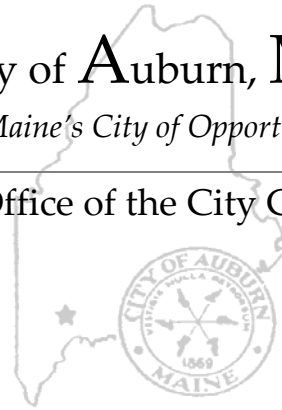


City of Auburn, Maine

"Maine's City of Opportunity"

Office of the City Clerk



Council Meeting Agenda Packet

October 1, 2007

This packet contains the City Council Agenda and supporting documents. The items in this packet are bookmarked in Adobe Acrobat .pdf format. You may need to click on the Bookmark tab on the left to open the Bookmark window. If you do not see a Bookmark tab on the left, you may need to select the Show/Hide Navigation Pane button in your icon toolbar above or update your version of the Adobe Reader. You can download the free Adobe Reader application at www.adobe.com.



City Council Meeting and Workshop October 1, 2007

Agenda

5:00 p.m. Dinner

School Department – Capital Improvement Bond
Discussion of Watershed Ordinance Amendment
Discussion One Way Streets – Maple and Pleasant
Discussion Regarding acceptance of a portion of Sherwood Drive
Executive Session – Economic Development

5:30 p.m. Workshop

7:00 p.m. City Council Meeting

Pledge of Allegiance

* **Consent Items** – All items listed with an asterisk (*) are considered as routine and will be approved in one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests. If requested, the item will be removed from the consent agenda and considered in the order it appears on the agenda.

Minutes

*100107-00 Minutes of September 17 & 25, 2007 Council Meetings

Reports

- **Mayor**
- **City Councilors**
 - **Dick Gleason:** Water District, Consolidation, Audit Committee, Procurement Committee
 - **Bob Hayes:** Planning Board, L-A Railroad, Alternative Revenues
 - **Eric Samson:** LAEGC, MMWAC, City Manager Search
 - **Bruce Bickford:** A-L Airport, ABDC, Roads & Sidewalks
 - **Ray Berube:** School Committee, Auburn Housing, Communication
 - **Bob Mennealy:** Sewer District, University of Maine L-A, Impact Fees
 - **Ellen Peters:** 9-1-1 Center, Library Board, Comprehensive Plan
- **City Manager**

Communications and Recognitions

*100107-00 Communication from Edward Little High School Grandstand Club Re: Waive fee for Victualers License

*100107-00 Communication from Gregory Nadeau Re: Resignation from Housing Authority Board

*100107-00 Communication from Carmen Mercier Re: Resignation from Housing Authority Board

Unfinished Business

- 100107-01 Ordinance – Amendment to Chapter 25, Article 1 – Animal Control (2nd Reading)
- 100107-02 Ordinance – Chapter 25, Article 6 – Graffiti (2nd Reading)
- 100107-03 Ordinance – Chapter 15, Article 2 – Security Systems (2nd Reading)
- 100107-04 Ordinance – Amendment to Chapter 27, Section 3.10 – Traffic Control (2nd Reading)
- 100107-05 Resolve – Re-Naming of South Bridge

New Business

- 100107-06 Public Hearing and action on Liquor Application for BOC, LLC d/b/a Thatcher's, 550 Center Street, Auburn
- 100107-07 Ordinance – Amendment to Zoning Ordinance – Lake Auburn Watershed Overlay Chapter 29, Article 5, Section 5.3 (1st Reading)
- 100107-08 Appointment of Local Health Officer

Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not* on this agenda

ADJOURNMENT

Executives Sessions: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda.

The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405. Those applicable to municipal government are:

1. Discussion of personnel issues
2. Discussion or consideration of the condition, acquisition, or the use of real or personal property or economic development if premature disclosure of the information would prejudice the competitive or bargaining position of the body or agency.
3. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators.
4. Consultations between a body or agency and its attorney
5. Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.
6. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes
7. Consultations between municipal officers and a code enforcement officer relating to enforcement matter pending in District Court.

**CITY OF AUBURN
SEPTEMBER 17, 2007
CITY COUNCIL MEETING**

PRESENT

Mayor John T. Jenkins, Councilors Richard D. Gleason, Bruce A. Bickford, Raymond C. Berube, Robert C. Mennealy, and C. Ellen Peters, Acting City Manager Laurie Smith, Finance Director Chris Trenholm, and City Clerk Mary Lou Magno. Councilors Hayes and Samson were absent. There were 18 people in the audience.

Mayor Jenkins called the meeting to order at 7:00 p.m. in the Council Chambers of Auburn Hall with a salute to the flag.

CONSENT AGENDA

Councilor Berube moved to accept, approve and place on the file those items listed with an asterisk. Seconded by Councilor Mennealy. Vote: 5 Yeas, No Nays.

***MINUTES OF SEPTEMBER 4, 2007**

Approved under consent agenda.

REPORTS OF THE MAYOR

Mayor Jenkins noted that the Healthy Community event took place on September 15th and thanked the following for their participation and contributions: Tracey Steuber, Parks and Recreation Department, Summit Water Bottling Co., Tony Atlas, Jeff & Katie Sturtevant, Zack Pomerleau, L-A Trails, Healthy Androscoggin, and YMCA. He also noted that the dedication of the Riverwalk took place on the same day.

Mayor Jenkins read a letter he had recently sent out to all non-profits regarding payments in lieu of taxes.

REPORTS OF CITY COUNCILORS

Councilors reported on their respective Council Committee Assignments.

REPORTS OF THE CITY MANAGER

FINANCE REPORT – MONTH OF AUGUST

Councilor Peters moved to accept and place on file the Finance Report for the month of August as prepared and presented by Chris Trenholm, Finance Director. Seconded by Councilor Berube. Vote: 5 Yeas, No Nays.

AMERICAN HEART ASSOCIATION GOLDEN AWARD

Dot Meagher and Chris Mumau, members of the City of Auburn Wellness Team informed the City Council that the City of Auburn had recently received the American Heart Association Golden Award.

COMMUNITY TREE AND FOREST BOARD SUMMIT

Doug Beck and David Griswold, members of the Community Forest Board informed the City Council of the 1st Annual Community Tree and Forest Board Summit, September 29th, L-A College, from 8 – 5 pm.

Laurie Smith, Acting City Manager, noted several events/meetings that will be taking place this week.

COMMUNICATIONS AND RECOGNITIONS

None

UNFINISHED BUSINESS

None

NEW BUSINESS

1. ORDINANCE – AMENDMENT TO CHAPTER 25, ARTICLE 1 – ANIMAL CONTROL

Councilor Bickford moved for acceptance of first reading. Seconded by Councilor Gleason.

Dan Herrick, 470 Hatch Road, made comments regarding the above ordinance.

Vote: 5 Yeas, No Nays

2. ORDINANCE – CHAPTER 25, ARTICLE 6 – GRAFFITI

Councilor Berube moved for acceptance of first reading. Seconded by Councilor Mennealy. Vote: 5 Yeas, No Nays.

3. ORDINANCE – CHAPTER 15, ARTICLE 2 – SECURITY SYSTEMS

Councilor Gleason moved for acceptance of first reading. Seconded by Councilor Berube.

Police Chief Crowell answered Councilors questions. Vote: 5 Yeas, No Nays.

4. ORDINANCE – AMENDMENT TO CHAPTER 27, SECTION 3.10 – TRAFFIC CONTROL

Councilor Berube moved for acceptance of first reading. Seconded by Councilor Bickford.

Police Chief Crowell answered Councilors questions. Vote: 5 Yeas, No Nays.

5. APPOINTMENTS

Councilor Mennealy moved that the following appointments be approved:

PLANNING BOARD: Timothy Goss reappointed until September 2010; Daniel Moreno reappointed until August 2010; and Preston Chapman reappointed until October 2010.

ZONING BOARD OF APPEALS: Walter Gary reappointed until March 2010; and Daniel Philbrick reappointed until February 2010.

COMMUNITY DEVELOPMENT LOAN COMMITTEE: Debora Cusson appointed until September 2010.

LEWISTON-AUBURN COMMUNITY FOREST BOARD: Suzanne Roy appointed until September 2010.

Seconded by Councilor Berube. Vote: 5 Yeas, No Nays.

OPEN SESSION

The following persons spoke during open session: Rachel Dahl, 51 Whitney Street; Ron Potvin, 82 Northern Avenue; Dawn Robinson; Dan Herrick, 470 Hatch Road; Jim Wellehan, 60 Woodlawn Avenue; and Larry Morrissette.

OPEN SESSION CLOSED

Councilor Gleason moved that the City of Auburn be a “Cool Community”. Seconded by Councilor Berube. Vote: 5 Yeas, No Nays

ADJOURNMENT – 9:11 PM

Councilor Berube moved to adjourn. Seconded by Councilor Bickford. Vote: 5 Yeas, No Nays.

A TRUE RECORD

ATTEST: _____
CITY CLERK

**CITY OF AUBURN
SEPTEMBER 25, 2007
JOINT AUBURN-LEWISTON CITY COUNCIL MEETING**

PRESENT

Mayor John T. Jenkins, Councilors Richard D. Gleason, Robert P. Hayes, Eric G. Samson, Bruce A. Bickford, Raymond C. Berube, C. Ellen Peters and Robert C. Mennealy, Acting City Manager Laurie Smith, Finance Director Chris Trenholm and City Clerk Mary Lou Magno. Lewiston Mayor Larry Gilbert, Councilors Stavros Mendros, Lillian O'Brien, Ronald Jean, Paul Samson, and Mark Paradis, City Administrator James Bennett, Deputy City Administrator Phil Nadeau and Deputy City Clerk Kelly Mercier. Lewiston City Councilors Renee Bernier and Norm Rousseau were both absent. There were 14 people in the audience

1. WELCOME AND INTRODUCTIONS

Mayors Gilbert and Jenkins welcomed Council, Staff and members of the public present at this meeting.

**2. RESOLVE – ESTABLISHING A POLICY FOR THE CREATION OF A JOINT
LEWISTON-AUBURN DOWNTOWN MASTER PLAN**

Councilor Gleason moved to remove this item from the table (this item was tabled at the August 7th Joint City Council Meeting). Seconded by Councilor Mennealy. Vote: 7 Yeas

Councilors discussed the above resolve.

Councilor Mennealy moved the question. Seconded by Councilor Samson. Vote: 7 Yeas.

Vote on passage of the resolve: 7 Yeas.

3. SOCIAL CAPITAL PRESENTATION – MAINE COMMUNITY FOUNDATION

Garrett Martin updated the Councils regarding the above matter.

4. JOINT SERVICES PRESENTATION

Steve Eldridge, Joint Services Coordinator, reported to the Councils and updated them regarding the Advantages/Disadvantages of one City Manager/Administrator.

Councilor Mennealy moved that the Joint Services Commission be charged with providing information and the steps necessary to move forward with having a Joint City Manager. Seconded by Councilor Bickford.

Ron Potvin, 82 Northern Avenue, made comments regarding the above motion.

Vote: 7 Yeas.

5. COUNTY BUDGET COMMITTEE DISCUSSION

Laurie Smith, Acting City Manager updated Councilors regarding the District 2 representation on the County Budget Committee.

ADJOURNMENT – 9:25 pm

Councilor Gleason moved to adjourn. Seconded by Councilor Bickford. Vote: 7 Yeas.

A TRUE RECORD

ATTEST: _____ CITY CLERK

September 19, 2007

c/o MaryLou Magno
City Clerk
60 Court St. Suite 150
Auburn, ME 04210

Dear Mayor and Members of the City Council:

The Edward Little High School Grandstand Club is a non-profit organization that raises money to help support all the athletic teams at Edward Little High School.

Our organization has a concession building at Walton Field and we would like to have the fee waived for the victualers' license as the football season begins in September.

Thank you in advance for considering this request.

