review is required, and there has never been a Planning Board recommendation on the property, the Development Director (or his/her designee) will coordinate comments from all appropriate departments and submit their recommendations to the Planning Board which shall:
  - a. Review the Development Department's report which shall include responses from the appropriate departments with information relative to the zoning, condition, description, strategic impact (e.g. geographic placement as it pertains to housing, transportation, department needs, stated Council policy, etc.), and a fair market value of the property established by the Assessor.
  - b. Planning Board recommendation is returned to the City Administrator who shall review the materials and forward with a recommendation to the City Council and the appropriate standing committee.
5. Upon the approved acquisition/purchase, sale, transfer or liquidation of the property, the City Council shall authorize the Purchasing Agent to dispose of the property in accordance with standards outlined in the Purchasing Policy.
6. The Purchasing Agent will recommend acceptance or rejection of the bids to the Finance Committee.
7. Assessors Office receives all recommendations on advised retention or sale of land in order to include suitable documentation on Assessors files.

## **POLICY GUIDELINES FOR DISPOSITION OF TAX-ACQUIRED PROPERTIES**

### OBJECTIVES

1. Allow tax acquired properties to go back on the tax rolls sooner.
2. Establish a clear policy for the public and staff regarding the disposition of tax acquired property relative to the strategic development and planning goals set by the City Council.
3. Dispose of properties in a manner which is consistent with applicable policy standards associated with the elimination of neighborhood blight; the development of sustainable neighborhoods; the support of sound economic development strategies; and the enhancement of public safety.
4. To provide a mechanism to insure that the City Council is provided with regular reports on the status of various city owned empty parcels, occupied buildings, and tax-acquired properties so that the Council standing committees may be kept current on properties which may serve the policy interest of the city.

### **CONDITION FOR THE SALE AND REUSE OF TAX-ACQUIRED PROPERTIES**

1. All tax-acquired properties will be eligible for sale, liquidation, or transfer following

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foreclosure by the City with the following exceptions:

- a. In cases where the City negotiates a payment plan for back taxes with the owner and these payments are being met accordingly. All negotiations are subject to approval by the Finance Director or his/her designee.
  - b. In cases where the City Council wishes to retain ownership for municipal purposes, e.g. open space, public improvements, parks and recreation, public safety, and education.
2. The City Council and/or its standing committees, with input from the City Administrator, may recommend criteria or develop policy on the disposition of individual properties, or groups of properties that meet City objectives. Specifically, these Council or committee actions may, as an example, be in the form of type and density of development, design standards, properties identified with potential commercial/industrial uses, and/or job creation criteria that may be required as a condition of the recommended action.

### DISPOSITION PROCESS

1. Vacant lots that do not meet minimum space & bulk standards for construction may be offered to abutting property owners at the direction of the City Administrator following the formal City Council & Planning Board review processes outlined in this policy.
2. The City will provide Tax Title only through a municipal quit claim deed to abutting purchases unless otherwise directed by the City Administrator.
3. A field survey will be conducted by the Development and Assessing Departments to determine the general condition of the building, and/or land and its potential use(s) prior to any formal foreclosure by the city.
4. Treasurer coordinates completion of Title Search to determine status of title and degree of difficulty to clear, using quiet title process or negotiate with owner to release his/her interest in cases where a quiet title process must be undertaken.
5. The City Administrator will forward to the City Council a list of tax-acquired and city owned properties designated and not designated for re-acquisition by owner, liquidation, sale or other means of disposal with recommendations as to the method to be utilized in the disposition of the properties if applicable.
6. Once the City Council has issued its decision to liquidate, sell, or donate a property, the Finance Department will market a specific property or group of properties, using one of several methods determined to be most appropriate as defined in the city Purchasing Policy.
7. Purchasing Agent evaluates proposals received for specific properties and recommendation to award to the Finance Committee.
8. Any sale or transfer of property shall occur within a time period deemed reasonable by the Finance Director or his/her designees. All deposits associated with the purchase or transfer of any city property shall be forfeited and retained by the city after the purchaser has been given a seven (7) day written notice of impending forfeiture. The forfeiture may be waived by the City Administrator.

### METHODS OF MARKETING

Depending on the type of property and its value, the City Administrator will authorize the use of one of the variety of methods to market tax acquired properties to the general public. In some cases, more than one method may be used. Regardless of the method used the City



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reserves the right to accept or reject any proposals it receives.

Public Auction: Public Auction with or without reserve may be held on an individual property or group basis as determined by the Finance Department. The Finance Department will maintain a listing of the tax acquired properties available for sale. The list will be available to the public upon request. Public Auction maybe held on an individual or group basis as determined be the Finance Department. Time of auction to be determined by the Finance Department.

Real Estate Broker Contract: For specific properties or group of properties the City Administrator may choose to contract with a real estate broker to find a buyer. The City's contract with a broker will contain the city's terms and conditions of sale. The City will negotiate the amount of the commission with the broker based on market sale and the assessed values of the properties involved. Broker commission will be paid from the proceeds received upon sale.

Public Offering: The City Administrator may recommend sealed proposals with an advertised public offering with or without reserve on a property of group of properties.

Request for Proposal: The City Administrator may recommend proposals using a Request for Proposal (RFP) process.