Sincerely,

Louise Whalen
Secretary

From: Greg [mailto:gnadeau001@maine.rr.com]
Sent: Monday, September 24, 2007 9:16 PM
To: Rick Whiting; Richard Whiting
Subject:

I have been avoiding the thought of doing this. Writing makes it somewhat easier. I must regretfully resign from the Auburn Housing Authority. I have missed a number of meetings as of late, am in the process of relocating and my current job does not afford me the ability to take the needed time.

It would be unfair to kid myself that I am fulfilling my obligations or could. This would be unfair to all of you including but not the least the people we serve.

My time spent on the Housing Authority has been most enjoyable and I have no regrets. My only wish is that I could have done more. All the board members and staff of the AHA have been a pleasure to serve and serve with. I will cherish my time and memories. I wish to thank all of you for the opportunity and wish you the best.

If I can be of any assistance in transitioning, I will do whatever I can.

Thank You all from the bottom of my heart. I will miss you all,

Sincerely,
Greg Nadeau

September 26, 2007

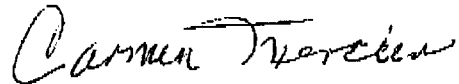
Norman McKeone, Chairman
Board of Commissioners
Auburn Housing Authority
Auburn, Maine

Dear Norm,

Please accept my resignation as a Resident Commissioner as of Thursday, September 27, 2007. On Monday October 1, 2007 I will be relocating to The Chapman House.

My years on the Board have been a truly educational experience and I enjoyed working with every member and staff.

Sincerely,

A handwritten signature in cursive script that reads "Carmen Therrien".

City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007

Agenda Item No. 1

SUBJECT:

ORDINANCE – AMENDMENT TO CHAPTER 25, ARTICLES 1- 12 – ANIMAL CONTROL (2nd READING)

INFORMATION:

Since January of 2007, the City of Auburn has been sharing an Animal Control Officer with the City of Lewiston. We have reviewed Lewiston's ordinance and we are requesting the council adopt the ordinance as presented which will duplicate Lewiston's ordinance with minor adjustments relating to park locations and the limit of dogs allowed per residence. This will assist the Animal Control Officer in the enforcement of the same ordinances.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends of approval of second reading.

REQUESTED ACTION:

Motion for acceptance of second reading and final passage.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: September 17, 2007

TITLE: ORDINANCE – AMENDMENT TO CHAPTER 25, ARTICLES I - 12 ANIMAL CONTROL

Be It Ordained by the Auburn City Council that Chapter 25, Article 1 be deleted and the attached be enacted in its place.

Motion for acceptance of first reading: Bruce Bickford Seconded by: Richard Gleason

Vote: 5 Yeas, No Nays

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

CHAPTER 25 - ANIMAL CONTROL ORDINANCE

ARTICLE 1

Definitions

For the purposes of this chapter, the following terms, phrases and words used herein shall be interpreted to read as follows; and any words not herein defined shall be construed in the context used in 7 M.R.S.A. Chapters 717 through 739 or 17 M.R.S.A Chapter 42 and by ordinary interpretation, and not as a word of art:

Animal means any living creature classified as a member of the animal kingdom including, but not limited to, birds, fish, mammals and reptiles, but specifically excluding human beings.

Animal control facility means any facility owned, approved, and/or contracted by the City of Auburn for the purposes of housing, impounding, quarantine, medical treatment, or euthanasia of animals.

Animal control officer (ACO) means the person or persons, including but not limited to the appointed ACO and the members of the city's police department, designated by the City of Auburn to act as the representative agent for the city in the impoundment of animals and in the controlling of stray animals which come into the custody of the city.

At-large refers to dogs and other domestic animals which are legally in compliance with all local, state and federal laws, rules and regulations, other than a domestic cat, that is on any public right-of-way or publicly owned land unless controlled by a leash of not more than eight feet in length, except as provided for in section 14-37 and 14-38 of this chapter. A domestic cat shall be considered at-large when not located on the premises owned or controlled by its owner and not otherwise under immediate effective control.

City means the City of Auburn.

Dangerous animal means any animal which demonstrates behavior and/or possesses the vicious propensity to inflict serious bodily injury or death upon human beings and/or other animals and constitutes a danger to human life or other animals; or any animal which has behaved in such a manner that the owner thereof knows, or reasonably should know, that the animal is possessed of tendencies to commit unprovoked attacks or to injure human beings or other animals; or any animal certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human beings or animals; or any animal, without provocation, that assaults an individual or animal; or any animal that commits an unprovoked act that causes a person, acting in a reasonable

and non-aggressive manner, to reasonably believe that the animal will attack and cause bodily injury to that person or animal.

Dog means both male and female canines.

Domestic animal means any animal whose physiology has been determined or manipulated through selective breeding, and which does not occur naturally in the wild, and which may be vaccinated against rabies with an approved rabies vaccine, and has an established rabies quarantine observation period.

Exotic animal means any non-domesticated animal, other than livestock, that is native to a foreign country or of foreign origin or character, or was introduced from abroad. This term will specifically include, but not be limited to, animals such as lions, tigers, jackals, dingoes, leopards, elephants, pandas, camels, antelope, anteaters, kangaroos, chimpanzees, gorillas, orangutans, water buffalo, and species of foreign domestic livestock requiring state and federal permits.

Fowl means a bird of any kind, including, but not limited to, chickens, ducks, geese, guineas, pigeons, emus, ostriches, rheas, turkeys and pheasants.

Guard dog means a dog trained and used by law enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and used only for protective functions.

Guide dog means a dog trained to assist a physically challenged person.

Immediate effective control means the confinement of an animal to the premises of its owner by a fence of sufficient strength and height to prevent an animal from escaping there from; or contained inside a house or other enclosure; or secured on the premises by a leash of sufficient strength to prevent the animal from escaping from said premises and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall also be considered under immediate effective control when used to assist a physically challenged person or when the animal is under the immediate control of a person by means of a cage, leash, or effective restraint to control said animal. The term "effective restraint" as used herein shall include, but not be limited to, training employing audible and/or visual commands, remote control devices, and/or other means to control the animal.

Kennel means any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that keeps, boards and/or trains dogs and/or cats or other animals, which may legally be present in such facilities, for profit. Kennels must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city and all state statues and regulations of the

State of Maine. Livestock shall mean, but may not be limited to, any horses, mules, donkeys, cattle, goats, sheep or swine.

Owner means any person, partnership, corporation or association that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of a household of any premises where an animal remains for 24 hours or more shall presumed to be the owner of such animal for the purposes of this chapter.

Pet means any animal which may be legally owned in accordance with the provisions of this chapter, normally kept for pleasure rather than utility, excluding livestock, is in the owner's possession and for which it can be reasonably demonstrated that the care of said pet is the responsibility of a given individual or individuals.

Pet store means any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that buys and sells dogs, cats, and/or other species of pet for profit. Pet stores or shops must be established, maintained and operated in compliance with all applicable zoning and land use regulations and all other applicable laws or rules of the city and the State of Maine.

Public auction means any place or facility where animals are sold to the highest bidder. This definition does not apply to individual sales of animals by private owners or other private owners.

Public park or *playground* mean any city-owned or operated public park, playground or school ground.

Public nuisance means the following:

(1) An owner's failure to control, restrain or otherwise allow, either by conduct or condition, any animal to:

- a. Engage in conduct which establishes such an animal as a "dangerous animal"; or
- b. Be at-large; or
- c. Cause a disturbance by excessive barking or noise-making near the private residence or business of another or of any government or public facility; or
- d. Produces maggots, flies, odors, or unclean conditions sufficient to annoy or endanger adjacent property owners, residents or other individuals who may be reasonably exposed by such conditions; or
- e. Chase vehicles or molest, attack or interfere with other persons and animals on public or private property.

(2) Any animal normally found in the wild that has entered onto any public or private property and by its presence is a threat to public health and safety or is generally interrupting the tranquility of the location.

Restraint means to control an animal by physical means, such as a cage, leash, rope or confinement within an enclosed space or by training or employing audible and/or visual commands, remote control devices, and/or other means to control the animal.

Stray means an animal that is improperly restrained and that wanders upon a public place, roadway, street, highway, or the property of another person.

Vaccination means the inoculation of an animal with a rabies vaccine or other medicine that is licensed by the United States Department of Agriculture for use in that species, and which is administered by a licensed veterinarian for the purpose of immunizing the animal against rabies or other diseases.

Veterinary hospital means any establishment that is maintained and operated by a licensed veterinarian for the diagnosis, treatment or surgery of injuries and diseases to animals.

Wild animals mean any animal not normally considered domesticated and which is now or historically has been found in the wild, or in the wild state, including but not limited to the following:

- (1) Reptiles; venomous reptiles; any type of crocodile or alligator; or
- (2) Fish: Piranha; or
- (3) Birds: Condors, eagles, hawks, falcons, owls; or
- (4) Mammals: Ocelots, lions, tigers, jaguars, leopards, cougars, wolves, dingoes, coyotes and coyote mixes, jackals, weasels, martens, minks, badgers, skunks, raccoons, pandas, bears, kangaroos, opossums, sloths, anteaters, armadillos, monkeys, chimpanzees, gorillas, orangutans, porcupines, antelope, deer, fox, elephant, lynx, squirrels, chipmunks; or
- (5) Any species of animal illegal to own under federal, state or local law.

Sec. 14-2. Penalties.

Any person violating any provision of this chapter shall pay a fine of no less than \$150.00, unless otherwise specified in this chapter, for each of the first and second violation. The minimum penalty for any subsequent violation of this chapter shall be \$500.00, unless otherwise specified in this chapter, for each offense. In no case shall the court assess a fine that is less than those defined in state statute if the chapter minimums are less. Violators of this chapter must pay for all costs associated with any action taken by the ACO involving the impoundment, treatment or humane euthanasia by a licensed veterinarian relating to animals of which they are owners. Where financial hardship is demonstrated, a violator of this chapter may perform community service in lieu of the financial penalty if such a program is available through the city.

Sec. 14-3. Enforcement.

(a) The ACO shall be responsible for enforcement of this chapter except as may be provided herein. Enforcement may be by the filing of a criminal complaint in

District or Superior Court; by civil proceedings to enjoin nuisances; or in any other manner authorized by federal, state or local law, rule or ordinance.

(b) It shall be unlawful for any person being issued a citation to district court or any civil proceeding to intentionally or knowingly fail to give the ACO their true name and address or to intentionally or knowingly fail to appear in accordance with the terms of a citation or civil process issued by the ACO.

(c) If the individual who is to receive the citation is not present, the ACO may send the citation to the alleged offender by certified or registered return receipt mail. If said citation should come back unclaimed, the citation shall be sent regular mail. If this regular mailing is returned as unclaimed, the service shall then be deemed as completed.

Sec. 14-4. Exemption.

This chapter shall not apply to any animal accompanying a physically challenged person who, by reason of his/her handicap, is physically unable to comply with the requirements of this chapter.

Sec. 14-5. Severability clause.

If any part of this chapter shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this chapter.

ARTICLE 2. ANIMAL CARE--GENERAL

Sec. 14-7. Care of animals.

Animals shall be provided humane care, treated and transported in a humane manner and not in violation of any federal, state or local law, rule or ordinance.

Sec. 14-8. Prohibited actions.

A person commits an offense if:

(1) A person fails to provide an animal under his or her control and/or ownership with adequate wholesome food and water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering; or

(2) A person having charge or custody of an animal, places or confines such animal, or allows such animal to be placed or confined in a motor vehicle, trailer, or other enclosure under such conditions, or for such a period of time, as to endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death to the animal; or

(3) A person treats an animal in an inhumane or cruel manner as defined by 17 M.R.S.A. Chapter 42.

(4) A person knowingly owns, harbors, trains, sells, or offers for sale any animal which is used for the purpose of fighting; or to be trained, tormented, badgered or baited for the purpose of causing or encouraging said animal to attack human beings or animals when

not provoked, except that this section shall not apply to guard dogs or dogs used by local, state or federal law enforcement agencies; or

(5) A person mutilates any animal, whether such animal is dead or alive. This subsection does not apply to medical or veterinary medical research, medical or veterinary medical autopsies, or biology class use of animals for educational purposes; or

(6) A person causes an animal to fight another animal or person; or

(7) A person other than a licensed veterinarian docks an animal's tail, or crops an animal's ears; or castrates an animal; provided, however, this subsection shall not apply to normal livestock operations occurring within the city; or

(8) A person dyes or colors chicks, ducks, rabbits, reptiles or birds; or

(9) A person transporting an animal fails to effectively restrain an animal so as to prevent the animal from leaving or being accidentally thrown from a vehicle during normal operation of the vehicle; or fails to effectively restrain an animal so as to prevent infliction of bodily harm to passerby. Provided, however, the provisions herein shall not prohibit a person from transporting an effectively confined or tethered dog(s) in the open bed of a pickup truck; or

(10) A person is in control of a motor vehicle which strikes a domestic animal or livestock with the corporate limits of the city and fails to report the accident to the city police department or the ACO as soon as practical; or

(11) A person abandons any animal, including the abandonment of an impounded animal at the city contracted or owned animal control facility with the intent to readopt the animal to avoid impoundment fees; or

(12) An animal damages or destroys public property while in their possession. If the person in possession of the animal at the time the property damage cannot be determined, the owner may be charged under this section if the evidence can reasonably demonstrate the identity of the animal; or

(13) Permits any public nuisance, as defined in section 14-1, to exist.

Sec. 14-9. Number of dogs limited.

(a) It shall be unlawful for any person to keep or harbor within the city more than three dogs over four months old in or about any multi-family premises. The keeping or harboring of dogs as aforesaid is hereby declared to be a public nuisance.

(b) The payment of the license or licenses on dogs required by Maine state law, as amended, shall not be construed to allow the keeping of more than three dogs, as aforesaid, on any one premise.

(c) The limitations in this section shall not apply to any person, group of persons, or corporations engaged in the commercial business of breeding, buying, selling or boarding of dogs, or operating a veterinary hospital, providing a state kennel license is obtained if applicable.

ARTICLE 3. RABIES CONTROL; QUARANTINE

Sec. 14-10. Rabies inoculation.

Before the city clerk issues the required licenses for any animal requiring a rabies vaccination as stipulated in state statute, the city clerk shall require the owner to prove immunization against rabies as prescribed by state statute and/or by state rules and regulations.

Sec. 14-11. Animal bites and scratch reports; submission to quarantine.

(a) Any person who is bitten or scratched by an animal shall report that fact to the ACO or the police department within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or legal guardian of such minor, if he/she has knowledge of the incident, shall report that fact to the ACO or the city's police department within 24 hours.

(b) A person who owns, keeps, harbors or allows an animal to remain on premises under his/her control shall report to the ACO or the police department, within 24 hours, any incident where such animal has bitten or scratched any person.

(c) If the ACO has determined that there is reasonable evidence of an animal biting or otherwise attacking any person, and such animal has rabies or symptoms thereof, or is suspected by the ACO of having rabies, or has been exposed to rabies, upon demand of the ACO or his/her deputies, it shall be surrendered to him/her and shall be impounded by the ACO at a facility, which in his/her opinion, is properly suited to safely handle the animal for a period of ten days. The ACO may, upon written request of the owner, authorize the owner to confine the animal with a chain appropriate to the animal's size, and in a manner where no person will be bitten by the quarantined animal, for a period of ten days. During such owner confinement, the animal shall be subject to examination by the ACO or his/her deputy at any time.

(d) Impoundment at any state or city approved facility for rabies quarantine purposes shall be at the expense of the owner of the impounded animal, livestock or wildlife. In the event a harborer of a quarantined animal cannot be identified and located within a reasonable length of time, the victim, at his/her option (or at the option of the parent or legal guardian in the case of a minor under the age of 18 year of age), may elect to have the animal examined by a veterinarian, or to have the tissue submitted for laboratory examination; and the costs so incurred shall be borne by the victim. No animal, livestock or wildlife confined for quarantine purposes under the provisions of this section shall be released to any person until all vaccinations required by state statute have been given.

(e) If the harborer of an attacking animal refuses to release for quarantine such animal, then it shall be the duty of the ACO to obtain a seizure warrant from an appropriate judicial official for seizure and quarantine of the animal in question.

(f) The ACO may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:

(1) The animal has a rabies vaccination certificate; or

(2) The animal was on property under the control of animal's owner when the bite or scratch occurred; or

(3) The bite or scratch occurred when the animal was acting to defend its owner or his/her property, or after reasonable provocation.

(g) The ACO shall use his/her discretion to determine what provisions of this chapter or state law shall be most appropriate in all matters having to do with the quarantine of any animal.

Sec. 14-12. Contents of required animal bites and scratch reports.

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be rabid, that report to the ACO shall include, if the person making the report knows, the following information:

(1) The location where the bite or scratch occurred.

(2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.

(3) The name and address of any person who was bitten or scratched.

- (4) The name and address of the person who owns, keeps, harbors, or has control over the premises where the animal committing the act normally can be found.
- (5) The names and addresses of the persons who own, keep or harbor any other animal exposed to rabies can be found.

Sec. 14-13. Authorization for city-wide quarantine.

In the event that the ACO or the state department of health declare that a potential outbreak of rabies is suspected and the danger to the public safety from rabid animals is reasonably imminent, the city director of public health or his/her designee, shall be authorized to issue a quarantine proclamation ordering persons owning, keeping, or harboring any animal to muzzle the same or confine it as herein provided for such time as may be specified in such quarantine proclamation. Upon the publication of such proclamation by the director, any person keeping or harboring any animal shall restrain the animal from running at-large except that such animal under the control of an adult person and on a leash, may do so only if the animal is effectively muzzled. All animals found at-large during the time specified in the proclamation by the director may be destroyed by the ACO or any law enforcement officer if said agents are unable, with reasonable effort, to apprehend such animal for impoundment.

ARTICLE 4. IMPOUNDMENT, REDEMPTION AND DISPOSITION OF ANIMALS

Sec. 14-14. Impoundment generally.

(a) The ACO is hereby authorized to capture and impound any animal upon having probable cause to believe said animal to be in violation of any provision of this chapter or state law which authorizes or requires the animal's capture and impoundment, and in so doing, to enter upon any fenced or unfenced lot, tract or parcel of land when deemed necessary for the protection of public health, safety and welfare. As a matter of policy, the ACO shall not enter private property to capture and/or impound any animal known to belong to the owner of said property without probable cause to believe that said animal poses a threat, public nuisance or danger to property, human beings or other animals.

(b) Additionally, it is the responsibility of the ACO to accept any animal delivered to the ACO or the facility under his/her control (while he/she or other authorized agents of the city are physically present) pursuant to the requirements of this chapter, except those animals that are voluntarily released by their owners. For an animal to be voluntarily released, the owner must sign an owner release form provided by the ACO.

(c) It shall be unlawful for any person to interfere with, or attempt to prevent, an ACO or those acting in their capacities as law enforcement agents, from capturing or impounding any animal which may be legally impounded or otherwise interfering with the ACO, his/her designees, or any law enforcement agents while carrying out their lawful duties.

(d) Prior to the release from impound, the authorized owner must obtain an impound release form from the ACO or an official within the police department. The fee for an impoundment of animal is \$50.00.

Sec. 14-15. Duties of the ACO.

(a) It is the duty of the ACO to capture and impound, when appropriate, wild or non-domesticated animals in response to citizen complaints of public nuisance or to control feral populations.

(b) If, by identification tag, the owner of an impounded animal can be identified, the ACO will, as soon as practical, notify the owner either in person or by telephone of said impoundment. If the animal is locally owned within the city and telephone contact cannot be made, the ACO will leave a notice at the owner's last known and verifiable residence indicating that the animal has been impounded.

(c) All impounded animals shall be kept for not less than eight days, unless the animal is reclaimed earlier by the rightful owner under conditions acceptable to the ACO. However, no impoundment period is required for an animal voluntarily delivered and released into the custody of the ACO by its owner.

(d) After the expiration of any required impoundment period, the impounded animal shall be released to the animal control facility or veterinary hospital contracted by, or doing business with, the city. At that time, the animal shall be disposed of by adoption from the facility, by offering it to a local animal humane group for adoption, or by humanely destroying the animal. No record shall be kept by the ACO as to the disposition of an individual animal after release is made to the animal control facility/veterinary hospital for the purposes specified in this paragraph.

Sec. 14-16. Disposal of dead animals.

It shall be the responsibility of the owner to remove and properly dispose of a deceased animal within 24 hours of the animal's death. Proper disposal constitutes bringing such animal to a licensed veterinarian for cremation or proper burial at a pet cemetery.

Sec. 14-17. Disposal of dead animals found on public property.

It shall be the responsibility of any person to notify the department of public works of the location of the deceased animal so proper removal and disposal may occur.

ARTICLE 5. DANGEROUS ANIMALS

Sec. 14-18. Permit required.

No person shall knowingly sell, own, offer for sale, breed, possess, keep, buy or attempt to buy, or train a dangerous animal within the city unless the owner has received the proper permits and/or authorizations pursuant to this chapter.

Sec. 14-19. Complaints regarding dangerous animals.

(a) Upon receipt of a written sworn notarized affidavit by any person, charging that a particular animal is dangerous, the city director of public health shall conduct an administrative hearing within ten days of the receipt of such affidavit, to determine whether such animal is, in fact, dangerous. Unless the matter is resolved by mutual agreement of all parties involved prior to the hearing, said animal shall be impounded until a final disposition is reached. Any written sworn notarized affidavit shall contain at least the following information:

- (1) Name, address and telephone number of the complainant and witnesses; and
- (2) Date, time and location of the incident(s); and
- (3) A complete description, to the best of the complainant's ability, of the animal including breed, color, sex, size, etc.; and
- (4) Name, address and telephone number of the animal's owner and/or the premises where the animal is kept, if known; and
- (5) A statement that the animal bit or attacked; and

- (6) Any other facts that the complainant believes to be relevant to the incident.
- (b) The following will apply regarding the administrative hearing to determine whether an animal shall be declared "dangerous":
- (1) The suspect animal shall be seized by the ACO pursuant to a complaint, impounded and, if necessary, medically examined at the owner's expense if the animal caused injury to a person requiring medical treatment. An animal causing such injury shall be held at an animal control facility chosen by the ACO pending the outcome of such hearing and determination as to whether an animal is, in fact, classifiable as dangerous. Such hearing to determine if an animal is dangerous shall be conducted by the city public health officers within ten days after receipt of the complaint or seizure of the animal by the ACO.
- (2) Notice of such hearing shall be provided by the ACO to the owner of the animal by certified return receipt mail. The complainant in the matter shall also be notified by certified return receipt mail. At such hearing, all parties shall be given the opportunity to present evidence on the issue of whether or not such animal is to be declared dangerous.
- (c) Upon conclusion of a dangerous animal hearing, the city director of public health may find that the animal is not dangerous. In such cases, the animal shall be returned to the owner, provided the animal has been properly vaccinated and registered and all applicable fees are paid.
- (d) Should the animal be classified as a dangerous animal, the owner shall comply with one of the following requirements:
- (1) Humane destruction of the dangerous animal; or
- (2) Provide for the keeping of the animal as detailed in section 14-20 and 14-21 of this chapter.
- (e) No animal shall be declared a dangerous animal if the threat, injury or damages caused by the animal were the result of a willful trespass upon another's property; or the person injured was tormenting, provoking, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of the injury.
- (f) Findings of the city director of public health pertaining to dangerous animals may be appealed to the superior court in accordance with the provisions outlined in state law. During the pendency of such appeal, the findings of the city director of public health shall be suspended. However, the animal shall continue to be impounded at the owner's expense at the animal control facility selected by the ACO for observation and to protect the health and safety of the public until a final disposition is reached.
- (g) If an animal that has been declared dangerous causes death or serious bodily injury to a person or to another animal, the city director of public health may order that the animal be destroyed in a manner consistent with state law. All related expenses shall be paid by the owner.
- (h) Where the victim of a dangerous animal, specifically a dog, has incurred medical expenses, veterinary expenses, or any other direct financial loss, the owner of said dangerous dog shall be ordered to pay restitution to the victim in accordance with the criteria set forth in 17-A M.R.S.A. § 1325.

Sec. 14-20. Keeping of dangerous animals.

The owner of a dangerous animal shall be required to:

- (1) Register the dangerous animal with the ACO; and
- (2) Obtain liability insurance in an amount not less than \$300,000.00 covering bodily injury or death of any person or animal, or for damages to any person's or entity's property, resulting from the keeping of such dangerous animal(s); and

- (3) Restrain the dangerous animal at all times on a leash in the immediate control of the owner or in a secure pen enclosure as prescribed in section 14-21; and
- (4) Provide to the ACO the name and address of the owner, breed, age, sex, color, and any other identifying marks of said animal; the location where the animal is kept if not at the address of the owner; two color photographs of the dangerous animal; and the aforementioned certificate of liability insurance; and
- (5) Provide proof of the required documents necessary to register the animal, and pay the required registration fee of \$100.00. The ACO shall provide to the owner a registration tag designating the animal as dangerous. The owner must place the tag on the animal's collar and must ensure that the animal wears such tag and collar at all times; and
- (6) Not allow the animal to go outside its pen, cage or enclosure unless the animal is under physical restraint and securely muzzled. No person shall permit a dangerous animal to be kept outside its cage, pen or enclosure on a chain, rope or other type of leash unless the owner is in physical control of the chain, rope or other leash type. Dangerous animals shall not be leashed to inanimate objects such as trees, posts, buildings, etc. Signs giving notice of the dangerous animal shall be prominently displayed so that all persons entering said property are immediately notified a dangerous animal is being kept at the location.

Sec. 14-21. Dangerous animal enclosures.

The pen, cage or enclosure for a dangerous animal must be constructed from materials of sufficient strength to prevent the animal's escape, and must have secure sides, a secure top attached to the sides, and a secure bottom which is either attached to the sides or constructed so that the sides of the structure are embedded in the ground no less than two feet.

Sec. 14-22. Authority to seize dangerous and wild or exotic animals.

In the event that any animal is declared to be a dangerous animal and/or where a wild or exotic animal is found in violation of any provision of this chapter or state law, such animal may be seized immediately and impounded by the ACO. Where said animal is found at large and is presenting a clear and present danger of imminent bodily injury and/or death to the ACO, other human beings or animals, the animal may be destroyed and the owner notified if the owner can be reasonably established.

Sec. 14-23. Penalties.

The minimum financial penalty for a violation of this section is \$500.00 for the first offense; \$700.00 for the second offense; and \$1,000.00 for any subsequent offense. This penalty shall not be waived by the court.

ARTICLE 6. RIGHT OF ENTRY

Sec. 14-24. Right of entry.

(a) The ACO is hereby authorized to enter upon any fenced or unfenced lot, tract or parcel of land for the purpose of capturing, impounding and/or quarantining any animal upon having probable cause to believe said animal to: Have bitten, injured or otherwise attacked a human being or other animal; to have, or have been exposed to rabies or another communicable disease posing a danger to the public health, safety or welfare; or otherwise pose a clear and present danger to human beings or other animals. This

authorization is granted due to the emergency created by the potential rabies hazard or danger of injury to persons or other animals, and in recognition of the likelihood that such animals will otherwise escape capture. As a matter of policy, ACO's shall not enter upon private property to capture and/or impound any animal known to belong to the owner of said property without probable cause to believe said animal poses a threat or danger to property, human beings or other animals.

(b) Furthermore, should the ACO be unable or not permitted to gain entry to a property or premises where a dangerous animal(s) is believed to be present, the ACO or any law enforcement agent may seek an ex parte order from the district court or superior court for authorization to take possession of the dangerous animal.

ARTICLE 7. KEEPING OF NON-DOMESTIC ANIMALS

DIVISION 1. WILD OR EXOTIC ANIMALS

Sec. 14-25. Keeping of wild or exotic animals prohibited.

Any species of wild or exotic animal, not normally considered domesticated, that poses a potentially serious threat to public health, safety or welfare, or is protected by international, federal, or state regulations, or any other wild animal, including birds of prey capable of or inclined to do serious bodily harm to humans or other animals or fowl, shall not be kept within the corporate limits of the city.

Sec. 14-26. Exemptions to prohibition to keep wild or exotic animals.

The provisions in section 14-25 above shall not apply to the keeping of wild or exotic animals if the owner or possessor:

- (1) Is a governmental agency or entity; or
- (2) Holds a circus, carnival or zoo license from the State of Maine; or
- (3) Is a licensed individual, or a member of a non-profit animal rehabilitation organization holding a permit from the Maine Department of Wildlife and Inland Fisheries; or
- (4) Is an accredited research or educational institution.

DIVISION 2. LIVESTOCK

Sec. 14-27. Keeping of livestock generally.

It shall be unlawful for any person to keep or permit the keeping of livestock on premises owned by him/her or under his/her control, except in compliance with the following regulations:

- (1) Livestock shall only be kept on lots or tracts of land zoned or designated for rural or agricultural purposes by the city.
- (2) Livestock shall not be kept on lots and tracts of land less than one acre in area.
- (3) The provisions of article II Animal care--General herein, relative to animal care in general, shall specifically apply to the keeping of livestock.

Sec. 14-28. Adequate fences and barriers.

It shall be unlawful for any person to keep on their premises any livestock without providing adequate fences or barriers that will prevent such livestock from escaping

and/or damaging neighboring flowers, trees, shrubbery and/or other property located on adjacent property.

Sec. 14-29. Other places livestock prohibited.

It shall be unlawful for any person to ride or allow any type of livestock upon any public school ground, public park or municipal/school grounds within the city other than public rights-of-way or areas designated for such purposes. Provided, however, the provisions of this section shall not apply to the riding or showing of horses or other livestock in conjunction with city authorized parades, carnivals or other school or civic sponsored programs or events which are in compliance with all city, state and federal law, rules and regulations.

Sec. 14-30. Impounding of livestock.

The provisions of section 14-14 herein, relative to impounding of animals in general, shall specifically apply to the impounding of livestock.

DIVISION 3. OTHER ANIMALS

Sec. 14-31. Keeping of fowl, rabbits and guinea pigs.

Fowl, rabbits and guinea pigs must be kept indoors, or if outdoors, in a secure pen or enclosure. Litter and droppings from these animals must be collected and disposed of in accordance with the provisions of section 14-41, disposal of excrement in general, shall specifically apply to the disposal of excrement of fowl, rabbits, and guinea pigs. Provided, however, that the provisions of this section and section 14-41 shall not apply to ducks or other waterfowl inhabiting natural or manmade water courses or bodies of water.

Sec. 14-32. Keeping of bees.

All persons within the property of the city adhere to the statutes of the state as described in 7 M.S.R.A. Chapter 521 through 531, as well as:

- (1) No person shall have no more than two colonies on one-quarter acre or less; or
- (2) No person shall have no more than four colonies on one-quarter to one-half acre; or
- (3) No person shall have no more than six colonies on one-half to one acre; or
- (4) No person shall have no more than eight colonies on a tract of land greater than one acre; and
- (5) All colonies' hives shall be located a minimum of 100 feet from any inhabited dwelling other than that of the person keeping such bees; and
- (6) There is adequate source of water available at all times to the bees on the owner's property.

ARTICLE 8. PROHIBITIONS

Sec. 14-33. Placement and baiting of animal traps.

It shall be unlawful for any person to place, set or bait any trap for the purpose of catching, wounding or killing of any animal, fowl or reptile without permission or assistance of the local, state or federally designated ACO. This section, however, does

not preclude the use of commercially sold rat and mouse traps, nor does this section precluded the use of "Have a Heart" traps for the relocation of animals, fowl or reptiles.

Sec. 14-34. Prohibition of animal poisoning.

It shall be unlawful to place any substance or article which has in any manner been treated with any poisonous substance in any place accessible to human beings, birds, dogs, cats or other animals with the intent to harm or kill animals. This section, however, does not preclude the use of commercially sold rodent poisons when applied in accordance with the manufacturer's directions for such use.

Sec. 14-35. Noise prohibition.

The provision of section 14-40(a) herein, relative to public nuisance in general, shall specifically be applied to noise prohibition.

Sec. 14-36. Odors and unclean condition prohibitions.

It shall be unlawful for any owner to allow an animal to produce odors or unclean conditions sufficient to create a public nuisance.

Sec. 14-37. Animals at-large prohibition.

(a) It shall be unlawful for any owner to allow an animal to chase vehicles or molest, attack or interfere with other animals or persons on public property, or be at-large as defined in section 14-1 of this chapter.

(b) It shall be unlawful for an animal to be left unrestrained in a parked motor vehicle so as to allow the animal to project its head from the vehicle.

ARTICLE 9. PUBLIC LANDS, PARKS AND PLAYGROUNDS: CONTROL OR PROHIBITION OF DOMESTIC ANIMALS

DIVISION 1. LEASH REQUIREMENTS

Sec. 14-38. Sixteen-foot leash requirements and exceptions.

Only domestic animals are authorized on all city-owned public ways, sidewalks, and all publicly owned property within the city. Any such animal shall be on a leash or other tether, in the control of an individual, of not more than 16 feet in length with the following exceptions:

(1) Any domestic animal in public areas must be on a leash or other tether of not more than eight feet in length when signs are posted stating "Maximum Eight-Foot Leash is Required" by the city to accommodate mass gatherings or public events. The authority to post such areas shall lie with the city council.

(2) Any domestic animal may be prohibited by the city to accommodate mass gatherings or public events. The authority to post such areas shall lie with the city council.

DIVISION 2. CITY PROPERTY

Sec. 14-39. Parks, cemeteries and playgrounds.

(a) Domestic animals will not be permitted in public parks or playgrounds for the period commencing one-half hour prior to and for the duration of any city or school department scheduled or sanctioned activity or event:

(b) Domestic animals may be authorized in all city-owned cemeteries and must be on a leash or other tether, under the control of an individual, of not more than 16 feet in length provided, however, that such animals shall be allowed only on the roadways and walkways of the cemeteries and not on the cemetery lots.

(c) All domestic animals shall not be permitted in public parks and playgrounds: Dogs found in parks or playgrounds may be taken up and disposed of in accordance with 7 M.R.S.A. § 3912.

ARTICLE 10. NUISANCES

Sec. 14-40. Public nuisances.

It shall be unlawful to harbor or keep any animal or bird, which causes annoyance to the peace of any person, either by:

- (1) Excessively barking, howling or making other sounds common to its species; or
- (2) Failing to keep any female dog in heat confined at all times. Every bitch in violation of this section shall be impounded and the owner, keeper or person harboring such bitch, shall be deemed guilty of an offense; or
- (3) Knowingly have any animal, requiring a license or some other form of registration by the state, run at-large.

Sec. 14-41. Disposal of excrement.

All manure and other excrement shall be disposed of in such a manner so as to prevent it from becoming a public nuisance or health hazard. With regard to dogs on public or private property, other than the owner's, the owner shall be responsible for the immediate removal of excrement.

Sec. 14-42. Trucks, trailers and other vehicles.

A person commits an offense if a person parks or leaves standing any truck, trailer, or other vehicle that has been used for the hauling of livestock, animals, fish or fowl in a residentially zoned area of the city, whereas notified by the city's enforcement agents that such vehicle is creating a public nuisance.

ARTICLE 11. DAMAGE TO PROPERTY

Sec. 14-43. Complaint and recovery.

(a) *Compliant.* Whenever any damage is inflicted on any person and/or property by a dog, the victim and/or owner may make a complaint to the ACO or city police department within the next business day following discovery of the damage.

(b) *Recovery.* If after reviewing the evidence, the ACO and/or police department are satisfied that a dog committed the damage, they shall estimate values of the injured person or damaged property. The investigation agents will then determine if the dog can be reasonably identified and if so, the owner of said dog will be liable for all related expenses caused by said dog.

ARTICLE 12. ANIMAL SAFETY

Sec. 14-44. Authority of the ACO.

A person commits an offense if a person parks or leaves any animal in a any type of vehicle and does not provide for adequate ventilation or allows the animal to protrude its head out of the vehicle and consequently attack or attempt to attack a passerby.

The ACO shall have, for the purposes of this section, the authority to order the removal of a vehicle or to remove the animal from any vehicle by any means possible if, in the opinion of the ACO, it appears that the animal is in distress or the animal poses a threat or public nuisance to the general public.

City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007 **Agenda Item No.** 2

SUBJECT:

ORDINANCE – CHAPTER 25, ARTICLE 6 – GRAFFITI (2nd READING)

INFORMATION:

Graffiti is an important issue in the perception of a safe community. If graffiti is not controlled in a community, it will soon become an accepted practice. This ordinance addresses the responsibility of property owners to comply with the prompt removal of graffiti which is visible to the community. With your acceptance of this ordinance, we will reduce the occurrences of graffiti in our community.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends approval of second reading and final passage.

REQUESTED ACTION:

Motion for acceptance of second reading and final passage.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: September 17, 2007

TITLE: ORDINANCE – CHAPTER 25, ARTICLE 6 - GRAFFITI

Be It Ordained by the Auburn City Council that Chapter 26, Article 6 – Graffiti be added to the ordinances as attached.

Motion for acceptance of first reading: Raymond Berube Seconded by: Robert Mennealy

Vote: 5 Yeas, No Nays

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

CHAPTER 25, ARTICLE 6 - GRAFFITI

Sec. 6.1 Definitions

In this article:

Graffiti means an unauthorized inscription, work, signature, symbol, design, or other marking which is etched, engraved, written, painted, drawn, or applied in any other way to a structure, building, or property.

Owner means a person who owns or is in possession of property.

Unauthorized means without the permission of the owner of property.

Sec. 6.2 Placement of Graffiti

A person commits an offense if the person places graffiti on property.

Sec. 6.3 Failure to Remove Graffiti

An owner of property commits an offense if the owner fails to remove graffiti from the owner's property, after notice from the City of the need to do so, if the graffiti is visible from public or private property other than the property on which the graffiti exists.

Sec. 6.4 Notice and Abatement by Owner or City

(a) *Notice of citation or abatement.* The city must notify the property owner of a violation of this article, and must give the owner the opportunity to remove the graffiti before:

- (1) issuing a citation for a violation of Section 2.3; or
- (2) entering the property and doing the work necessary to remove or cover the graffiti and abate the nuisance.

(b) *Waiver of notice.* The property owner may waive the right to notice and the opportunity to remove the graffiti by filing a written statement with the police department giving the city permission to enter the property and abate the nuisance.

(c) *Method of notice.* Notice must be given:

- (1) in writing personally delivered to the owner; or
- (2) by letter addressed to the owner's address as listed on the most recent tax rolls; or
- (3) if personal service cannot be obtained or the owner's address is unknown:
 - (i) by publication in the official newspaper at least twice within ten consecutive calendar days; or
 - (ii) by posting the notice on or near the front door of each structure or building on the property to which the violation relates; or
 - (iii) if the property does not contain any buildings, by posting the notice on a placard or sign attached to a stake driven into the ground on the property to which the violation relates.

(d) *Contents of notice.* The notice shall contain:

- (1) the name and address of the record owner;
- (2) an identification, which is not required to be a legal description, of the property upon which the violation is located;

- (3) a statement describing the violation and the work necessary to correct the violation;
 - (4) a statement advising the owner that if the work is not completed within ten calendar days, the city may complete the work and may assess the cost of the work to the owner;
 - (5) a statement that if the city performs the work and the owner fails to pay the cost, a lien may be placed on the property;
 - (6) a statement that, within five calendar days after receiving notice of a violation, the owner may submit a written request to the code enforcement officer or designee for assistance in removing the graffiti;
 - (7) a statement that, within five calendar days after receiving notice of a violation, the owner may submit a written request to the code enforcement officer for an informal hearing to contest whether the violation exists; and
 - (8) a statement that the city may, at any time, file a city ordinance violation in district court with a maximum fine of \$500.00 for each calendar day the violation exists, in addition to any other remedy provided by law.
- (e) *Time of notice.* For purposes of this article, notice is deemed to have occurred:
- (1) for personal service, on the day notice was personally delivered to the owner;
 - (2) for mailed notice, three calendar days after written notice was mailed to the owner;
 - (3) for notice by publication, on the date that the second notice is published; or
 - (4) for notice by posting, the day of posting.
- (f) *Issuance of citation.* A citation for a violation of Section 2.3 may be issued ten calendar days after notice of the violation is received.
- (g) *Work by city.* If the owner does not comply with this article by the 30th calendar day after notice is deemed received, or within such other time as the city may provide, the city may enter the property or authorize another to enter the property and do or cause to be done all work necessary to abate the graffiti. If the city performs or causes to be performed the abatement work, the city shall initially pay for the works done, and may, at its sole discretion, charge the expenses to the owner of the property.
- (h) *Liability for work.* The city shall not be responsible for the color or quality of the paint or any damages done to the owner's property while abating the nuisance on the property.

Sec. 6.5 Informal Hearing

Within five calendar days after receiving notice, the property owner may file a written request with the City Manager for consideration. The owner may provide evidence or testimony that a violation does not exist and abatement is not warranted. Failure of the property owner to timely request consideration constitutes a waiver of any right to challenge the abatement of the violation.

Sec. 6.6 Assessment of Expenses; Lien

The city may assess expenses incurred by the city for the abatement of graffiti against the real property on which the work was done. To obtain a lien against the property, the city shall file with the County Clerk of Androscoggin County a statement of expenses and a copy of the notice that the city provided to the owner. The lien is security for the expenditures made and interest accruing at the rate of 10 percent per annum on the amount due from the date of payment by the city. The lien is inferior only to tax liens and liens for street improvements.

Sec. 6.7 Assistance in Removal

If an owner is in need of assistance in removing graffiti from the owner's property, the owner may submit a written request for assistance within five calendar days after receiving notice. The city may in its sole discretion agree to provide assistance to the Owner and may set reasonable terms and conditions with respect to the provision of such assistance, including terms and conditions related to the timing of the assistance, waivers of liability and other similar matters.

City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007 **Agenda Item No.** 3

SUBJECT:

**ORDINANCE – CHAPTER 15, ARTICLE 2 – SECURITY SYSTEMS
(2nd READING)**

INFORMATION:

False Alarms are a major problem in Auburn. During the past year, the Police Department responded to 914 false alarms. Responding to these false alarms is an inefficient use of police officers' time and a waste of city resources. Therefore, the Auburn Police Department is working closely with the alarm industry and with alarm users to decrease the problem of False Alarms. Requiring an alarm permit will provide the department with up to date information, a review of the system and location, and a greater responsibility placed on the owner to understand the importance of having an operational system with proper training to owners and employees. This ordinance will allow us to provide a more efficient service and reduce the amount of false alarms needing response.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends acceptance of second reading.

REQUESTED ACTION:

Motion for acceptance of second reading and final passage.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: September 17, 2007

**TITLE: ORDINANCE – CHAPTER 15, ARTICLE 2 – SECURITY
SYSTEMS**

Be It Ordained by the Auburn City Council that be added to the ordinances as attached.

Motion for acceptance of first reading: Richard Gleason Seconded by: Raymond Berube

Vote: 5 Yeas, No Nays

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

CHAPTER 15 ARTICLE 2 - SECURITY SYSTEMS

Sec. 2.1 Definitions

In this article, the following words and phrases shall be defined as follows:

Alarm System Means a device or system which transmits a signal intended to summon aid in a robbery, burglary, or personal hostage situation. The term alarm system does not include a system installed on a vehicle, personal safety alarm device, or a system designed to alert only the persons within a premises which does not emit a signal visible or audible outside of the premises.

Alarm Site a single premises or location served by an alarm system.

Chief the Chief of Police of the City of Auburn or his authorized representative.

False Alarm Notification an alarm notification to the Police Department when the responding personnel find no evidence of actual or attempted robbery, burglary, or personal hostage.

Local Alarm an alarm system that emits a signal at an alarm site which is audible or visible from the exterior of the alarm site.

Person includes an individual, corporation, partnership, association, or similar entity.

Sec. 2.2 Permit Required

The owner or person in control of a premise commits an offense if he installs an alarm system or possesses an activated alarm system without first obtaining a permit from the Chief. A separate permit is required for each alarm site.

Sec. 2.3 Application; False Statements; Issuance; Transferability; Permit Fees

(a) The application for a permit shall contain the following information:

- (1) Name, business address, home address, business telephone number, and home telephone number of the person in whose name the permit is requested;
- (2) Name, business telephone number, and home telephone number or two (2) persons who are authorized and have agreed to receive notification at any time from responding Police personnel to come to the alarm site within thirty (30) minutes after receiving such notification;
- (3) Classification of the alarm site as residential, commercial or banking institution;
- (4) Purpose of the alarm, i.e. burglary, robbery;
- (5) Any other information required by the Chief to insure compliance with all provisions of this article.

(b) The permit holder shall notify the Chief of any change in the information contained in the application within five (5) days of such change.

(c) If the application complies with all requirements of this article, the Chief shall issue a permit upon receipt of a thirty dollars (\$30.00) permit fee.

(d) Any false statement of a material nature made by an applicant for the purpose of obtaining a permit shall be grounds for denial of the issuance of the permit, or cancellation of the permit if it has been issued.

(e) A permit is not assignable or transferable to another person.

(f) A permit shall be valid for the period of January 1 through December 31st of the same year issued. However, if a permit is obtained after December 1st, the permit shall be valid through December 31st of the next calendar year. Permits expire on December 31st. After expiration, a new application must be made. Permit renewals for the next calendar year shall start on December 1 of the year of expiration. Renewals may be made on weekdays during normal business hours in person, by telephone, or by mail. A renewal fee of five dollars (\$5.00) for residential permits and ten dollars (\$10.00) for commercial permits will be charged if renewal occurs before expiration. There will be a thirty dollars (\$30.00) charge for renewals made after December 31st.

Sec. 2.4 Automatic Shutoff Required

In the event that a mechanism sounds an alarm signal for longer than fifteen (15) minutes after being activated, the Chief of Police or his designated representative is authorized to disable the alarm. All costs of the City in disabling such an alarm shall be assessed to the operator of the alarm system and shall be paid to the City of Auburn within thirty (30) days after the operator has received notice that the said costs have been assessed. Application for a permit under the provisions of this section constitutes a grant of approval by the operator of the alarm system for the City to deactivate the local alarm system under the provisions of this subsection.

Sec. 2.5 Maintenance of System

The permit holder shall maintain the alarm system in such a manner as to assure proper operation and to minimize false alarm notifications.

Sec. 2.6 Reporting of Alarm Signals

(a) A permit holder commits an offense if he allows alarm signals to be reported through a relaying intermediary that is not licensed to legally provide this service.

(b) A permit holder or other party commits an offense if they allow an alarm signal to be reported through an automatic dialing system directly to the Police Department other than through the installed alarm console.

Sec. 2.7 Indirect Alarm Reporting

A person who is engaged in the business of relaying alarm notifications to the City shall:

- (1) Send notification of an alarm to the City by an individual;
 - (2) Keep his business premises locked and secured at all times;
 - (3) Allow an inspection of his business premises by authorized agents of the Police Chief;
 - (4) Report alarms only to a telephone number, or numbers, designated by the City;
 - (5) Send alarm notifications to the City in a manner and form determined by the City;
- and
- (6) Maintain sufficient staff to insure that valid alarms are relayed immediately to the City.

Sec. 2.8 Alarm Dispatch Records

The Chief shall maintain a written record of all alarm notifications, including but not limited to the following;

- (1) Name of permit holder;
- (2) Location of alarm site;
- (3) Date and time of alarm notification;
- (4) Name of the responding Police Officer in charge of response;
- (5) Weather conditions; and
- (6) Whether the notification was a false alarm notification.

Sec. 2.9 Determination of False Alarm Notification

(a) The Chief shall not consider an alarm notification to be false if he determines that the alarm was caused by:

- (1) A natural or man-made disaster;
- (2) Severe weather that causes physical damage to the premises;
- (3) Vandalism;
- (4) Telephone line outage;
- (5) Attempted entry or attempted robbery; or
- (6) Accidental activation by the occupant provided the alarm is immediately reported to the Police Department.

(b) The determination of the Chief in classifying an alarm notification as false or actual is final

Sec. 2.10 False Alarm Notification

(a) The permit holder shall pay a fee \$30.00 beginning with the third and fourth false alarm notification (the first two are at no charge); an additional fee of \$50.00 will be assessed for the fifth and sixth false alarm and all subsequent false alarms will be assessed at \$100.00.

(b) The time period for alarms will be from the beginning of the permit period; and

(c) The Police Department shall, on a monthly basis, send to the permit holder, at the address stated on the application, a statement of fees due. The permit holder shall pay such fees within thirty (30) days of the date of the statement and shall be delinquent after such thirty (30) day period.

Sec. 2.11 Revocation of Permit

The Chief shall revoke an alarm permit if he determines that:

- (1) There is a false statement of a material nature in the application for a permit;
- (2) The permit holder has violated any provision of this article; or
- (3) The permit holder is delinquent in payment of fees for false alarm notifications.

Sec. 2.12 Appeal from Denial of Issuance or Revocation of Permit

(a) If the Chief denies the issuance of a permit, or suspends a permit, he shall send to the applicant or permit holder by certified mail, return receipt request, written notice of his action setting forth the reason for such action and advising the applicant or permit holder of the right to an appeal. The applicant or permit holder may appeal the decision of the Chief to the City Manager by filing with the City Manager's Office a written request for a hearing, setting forth his objections to the action of the Chief, within ten (10) days after receipt of the notice from the Chief. The filing of a request for an appeal hearing with the City Manager shall stay the action of the Chief in denying the issuance of or suspending a permit until a final decision on the appeal is made by the City Manager. If a request for an appeal hearing is not made within the ten (10) day limit, the action of the Chief is final.

(b) The City Manager /or designee shall preside at any administrative hearing conducted under the provisions of this section and shall consider evidence offered by any interested person. The formal rules of evidence shall not apply at such hearing. The City Manager shall render a written decision setting forth findings of fact and conclusions of law within thirty (30) days after the request for an appeal hearing is filed. Such decision shall affirm, reverse, or modify the action of the Chief, and the City Manager decision is final.

Sec. 2.13 Violations; Penalties

(a) A person commits an offense if he violates by commission or omission (non-registration of alarm) any provisions of this article that impose upon him a duty or responsibility. Each day or portion of a day in which the violation exists or is committed shall constitute a separate offense.

(b) Each offense is punishable by a fine in the amount of \$100.00.

AUBURN POLICE DEPARTMENT

ALARM REGISTRATION / PERMIT APPLICATION

Select One: Residential Commercial Government

Applicant or Business Name and Alarm Location:		Phone: W: H:	Social Security No.
Alarm is: <input type="checkbox"/> Self Installed <input type="checkbox"/> Installed by a Licensed Contractor <input type="checkbox"/> Installed by Unlicensed Contractor			
Installing Alarm Company Name:	Installation Date:	Contractor's Name:	License Number:
Monitoring Alarm Company Name:	List two people with keys to your building, who have working knowledge of your alarm system and can respond within thirty (30) minutes to assist the police if required. 1. Name _____ Phone _____ 2. Name _____ Phone _____		

Mail payment to: Auburn Police Department, Alarm Tracking and Billing Section , One Minot Avenue, Auburn, ME 04210

In accordance with the City of Auburn Ordinance, if you have an alarm system in the City of Auburn it must be registered with the Auburn Police Department beginning January 1, 2008. Fire and auto alarms are excluded. Registration is \$30.00 for the first year and \$5.00 for residential or \$10.00 for commercial upon renewal each year thereafter. If Police responds to an unregistered alarm, the owner will be fined \$100.00. There is no charge for the first two false alarms within a 12 month period, beginning with the date the permit is issued. The third and fourth false alarm is subject to a \$30.00 service charge. Fifth and sixth false alarms are subject to a \$50.00 service charge. A \$100.00 service charge will be assessed for seventh and subsequent false alarms.

PERMIT APPLICATION

Complete above form and mail with registration fee of \$30.00 (check/money order) payable to City of Auburn.

- Please obtain a permit before you operate your alarm. Failure to do so may result in a fine of \$100.00.
- Changes to permit information should be submitted within 30 days.

AVOIDING SERVICE CHARGES: The following guidelines can easily prevent most false alarms:

- Make sure all alarm users and key holders are trained to use the system, including how to cancel a false alarm.
- Be sure doors and windows are properly closed and locked before arming the system.
- Be sure motion detectors are adjusted correctly, especially if you have pets, and clear of possible obstructions.
- Have an arming delay at least 60 seconds and arrange with the alarm company NOT to call police if the system goes off immediately after it has been armed.
- Read and follow instructions in your operator's manual.

*If you have any questions, please call APD at (207) 333-6650 or contact your alarm company.
You may also visit us on the web at <http://www.auburnpd.com>*

City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007 **Agenda Item No.** 4

SUBJECT:

**ORDINANCE – AMENDMENT TO CHAPTER 27, SECTION 3.10
TRAFFIC CONTROL (2nd READING)**

INFORMATION:

The City of Auburn finds that traffic safety is a concern for the health and welfare of Auburn residents and the traveling public. Safety issues along the city's major streets, roads and highways are of increased concern due to traffic speed and volumes. Construction, repair and/or improvements which occur within the travel ways of these streets represent a hazard to both the traveling public and personnel who must perform such activities.

This policy shall apply, but not be limited to, construction, repair, improvement, alteration, adjustment, excavation or demolition of property (private or public) within the publicly-owned right of way. Examples of these activities include, but are not limited to, telephone, cable television, electrical, water, sewer, gas, or storm water facilities and infrastructure maintenance or construction.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends acceptance of second reading.

REQUESTED ACTION:

Motion for acceptance of second reading and final passage.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: September 17, 2007

TITLE: ORDINANCE – AMENDMENT TO CHAPTER 27, SECTION 3.10 – TRAFFIC CONTROL

Be It Ordained by the Auburn City Council that Section 3.10 d. of Chapter 27 of the Auburn Ordinances be amended to read as follows:

Section 3.10

- d. At certain designated areas (see attached policy) there shall be a traffic control plan that first must be approved by the Chief of Police or his designee. The Chief of Police or his designee shall review the traffic control plan and decide whether police traffic control will be needed for this area. The cost of the police traffic control will be at the expense of the person(s) or company(ies) applying for the permit.

Current language reads as follows:

d. The City Engineer may require special police protection furnished by the permittee at his expense, at locations where the excavation work interferes with school walk routes or school crossing locations.

Motion for acceptance of first reading: Raymond Berube Seconded by: Bruce Bickford

Vote: 5 Yeas, No Nays

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

City of Auburn

Police and Public Works Departments

Traffic Detail Policy

Purpose: The City of Auburn hereby establishes a policy regarding traffic control for construction, repair and/or improvement work which occurs on city or state owned right of ways within the city. The City finds that traffic safety is a concern for the health and welfare of Auburn residents and the traveling public. Safety issues along the city's major streets, roads and highways are of increased concern due to traffic speed and volumes. Construction, repair and/or improvements which occur within the travel ways of these streets represent a hazard to both the traveling public and personnel who must perform such activities. Therefore, the City establishes this policy to provide traffic control rules.

Responsibility: It shall be the responsibility of the Police Chief and Public Works Director, or their designees to administer this policy. Either the Police Chief or the Public Works Director may extend the provisions of this policy when he/she believes it to be in the best interest and safety of citizens.

Definition: This policy shall apply to all private contractors, vendors or service providers who operate within the public rights of way noted herein. The City and related public agencies are exempt from this policy. Private contractors, vendors and service providers hired by a public agency are also subject to the provisions of this policy. Private entities working in concert with a public agency may be exempt from this policy at the discretion of the hiring public agency. For the purposes of this policy public agencies include, but are not limited to, the City of Auburn, Auburn Water and Sewer District, and Lewiston Water and Sewer Division.

Types of Activities: This policy shall apply, but not be limited to, construction, repair, improvement, alteration, adjustment, excavation or demolition of property (private or public) within the publicly-owned right of way. Examples of these activities include, but are not limited to, telephone, cable television, electrical, water, sewer, gas, or stormwater facilities and infrastructure maintenance or construction.

Requirements: Entities and activities subject to this policy are required to utilize employees of the Auburn Police Department for traffic control on the

streets and roads listed below. Entities shall notify and coordinate with the City through the Public Works Director or his designee.

Applicable Streets/Roads and Intersections

Academy Street (Main to High)
Broad Street (South Bridge to South Main)
Center Street (Union Street to townline)
Court Street
Elm Street @ Spring Street
Great Falls Plaza Drive
Hampshire Street (Turner to Union)
High Street (Academy to Minot)
Hotel Road @ Steven Mills Road
Hotel Road @ Young's Corner Road
Hotel Road @ Kittyhawk Avenue
Main Street
Manley Road @ Rodman Road
Mill Street (Broad to Main)
Minot Avenue
Mount Auburn Avenue (Center to Gracelawn)
Turner Street (Court to Center) (Mt. Auburn to Auburn Mall)
Union Street
Washington Street (north and south)

The Public Works Director and Police Chief or their designees may require the use of Police Department personnel for activities on streets or roads not listed above if, in their opinion, the nature of the activity, road characteristics or traffic volumes indicate a need for City supervised traffic control. Conversely, if the Public Works Director or Police Chief determine that the nature of the activities, road characteristics or traffic volumes do not require City supervised traffic control then they may waive the application of this policy for the streets and roads listed above.

Administration: Upon notification of required activities, the Police Chief or his designee shall assign department personnel in accordance with adopted policies and procedures of the Police Department. Applicable contractors, vendors and service providers shall reimburse the City for its costs of assigned traffic control in accordance with a fee schedule adopted, and as may be further amended, by the Police Chief.

Liability: The City and its employees shall have no liability in the application and administration of this policy beyond that which is applicable to the City and its employees in the normal course of its responsibilities and duties.

Miscellaneous: The provisions of this policy may not supercede laws of the State of Maine, employee contracts or other agreements, ordinances or policies which take precedence.

Effective Date: June 1, 2006

Amended:

City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007

Agenda Item No. 5

SUBJECT:

RESOLVE – RE-NAMING OF SOUTH BRIDGE

INFORMATION:

In early August the City Council considered a resolve re-naming the South Bridge. Because at that time the City had no process in place for an action such as this, the City Council did not pass the resolve. Several weeks later the Council considered and adopted a policy for naming of facilities and infrastructure. Staff then publicized the process for nominations regarding the re-naming of the South Bridge. Attached is the list of nominations that were received from area residents.

On Monday, September 24th, staff sent a written notice to everyone who submitted a nomination informing them of this proposed action and that they were welcome to come to the October 1st City Council Meeting and advocate for their nomination.

STAFF COMMENTS/RECOMMENDATION:

REQUESTED ACTION:

Motion for passage of the resolve.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: October 1, 2007

TITLE: RESOLVE – RE-NAMING OF SOUTH BRIDGE

BE IT RESOLVED by the City Council of the City of Auburn, Maine, that the South Bridge be renamed “Dr. Bernard Lown Bridge”.

Motion for passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

RE-NAMING THE SOUTH BRIDGE

The following suggestions have been made as possible names for the South Bridge:

The Small Canada and New Auburn Bridge

Twin City Bridge

The Franco American Bridge

The Paul Hildreth Bridge

Governor Angus S. King, Jr.

Franco-American Bridge

The Lenny Breau Bridge

L/A Unity Bridge

Dr. Bernard Lown

The Joanna Pike Bridge

Walker Bridge

Pejepscot Bridge or Bakerstown Bridge

Fort Androscoggin Bridge

City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007

Agenda Item No. 6

SUBJECT:

**PUBLIC HEARING – LIQUOR APPLICATION FOR BOC, LLC
D/B/A AS THATCHER’S, 550 CENTER STREET**

INFORMATION:

Thatcher’s located at the Auburn Mall is being sold. The Tax Collector and Police Department have both given approval to this application. The Fire Department and Planning & Permitting are still completing inspections.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends that the Council approve this application contingent upon the Fire and Planning & Permitting Departments giving their approvals.

REQUESTED ACTION:

Motion for approval of the application contingent upon the Fire and Planning & Permitting Departments giving their approvals.

VOTE:

City Council

Agenda Information Sheet

Council Meeting Date 10/01/07

Agenda Item No. 7

SUBJECT:

ORDINANCE – AMENDMENT TO ZONING ORDINANCE – LAKE AUBURN WATERSHED OVERLAY – CHAPTER 29, ARTICLE 5, SECTION 5.3

INFORMATION:

The City of Auburn received a petition from at least twenty-five (25) registered voters to amend the City of Auburn Zoning Ordinance (Chapter 29). The proposed Zoning Ordinance text amendment includes changes to Article 5, Section 5.3 (Lake Auburn Watershed Overlay District). In general terms, the proposed text amendment would reduce the current septic system design standards from thirty-six inches (36”) to fifteen inches (15”). At that hearing one person, the petitioner spoke in favor of the proposed text amendment. The petitioner was provided an opportunity to present his case but he made no presentation & decided to turn the floor over to opposing (Staff) views. Staff in addition to Normand Lamie, P.E., General Manager Auburn Water & Sewerage Districts, David A. Jones, P.E. Director, Department of Public Services for the City of Lewiston, Dan Bisson (Camp Dresser & Mckee - AWD & LWD consultant) and Carlton Gardner (Maine Drinking Water Program) gave presentations on the technical merits for maintaining the current Ordinance language. In addition one resident spoke and supported Staff’s position. Approximately twenty (20) people attended the hearing. The proposed text additions are illustrated by underlined text and text deletions are illustrated with ~~strikethrough text~~.

STAFF COMMENTS/RECOMMENDATION:

On September 25, 2007 the Auburn Planning Board had a public hearing to review the proposed ordinance amendment. The Planning Board concurred with Staff’s position that the existing Ordinance has protected the Lake Auburn Watershed (LAW), that the amendment would be a departure from long established Council policies, it would go against the purpose statement for the Lake Auburn Watershed Overlay District (LAO) Ordinance, would be contrary to Comprehensive Plan “Policies” and “Strategies” and that the proposed Ordinance amendment could negatively impact the drinking source for the Twin Cities. They further stated that they feel that no information was presented to support the proposed Ordinance amendment and couple of members felt that the proposed Ordinance amendment would be a step backward and that perhaps the Ordinance should be amended to be even more restrictive. Therefore the Planning Board voted 6-0-0 to send an unfavorable recommendation to the City Council to **deny** the proposed text amendment to Article 5, Section 5.3 (Lake Auburn Watershed Overlay District) of the City’s Zoning Ordinance (Chapter 29).

REQUESTED ACTION:

Motion for acceptance of first reading.

VOTE:

CITY OF AUBURN

City Council, Auburn, Maine

Date: October 1, 2007

**TITLE: ORDINANCE – AMENDMENT TO ZONING ORDINANCE
LAKE AUBURN WATERSHED OVERLAY – CHAPTER 29,
ARTICLE 5, SECTION 5.3**

Be It Ordained by the Auburn City Council that the zoning ordinance text amendment petition, Chapter 29, Article 5, Section 5.3, to the Lake Auburn Watershed Overlay District regarding septic system design standards be amended as attached.

Note: The proposed text addition are illustrated by underlined text and text deletions are illustrated with ~~strikethrough text~~.

Motion for acceptance of first reading:
Vote:

Seconded by:

Motion to waive provisions of Charter calling for first and second readings on two separate dates.

Vote:

Seconded by:

Motion to dispense with further reading, for acceptance of second reading and for final passage.

Vote:

Seconded by:

Action by City Council:

Date:

ATTEST:

CITY CLERK

5.3 Lake Auburn Watershed Overlay Districts (LAO)

- A. **Purpose** – The Lake Auburn Watershed District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and natural beauty; and protect and maintain the present quality and volume of potable water supplied from the Lake Auburn Watershed to the population of the Auburn-Lewiston area.
- B. **Boundaries and Definitions** – The Lake Auburn Watershed District is that section of Auburn in which surface and subsurface waters ultimately flow or drain into Lake Auburn as such section is delineated on a watershed map and survey by the Auburn Water District on file in the office of the Auburn Water District, the Auburn Department of Community Development and Planning and the Auburn City Clerk. The Lake Auburn Watershed District shall be superimposed over underlying districts within such section. Permitted uses in the underlying districts shall continue subject to compliance with the provisions of the Lake Auburn Watershed District.
- C. **Use and Environmental Regulations**
1. **Agricultural Uses** – All uses of land for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, stables, crop farming and other agricultural purposes shall be subject to the approval of the Auburn Water District. Such approval shall be granted upon a showing that such uses will not cause ground water contamination or contaminate or disturb the normal course of surface water runoff.
 2. **Agricultural Buffer Strip** – Where land adjoining Lake Auburn or its perennial tributaries is tilled for agricultural purposes, an untilled buffer strip fifty (50) feet wide shall be retained between the tilled area and the normal high water mark. This Subsection shall not be interpreted as permitting agricultural tillage in any zoning district in which it is not otherwise permitted.
 3. **Municipal and Manure Sludge Disposal** – All spreading and disposal of municipal sludge shall be accomplished in conformance with the “Rules of Municipal Sludge Utilization on Land”, published by the Department of Environmental Protection in September, 1980. All spreading and disposal of manure shall

be accomplished in conformance with “Maine Guidelines for Manure and Manure Sludge Disposal on Land”, published by the Life Sciences and Agriculture Experiment Station and the Cooperative Extension Service, University of Maine at Orono, and the Maine Soil and Water Conservation Commission in July, 1972.

4. **Erosion Control** – The following provisions shall be observed for the control of erosion in the Lake Auburn Watershed:
 - a. Any earth cutting, moving or removal activities that will result in erosion or runoff which is likely to increase sedimentation of Lake Auburn, or any tributaries or water body in the watershed is prohibited.
 - b. Vegetative cover shall not be removed except in a manner which will minimize erosion. Harvesting of trees shall be permitted only after a plan prepared by a qualified forester is submitted to and approved by the Water District. Such plan will be approved or disapproved on the basis of its conformance with good watershed management practice for domestic water supplies.
 - c. Trees may be cleared, provided the cleared areas are covered with other vegetation, for approved construction and landscaping. Where such clearing is extended to the shoreline, a cleared opening or openings not greater than 30 feet in width for every 100 feet of shoreline (measured along the high water mark) may be created in the strip extending 50 feet inland from the normal high water mark. For extending 50 feet inland from the normal high water mark. For purposes of this Section, clearing is the removal of adjacent dominant trees which extend into the canopy and shrubs within 10 feet of the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation which is equally effective in retarding erosion and preserving natural beauty. When the vegetative cover is changed in areas greater than three (3) acres, a plan shall be filed with the Auburn Water District indicating the changes so that a record can be maintained of watershed water yields to the system.

5. **Private Sewage Disposal Systems** – The following regulations shall be adhered to in the development of private sewage disposal systems in the Lake Auburn Watershed: A disposal field shall be located upon soils with the following minimum depths to limiting factors:
- a. ~~Subsurface absorption areas shall not be permitted on sites which the highest seasonal groundwater table bedrock, or other impervious layer is less than 36 inches below the bottom of the organic horizon. Not less than 24 inches of suitable soil shall be present below the bottom of the subsurface absorption area shall not be less than 12 inches below the bottom of the organic horizon measured from the lowest point on the subsurface absorption area.~~ All systems shall be located on soils with a minimum depth to seasonal groundwater table or hydraulically restrictive horizon of 15 inches and a minimum depth to bedrock of 15 inches.
 - b. Within areas containing soils described as “deep, loose and sandy” or “gravelly” and which contain more than 70 percent sand as shown on Table 9-3 of the State of Maine Plumbing Code, Part II (April 25, 1975) no subsurface absorption area shall be installed closer than 300 feet to the normal high water mark of any lake, pond, or year-round or intermittent stream. Where the daily sewage flow is or is reasonably likely to be in excess of 2,000 gallons, the system shall be located at least 1,000 feet from the normal high water mark of any lake, pond or year-round intermittent stream.
 - c. The Auburn Water District shall have the right to inspect any system within the Lake Auburn Watershed District during its construction and operation and may notify the Health Office, Police Chief, Local Plumbing Inspector Housing Inspector who shall require the abatement of such defects or malfunctions.
 - d. The Local Plumbing Inspector shall furnish a copy of all Site Investigation Reports in the Lake Auburn Watershed District to the Auburn Water District.
 - e. Replacement or reconstruction of private residential sewage disposal systems ~~in existence and in use on December 17, 1972~~ shall not be subject to the

requirements of this Section but shall be required to comply with the current State Plumbing Code.

5.3 - 3

D. **Dimensional Regulations**

1. **Building Setbacks** – All buildings and structures, except those requiring direct access to the water as an operational necessity, shall be constructed not less than 75 feet inland from the normal high water mark. Operational necessity shall include private docks, but shall not include boat houses, storage sheds, garages or other structures. Marinas and boat rental facilities shall not be permitted within 75 feet of the normal high water mark of Lake Auburn.

- E. **Conflicts** – In any case in which a provision of this Section conflicts with a provision of any other Section of this Chapter, the provision which establishes the more stringent standard shall apply.

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

Planning Board Report

To: Auburn Planning Board

From: David C.M. Galbraith, Director of Planning & Permitting Services
Eric Cousens, City Planner & Code Enforcement Officer (CEO)

Date: September 25, 2007

Re: Zoning Ordinance Text Amendment Petition – Zoning Ordinance (Chapter 29) Text Amendment Petition to the Lake Auburn Watershed Overlay District (Article 5, Section 5.3) regarding septic system design standards (as attached)

I. PROPOSAL:

The City of Auburn received a petition from at least twenty-five (25) registered voters to amend the City of Auburn Zoning Ordinance (Chapter 29). The proposed Zoning Ordinance text amendment includes changes to Article 5, Section 5.3 (Lake Auburn Watershed Overlay District). A copy of the Article 5, Section 5.3 (Lake Auburn Watershed Overlay District) of the City's Zoning Ordinance (Chapter 29) including the proposed text amendments is attached. The proposed text additions are illustrated by underlined text and text deletions are illustrated with ~~strikethrough text~~. On July 30, 2007 the Auburn City Council & Planning Board held a joint workshop regarding the proposed text amendment. At the joint workshop City Staff, Normand Lamie, P.E., General Manager Auburn Water & Sewerage Districts and David A. Jones, P.E. Director, Dept of Public Services – City of Lewiston provided an overview of this matter and provided answers to the City Council and Planning Board questions.

II. STAFF OVERVIEW:

As you are aware the City has a total land area of 65.8 square miles of which 6.0 square miles of it is water. The City's largest lake is Lake Auburn, which is approximately four (4) square miles in area. Lake Auburn serves as the source of drinking water for the Twin Cities of Lewiston & Auburn. Due to this, the City has been exceptionally proactive in protecting this valuable natural resource. The City has adopted a number of environmental and zoning regulations to protect the water source. Lake Auburn does not have a filtration plant and in 1993 the two Cities were granted a waiver, from building a filtration plant, from the Maine Drinking Water Program (under the Maine Department of Health and Human Services) and US Environmental Protection Agency (USEPA). The key elements to having our waiver request granted were the Lake Auburn Watershed Overlay District, the surrounding zoning (Agriculture & Resource Protection Zone) and environmental standards, and the practices the City has undergone for well over 100 years.

In the 1880's the Maine Legislature adopted a "no bathing" Ordinance. In 1924 the Auburn Water District adopted proactive land acquisition policy, which it continues today. The City of Lewiston joined "lake patrol" funding in 1925. However, the heart of the watershed protection in recent times has been the creation of the Lake Auburn Watershed Overlay District (LAO), which was adopted by the City Council in 1973. The Ordinance gives the City & the Water District control over agricultural uses, logging, and private septic systems within the watershed and prohibits structures within the shoreland area. It is estimated that constructing a water filtration plant would cost the Twin Cities approximately 40 million dollars to construct the plant and approximately one (1) to two (2) million dollars annually to operate and maintain the facility. The proposed text amendment is seeking to establish State of Maine septic standards that are not as stringent as Auburn's Ordinance. As you are aware, under Home Rule Authority, the City may establish stricter standards than the State. In 1976 the City Council amended the Lake Auburn Watershed Ordinance and adopted stricter septic system standards to further protect the watershed.

The purpose statement for the Lake Auburn Watershed Overlay District (LAO) Ordinance states the following:

"The Lake Auburn Watershed District is intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and natural beauty; and protect and maintain the present quality and volume of potable water supplied from the Lake Auburn Watershed to the population of the Auburn-Lewiston area."

(Chapter 29 - Article 5, Section 5.3)

In addition to the City's Zoning Ordinance Lake Auburn is discussed within the "Auburn Tomorrow Comprehensive Plan - Goals, Policies and Strategies 1995-2005" which state the following:

The City's Natural Resources Goals:

1. Protect the quality of Auburn's water resources, including Lake Auburn, Taylor Pond, and the City's aquifers, rivers and streams, from inappropriate land use activity.
2. Protect the City's critical natural resources including wetlands, wildlife and fisheries habitat, shorelands, forests, scenic vistas, and unique natural areas, from inappropriate land use activities.

The Comprehensive Plan then established "Policies" and "Strategies" to meet the above goals:

Policy:

Lake Auburn - Continue to protect Lake Auburn from the adverse impacts of land use development so as to preserve the quality of the City's water supply and avoid the high costs of additional water treatment and filtration.

Policies strategies:

- A. Watershed Overlay District. Continue to regulate land use through the provisions of the City's watershed overlay district.
- B. Lake Auburn Watershed Commission. Continue the Commission's efforts to protect Lake Auburn's watershed area, both within the City limits and in neighboring communities.
- C. Lake Auburn Watershed Study. Continue to implement the watershed protection recommendations contained in the 1987 "Lake Auburn Watershed Study."
- D. Agriculture and Resource Protection District. Continue to protect the watershed through the requirements of the Agriculture and Resource Protection District.
- E. Land Purchase. Continue to purchase waterfront property for the purpose of protecting the quality of Lake Auburn.
- F. Phosphorus Standards. Revise the phosphorus control standards contained in the Zoning Ordinance to better protect the quality of Lake Auburn.

(Auburn Tomorrow Comprehensive Plan - Goals, Policies and Strategies 1995-2005" Pages 38 & 39).

As outlined above, it is estimated that constructing a water filtration plant would cost the Twin Cities approximately 40 million dollars in construction and approximately one (1) to two (2) million dollars annually to operate and maintain the facility. The cost of the facility would translate into a 100% water rate increase that would need to be passed on to customers. Even if the Twin Cities did construct a plant at some point in the future, the Water Districts would need to continue their proactive land acquisition policy to protect the water at the source.

The proposed Zoning Ordinance text amendment seeks to reduce the septic system standards within the watershed. As this Ordinance has been in effect since the early 1970's and these particular standards have been in place since 1976. Due to the potential impact of the proposed Ordinance Staff has held numerous meetings with Normand R. Lamie, P.E., General Manager Auburn Water & Sewerage Districts and his City of Lewiston counterpart, David A. Jones, P.E. Director, Dept of Public Services. Both Mr. Lamie and Mr. Jones who have stated that the current Ordinance, which has been in place for over 30 years, "has worked extremely well in protecting the public water supply. Analysis of septic systems installed under the state plumbing code under the ordinance's "grandfather clause" clearly demonstrates that a number of these "state code" systems have repeatedly malfunctioned and needed to be replaced." They further believe that the Trustees of the Auburn Water District and Watershed Protection Commission would take a strong position in opposition to this Ordinance amendment & I strongly believe that the City Council of Lewiston would also be opposed as this effort which could lead to losing our "Waivers from Filtration" which in turn would mandate a multi-million dollar investment by both cities.

Attached you will find the following:

1. A copy of the Article 5, Section 5.3 (Lake Auburn Watershed Overlay District) of the City's Zoning Ordinance (Chapter 29) including the proposed text amendments. The proposed text additions are illustrated by underlined text and text deletions are illustrated with ~~strikethrough text~~.

2. A map illustrating the Lake Auburn Watershed boundaries.
3. A map illustrating the Lake Auburn Watershed boundaries and underlining zoning.
4. A letter from Normand Lamie, P.E., General Manager Auburn Water & Sewerage Districts to City Staff outlining the Districts position.
5. A letter from David A. Jones, P.E. Director, Dept of Public Services – City of Lewiston to the Lewiston City Council regarding this matter.
6. A copy of the submitted petition.

III. RECOMMENDATION:

After discussing this matter in detail with Mr. Lamie, Mr. Jones and Staff we (Staff) believe that the proposed Ordinance amendment would be a departure from long established Council policies, would go against the purpose statement for the Lake Auburn Watershed Overlay District (LAO) Ordinance, would be contrary to Comprehensive Plan “Policies” and “Strategies” and that the proposed Ordinance amendment could negatively impact the drinking source for the Twin Cities.

Therefore, Staff will is not supportive of the proposed text amendment and recommends that the Planning Board either **table** the proposed amendment until the City’s Comprehensive Plan Update, has been adopted by the State Planning Office & City Council, or forward an unfavorable recommendation to the City Council and request that they **deny** the proposed text amendment to Article 5, Section 5.3 (Lake Auburn Watershed Overlay District) of the City’s Zoning Ordinance (Chapter 29).

David C.M. Galbraith
Director of Planning & Permitting Services

Eric Cousens
City Planner & Code Enforcement Officer

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

Memorandum

To: Laurie Smith, Acting City Manager

For: Auburn City Council

From: David C.M. Galbraith, Director of Planning & Permitting

Date: September 27, 2007

Re: Lake Auburn Watershed (LAW) Ordinance Amendment

Overview of Planning Board public hearing of September 25, 2007:

The City of Auburn received a petition from at least twenty-five (25) registered voters to amend the City of Auburn Zoning Ordinance (Chapter 29). The proposed Zoning Ordinance text amendment includes changes to Article 5, Section 5.3 (Lake Auburn Watershed Overlay District). A public hearing before the Auburn Planning Board was held on September 25, 2007. At that hearing one person, the petitioner spoke in favor of the proposed text amendment. The petitioner was provided an opportunity to present his case but he made no presentation & decided to turn the floor over to opposing (our) views. Staff (Roland Miller, Economic Development Director & I) in addition to Normand Lamie, P.E., General Manager Auburn Water & Sewerage Districts, David A. Jones, P.E. Director, Department of Public Services for the City of Lewiston, Dan Bisson (Camp Dresser & Mckee - AWD & LWD consultant) and Carlton Gardner (Maine Drinking Water Program) gave presentations on the technical merits for maintaining the current Ordinance language. In addition one resident supported Staff's position. The Planning Board concurred with Staff's position that the existing Ordinance has protected the Lake Auburn Watershed (LAW), that the amendment would be a departure from long established Council policies, it would go against the purpose statement for the Lake Auburn Watershed Overlay District (LAO) Ordinance, would be contrary to Comprehensive Plan "Policies" and "Strategies" and that the proposed Ordinance amendment could negatively impact the drinking source for the Twin Cities. They further stated that they feel that no information was presented to support the proposed Ordinance amendment & a couple of members felt that the proposed Ordinance amendment would be a step backward and that perhaps the Ordinance should be amended to be even more restrictive. Therefore the Planning Board voted 6-0-0 to send an unfavorable recommendation to the City Council to **deny** the proposed text amendment to Article 5, Section 5.3 (Lake Auburn Watershed Overlay District) of the City's Zoning Ordinance (Chapter 29).

Background / History:

As you are aware the City has a total land area of 65.8 square miles of which 6.0 square miles of it is water. The City's largest lake is Lake Auburn, which is approximately four (4) square miles in

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(207) 333-6600 Voice • (207) 333-6601 Automated • (207) 333-6623 Fax

www.auburnmaine.org

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of the Auburn Water District and Watershed Protection Commission would take a strong position in opposition to this Ordinance amendment & I strongly believe that the City Council of Lewiston would also be opposed as this effort which could lead to losing our “Waivers from Filtration” which in turn would mandate a multi-million dollar investment by both cities.

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2. A map illustrating the Lake Auburn Watershed boundaries.

I have invited Mr. Lamie & Mr. Jones to the attend the City Council meeting where we will provide an overview of this matter, the public hearing and will be available to answer City Council questions.

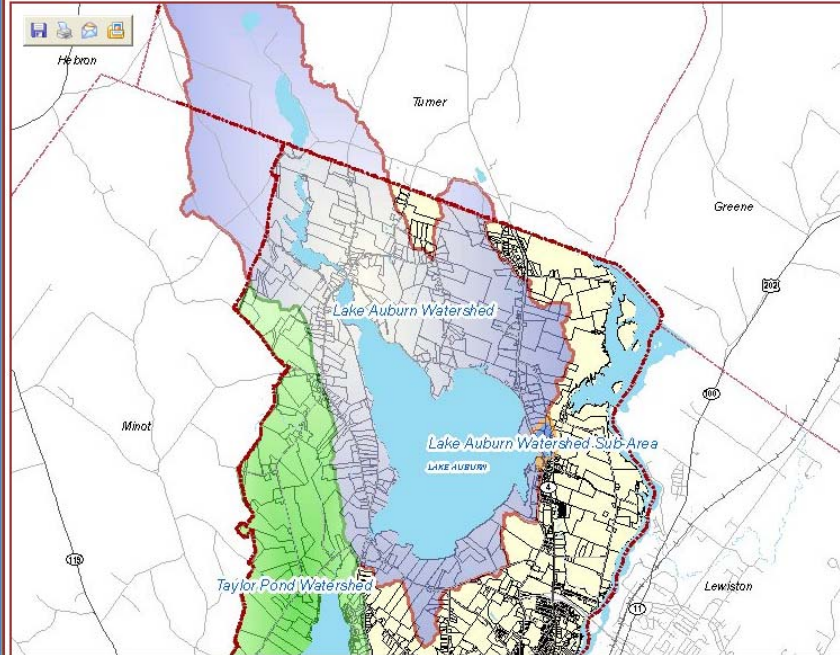
David C.M. Galbraith
Director of Planning & Permitting Services

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City Council

Agenda Information Sheet

Council Meeting Date 10/1/2007

Agenda Item No. 8

SUBJECT:

APPOINTMENT OF LOCAL HEALTH OFFICER

INFORMATION:

According to Title 22, Section 451 (Maine Revised Statutes Annotated) every municipality in the State shall employ an official who shall be know as the Local Health Officer. The Local Health Officer shall be appointed for a term of three years or until a successor is appointed.

STAFF COMMENTS/RECOMMENDATION:

Staff recommends that Dorothy Meagher be re-appointed as Auburn's Local Health Officer. Dot has been an employee of the City for 19 years and has served in this capacity since 2003.

REQUESTED ACTION:

Motion to appoint Dorothy Meagher as Local Health Officer until October 2010.

VOTE: