

Chapter 74

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***Cross references:** Buildings and building regulations, ch. 18; streets and sidewalks, ch. 66; zoning and land use, app. A.

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ARTICLE I. IN GENERAL

Secs. 74-1--74-25. Reserved.

ARTICLE II. SEWERS AND DRAINS*

***State law references:** Generally, 23 M.R.S.A. § 651 et seq., 30-A M.R.S.A. § 3401 et seq.

DIVISION 1. GENERALLY

Sec. 74-26. Definitions.

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

Applicant or *owner* means any person requesting approval to discharge domestic or industrial wastewaters into facilities of the city.

Authority means the Lewiston-Auburn water pollution control authority or its duly authorized representative.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of wastewater under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Combined sewer means a sewer receiving both wastewater and stormwater.

Director means the director of public works of the city or his authorized deputy, agent or representative.

Domestic sewer means a sewer which carries domestic wastewater and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Domestic wastewater means the wastewater derived principally from dwellings, business buildings, institutions, and the like. It may or may not contain groundwater, surface water or stormwater.

E.P.A. means the Environmental Protection Agency of the United States government.

Excessive means amounts or concentrations of a constituent of a wastewater which in the judgment of the city will cause damage to any sewerage facility, which will be harmful to a wastewater treatment process, which cannot be removed in the wastewater treatment works of the authority to the degree required to meet the limiting stream classification standards of the Androscoggin River, which can otherwise endanger life, limb or public property, and/or which can constitute a nuisance.

Facilities means and includes structures and conduits for the purpose of collecting, treating, neutralizing, stabilizing or disposing of domestic wastewater and/or industrial or other wastewaters as are disposed of by means of such structures and conduits, including treatment and disposal works, necessary intercepting, outfall and outlet sewers, and pumping stations integral to such facilities with sewers, equipment, furnishing thereof and other appurtenances connected

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therewith.

Garbage means the animal and vegetable wastes resulting from the handling, preparation, cooking and serving of food. It is composed largely of putrescible organic matter and its natural moisture content.

Industrial wastewater means the wastewater in which the liquid wastes from industrial manufacturing processes, laboratory, trade or business predominates as distinct from domestic wastewater.

Industry means an establishment with facilities for mechanical, testing, trade or manufacturing purposes.

pH means the reciprocal of the logarithm of the hydrogen ion concentration in grams per liter of solution.

Properly shredded garbage means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (1.27 cm) in any dimension.

Public sewer means a sewer in which all owners of abutting properties have equal rights, and is owned, maintained and controlled by public authority (the city).

Receiving waters means any watercourse, river, pond, ditch, lake, aquifer or other body of surface water or groundwater receiving discharge of wastewaters.

Sewer means a pipe or conduit for carrying wastewater.

Slug means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flow during normal operation.

Spill means the release, accidental or otherwise, of any material not normally released to the facilities, which by virtue of its volume, concentration or physical or chemical characteristics creates a hazard to the facilities, their operation or their personnel. Such characteristics shall include, but are not limited to, volatile, explosive, toxic or otherwise unacceptable materials.

Storm drain means a pipe or conduit for conveying rainwater, groundwater, subsurface water, condensate, cooling water or other similar discharge to a storm drain or combined sewer.

Suspended solids means solids that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are removable by laboratory filtering, and are referred to as nonfilterable residue in the laboratory test prescribed in Standard Methods for the Examination of Water and Wastewater, as published by the American Public Health Association, American Water Works Association and Water Environment Federation.

Wastes means substances in liquid, solid or gaseous form that can be carried in water.

Wastewater means the spent water of a community and may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water and stormwater that may be present.

Wastewater treatment works means any arrangement of devices and structures used for treating wastewater.

Wastewater works means all structures, equipment and processes for collecting, pumping,

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treating and disposing of wastewater.

(Code 1982, § 23-1)

Cross references: Definitions generally, § 1-2.

Sec. 74-27. Drainage plan approval required prior to issuance of building permit.

Prior to the issuance of any building permits for a lot or lots which are not serviced by a drainage plan approved by the director of public works, such plan shall be submitted by the developer of the lot or lots and shall be considered for approval by the director. The drainage plan shall show both sanitary and storm sewerage and, when requested by the director, water mains.

(Code 1982, § 23-2)

Sec. 74-28. Alteration of drainage areas regulated.

(a) For the purpose of this section, the following definitions shall apply:

Alteration or to alter means to dam, to ditch, to pipe, to dredge, to fill, to deposit material or to change the contours of the earth.

Drainageway means a stream or system of streams as well as the area needed to contain the runoff of and to such streams, as well as outfalls of culverts crossing roadways, driveways, walkways and railways.

Stream means any freely flowing water, whether permanent or intermittent.

- (b) No person shall alter the contours of any stream or drainageway, in any zone, without first obtaining an alteration permit from the building inspector, except when such alteration is conducted in accordance with an approved subdivision plan.
- (c) Alteration permits shall be issued by the building inspector, upon recommendation of the director of public works, when it is found that such alterations will not cause water to intrude upon adjacent parcels, that the flood-carrying capacity within the altered or relocated portion of the watercourse will be maintained, and that the alteration will not otherwise endanger the health, safety and welfare of the public. Permits for temporary alterations may be granted for a period not to exceed six months provided that no permanent alteration of the stream or drainageway shall occur.
- (d) The application to the building inspector for an alteration permit shall be supported by a plan detailing the following information:
- (1) Name and address of applicant.
 - (2) Name and address of the owner of the property on which the alteration is to take place.
 - (3) The exact location on the property of the proposed alteration.
 - (4) Reason for the proposed alteration.
 - (5) Description of work to be undertaken.
- (e) In granting an alteration permit, the building inspector shall impose reasonable conditions

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regarding the length of time required to complete the project, the area to be serviced, and any other conditions he finds to be necessary to protect the interest of the public, abutting owners or the city.

- (f) It will be the responsibility of the building inspector to determine if a violation has occurred, to notify the violator and owner, and to ensure that the violation is corrected.
- (g) The fee for an alteration permit, covering three visits by the building inspector, shall be \$5.00. If additional inspections are necessary, a surcharge of \$2.00 per extra visit will be charged.
- (h) Violation of this section shall be an offense.
- (i) The state bureau of civil emergency preparedness and the Federal Insurance Administration shall be notified in writing of all applications to alter or relocate a stream. In riverine situations, potentially affected adjacent communities shall also be notified.

(Code 1982, § 23-3)

Secs. 74-29--74-40. Reserved.

DIVISION 2. PUBLIC SYSTEMS

Sec. 74-41. Intent and purpose.

This division regulates the use of the public sewerage and drainage systems and the discharge of waters and wastes into the systems and provides for sewerage system use charges and for penalties for violations of this division.

(Code 1982, § 23-16)

Sec. 74-42. Use of public sewer required.

- (a) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located a public domestic or combined sewer of the city is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this division, within 90 days after date of official notice to do so, provided that such public sewer is within 100 feet of the property line.
- (b) The provisions of subsection (a) of this section shall not be applicable to an accessory structure located on the same lot as a principal building containing sanitary facilities which are available at all times to users or occupants of the accessory structure. If food is sold, served, prepared, processed, packaged or repackaged in or from the accessory structure, the provisions of this subsection do not apply.

(Code 1982, § 23-17)

Sec. 74-43. Permit required to connect to public sewer.

No private drain or sewer shall be entered into a public sewer or storm drain or any

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appurtenances thereof without a permit from the director of public works.

(Code 1982, § 23-18)

State law references: Authority to require sewer connection, 30-A M.R.S.A. § 3405.

Sec. 74-44. Application for permit; agreement required.

- (a) Applications for permits to connect or disconnect with any public sewer or drain must be made to the director of public works on a form prescribed and furnished by him at his office. It must be accompanied by a certificate from the plumbing inspector after the system of plumbing is approved by him. The application must be signed by the owner of the premises to be connected, or his attorney, and must state the location of premises and the name of the licensed plumber to be employed. All applications must be made prior to the commencement of any work thereon and be accompanied by a fee set by policy to cover the cost of processing the application and issuing the permit and inspecting the connection or disconnection with a public sewer or drain, such funds to be deposited directly into the sewer or drain account and used for sewer or drain purposes only. This fee shall be in addition to the system use charges and impact fee.
- (b) Each application under this division must include an agreement on the part of the owner to abide by all the provisions of this chapter and all the rules and regulations established by the director of public works and to waive any claim for damages in case of revocation as provided in section 74-54.
- (c) All applicants for permits for sewer connections involving industrial wastewater, in addition to compliance to subsections (a) and (b) of this section, shall also file application for a permit to discharge wastes to the facilities of the Lewiston-Auburn water pollution control authority. Such application shall be made directly to such authority, on forms provided by the authority, with a copy to the city.

(Code 1982, § 23-19)

Sec. 74-45. Notification before connection to public sewer.

The applicant for a building sewer permit shall notify the director of public works when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director of public works or his representative.

(Code 1982, § 23-20)

Sec. 74-46. Responsibility for connection costs.

All present or future costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Code 1982, § 23-21)

Sec. 74-47. Independent building sewers required.

A separate and independent building sewer shall be provided for every building; except

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where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(Code 1982, § 23-22)

Sec. 74-48. Excavations to be guarded; restoration of public property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Code 1982, § 23-23)

Sec. 74-49. Regulation of connection to public sewer generally.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other rules and regulations of the director of public works. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the director of public works before installation.

(Code 1982, § 23-24)

Sec. 74-50. Abandonment of service.

No person shall dismantle or move any building in this city having a service entrance into a public sewer without first having sealed the area of the entrance of the service into such building with a masonry plug. If, upon examination by the plumbing inspector, the sewer service is found to be unserviceable, the owner shall remove such service and seal the opening at the main. No such work shall be undertaken until a permit, as described in section 74-44, is obtained.

(Code 1982, § 23-25)

Sec. 74-51. Drain elevation.

Whenever possible, the building sewer shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means so that it may be discharged to the public sewer.

(Code 1982, § 23-26)

Sec. 74-52. Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they can be shown by the applicant to meet all requirements of this division.

(Code 1982, § 23-27)

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Sec. 74-53. Construction methods and materials.

The size, slope, alignment and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other rules and regulations of the director of public works.

(Code 1982, § 23-28)

Sec. 74-54. Revocation of permits to connect.

Permits to connect with a sewer may at any time be revoked and annulled by the director of public works or by the plumbing inspector for violation of section 74-44, and all parties in interest shall be held to have waived the right to claim damages on account of such revocation, provided that such revocation shall be annulled on compliance with the provisions in this chapter and the rules and regulations of the city council and director of public works.

(Code 1982, § 23-29)

Sec. 74-55. Disposal of unpolluted wastes.

- (a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any domestic sewer. Existing plumbing systems not meeting this requirement will be allowed until such time as repairs or renovations of the existing plumbing system make separation feasible.
- (b) Stormwater and all other unpolluted drainage shall be discharged to storm drains or to a natural outlet approved by the director of public works and the health officer. Industrial cooling water or unpolluted process water may be discharged upon approval of the director of public works to storm drains or natural outlets.
- (c) In areas where the sewer system consists of combined sewers or where connections of downspouts, surface drains, and other connections of unpolluted water to the wastewater system have been allowed, the city:
 - (1) Shall permit no new construction of combined wastewater and stormwater drainage systems on real properties. New wastewater and stormwater drainage service connections shall be kept separated;
 - (2) Wherever feasible, shall reduce or eliminate storm drain connections that permit the discharge into existing wastewater works of waters not containing domestic or industrial wastewaters;
 - (3) Shall require that joints and openings of all domestic wastewater systems shall be made watertight to prevent excess infiltration or exfiltration;
 - (4) Where circumstances make compliance with subsections (a) and (b) of this section impractical according to the judgment of the director of public works, then the director may approve a plan for discharge of such waters listed in subsections (a) and (b) of this section in an alternate manner, taking into consideration the existing sewer system, the effect of the plan on the environment of the area and on the sewer system for the city.

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(Code 1982, § 23-30)

Sec. 74-56. Harmful wastes prohibited.

- (a) No person shall discharge or cause or allow to be discharged into any sewer under the control of the city the following described substances, materials, waters or wastes if in the opinion of the authority or city council on recommendation of the director of public works such substances, materials, waters or wastes are in excessive amounts or concentrations.
- (b) Unless allowed under section 74-57, wastewaters and wastes considered to contain excessive constituents or characteristics as determined by the authority and the city, and therefore prohibited, include:
 - (1) Any wastewaters containing toxic or poisonous liquids, bases or solids in excessive quantity, either singly or by interaction with other wastes.
 - (2) Any wastewater, liquid or vapor having a temperature higher than 150 degrees Fahrenheit.
 - (3) Any wastewaters containing caustic alkalinity, calculated as CaCO₃ (calcium carbonate) in excess of 100 mg/l, or in volumes which may be excessive.
 - (4) Any wastewaters having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to sewers, structures, equipment, processes or personnel at the wastewater works.
 - (5) Any wastewaters containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
 - (6) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (7) Any solid or viscous substances in such quantities or of such size as to be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (8) Any garbage that has not been properly shredded.
 - (9) Any wastewaters containing excessive amounts of iron, chromium, copper, zinc, mercury, mineral acid and similar objectionable or toxic substances.
 - (10) Any wastewaters containing phenols or other taste- or odor-producing substances in excessive amounts.
 - (11) Any radioactive wastes or isotopes in excessive amounts or of such halflife or concentration as may exceed limits established in applicable state or federal regulations or by the authority or city.

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- (12) Any wastewaters containing:
 - a. An average concentration of suspended solids in excess of 400 mg/l or an average concentration of excessive dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) of 600 mg/l.
 - b. Materials which cause excessive discoloration, such as, but not limited to, dye wastes and vegetable tanning solutions.
 - c. An average concentration of BOD in excess of 500 mg/l, or material which causes unusual chemical oxygen demand, or chlorine requirements.
 - d. Materials in such concentration as to constitute slugs.
 - e. Materials which are not amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such a limited degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 - f. Septic tank solids except under specific license from the authority and at locations designated by the authority.
- (c) Persons who desire to discharge industrial wastewaters into facilities of the city shall make their formal application to the authority, with a copy to the city. In forming an opinion as to the limitations on acceptability of any wastes, the city and the authority will give consideration to such factors as the quantities of subject wastes in relation to flow and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors.
- (d) Any person discharging industrial wastewaters directly or indirectly into facilities of the city that do not comply with this division may be subject to action by the city or authority, which action may include, but not be limited to, the withdrawal of permission to discharge wastewaters into facilities of the city.
- (e) Limits of acceptable amounts and concentrations of the constituents of wastewater to be discharged to facilities of the city shall be the same as are established by the authority.
- (f) Any spill as defined in section 74-26 shall be reported immediately to the authority.
- (g) Any damages experienced by the facility as the result of a spill are considered a violation of this division and costs for repair, replacement or other associated costs are recoverable under section 74-63.

(Code 1982, § 23-31)

Sec. 74-57. Control of wastewater, waste strength.

If any wastewaters or wastes are discharged or are proposed to be discharged to the public sewers, containing excessive substances or possessing excessive characteristics, as enumerated in section 74-56, the city may:

- (1) Reject the wastewaters or the wastes;

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- (2) Require that pretreatment of wastewaters or wastes be provided to modify them to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge of the wastewaters or the wastes; and/or
- (4) Require payment to cover the added costs of handling and treating the wastes not covered by sewerage use charges under the provisions of sections 74-67 and 74-68.

(Code 1982, § 23-32)

Sec. 74-58. Grease, oil and sand interceptors; maintenance of preliminary treatment and flow-equalizing facilities.

- (a) Grease, oil and sand interceptors shall be provided when, in the opinion of the director of public works or the authority, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the director of public works and the authority, and shall be located as to be readily and easily accessible for cleaning and inspection.
- (b) When preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Code 1982, § 23-33)

Sec. 74-59. Control structures and flow-measuring devices.

When required by the director of public works or the authority, the owner of any property served by a public sewer carrying industrial wastes shall install a suitable control structure and wastewater flow-measuring and monitoring device in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures and measuring devices, when required, shall be accessible and safely located and shall be constructed in accordance with the plans approved by the director of public works and the authority. The structure and flow-measuring device shall be installed by the owner at his own expense and shall be maintained by him so as to meet the standards set by the director of public works and the authority at all times.

(Code 1982, § 23-34)

Sec. 74-60. Preliminary treatment facilities generally.

The applicant shall provide such works for the preliminary treatment of the wastewater, drainage, substances or wastes as may be required to carry out the purpose of this division by the city and the authority, and the applicant will permit duly authorized representatives of the city or the authority to enter the premises of the industry to sample and measure wastewaters, as needed to check characteristics of the wastewaters, when so directed by the authority. Applications for pretreatment facilities are to be accompanied by plans, specifications and other pertinent information relating to these facilities; along with data showing essential characteristics of all wastewater outlets, analyses of existing wastewater (see section 74-66), and statements as to

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existing and expected average and maximum wastewater flows. All of this information must be submitted to and approved by the city and the authority prior to initiating discharge into facilities of the authority or the city. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and efficient operation by the owner at his expense.

(Code 1982, § 23-35)

Sec. 74-61. Standard tests.

All measurements, tests and analyses of the characteristics of the waters and wastes to which reference is made in section 74-66 shall be determined in accordance with the Standard Methods for the Examination of Water and Sewage and shall be determined at the control structure provided for in section 74-59, or upon suitable samples taken at the control structure. If no special structure has been required, a control structure shall be considered to be the nearest downstream manhole to the public sewer from the point at which the building sewer is connected.

(Code 1982, § 23-36)

Sec. 74-62. Notice and cessation of violations.

Any person found to be violating or in violation of any provision of this division shall be served by the city council, on recommendation of the director of public works, with a written notice stating the nature of the violation and providing a reasonable time limit, as determined by the director, for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all such violations.

(Code 1982, § 23-37)

Sec. 74-63. Liability of violator.

Any person violating any of the provisions of this division shall become liable to the city for any expense, loss or damage occasioned by the city by reason of such violation.

(Code 1982, § 23-38)

Sec. 74-64. Reports of industrial wastewater discharges; applicant to collect, analyze wastewater.

- (a) If deemed necessary by the director of public works, each applicant shall submit an annual report on July 1 each year, or such other time as designated by the authority, to the authority, with a copy to the city, containing information as to the minimum, average and peak flows of industrial wastewater discharges during the previous year and at such time or times designated by the authority, accompanied by designated analyses of wastewater samplings taken in an acceptable manner at approved times during the flow measuring periods.
- (b) Each applicant will be responsible, at his own expense, to collect and analyze wastewater from his property in a manner prescribed by the city.

(Code 1982, § 23-39)

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Sec. 74-65. Special agreement to treat industrial waste.

No statement contained in this division shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern.

(Code 1982, § 23-40)

Sec. 74-66. Measurements and analyses of industrial wastes.

Measurement and analyses of industrial wastes are to include, but not necessarily be limited to, items from the following list where applicable. The analyses are to be conducted in accordance with the methods prescribed in the latest edition of Standard Methods for the Examination of Water and Waste Water, as published by the American Public Health Association, American Water Works Association and Water Environment Federation. If any item is not applicable, it shall be so stated on the report of the measurements and the reason for deletion stated.

(1) *Physical parameters:*

Flow

pH

Temperature

Color

Specific conductance

(2) *Chemical parameters:*

Total solids

Total volatile solids

Total suspended solids

Total dissolved solids

Acidity

Alkalinity

Five-day BOD

COD

Oil and grease

Chloride

Sulfate

Sulfide

Phenols

UTILITIES

NH₃ (as N)

NO₃ (as N)

NO₂ (as N)

Kjeldahl organic nitrogen (as N)

Ortho-phosphorous (as P)

Total phosphorous

Cr, Cu, Fe, Cd, Pb, Mn, Zn, F, As, Hg

(Code 1982, § 23-41)

Sec. 74-67. Sewerage system use charges.

- (a) From time to time, the city council upon recommendation from the director of public works and city administrator shall, after public notice and hearing, establish a schedule of rates for sewerage system use charges. The rate schedule shall include a minimum rate and a surcharge for high concentration wastewater.
- (b) The quantity of wastewater shall be the actual quantity of water supplied as determined from the water meter readings made by the water division of the department of public works, except that the director of public works upon approval of the city administrator shall adjust the amount of wastewater where it can be determined that the amount of wastewater is greater than or less than the amount of water supplied by the water division.
- (c) Where domestic wastewater is discharged by a person to a public sewer and water is supplied from sources other than the water department, the quantity of wastewater discharged shall be determined as the average quantity of wastewater discharged by five similar persons. Upon request by the person, the sewer department of the department of public works will install a water meter in the water supply system of the person for the purpose of determining the quantity of wastewater discharged.
- (d) The surcharge for high concentration wastewater shall be determined as provided for in section 74-68.
- (e) Billing for sewerage system use charges may be made quarterly.
- (f) Where sewerage system use charges are not paid within a reasonable time, the lien provisions of 30-A M.R.S.A. § 3406 shall become applicable to the unpaid balance.
- (g) The sewerage system use charges established in this division shall be collected from the owners, occupants and users of the premises within the city at the owner's cost.

(Code 1982, § 23-42)

Sec. 74-68. Surcharge limits defined.

- (a) Where the strength or characteristics of wastewater accepted into the public sewers exceeds the standards set forth in this section, and subject to the conditions set forth in section 74-57, a surcharge shall be added to the normal sewerage use charge. For the

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purpose of fixing surcharge rates, the characteristics indicating surchargeable wastewater strength are:

Suspended solids in excess of 300 mg/l.

Biochemical oxygen demand in excess of 250 mg/l.

- (b) The city may adjust these surchargeable characteristics and the surcharge levels whenever necessary.
- (c) This section does not interfere with the right of an industry to make a special agreement or arrangement with the city (section 74-65).

(Code 1982, § 23-43)

Secs. 74-69--74-80. Reserved.

DIVISION 3. PRIVATE FACILITIES

Sec. 74-81. Minimum standards; disclaimer of liability.

The provisions of this division are to be considered minimal, and compliance therewith shall not constitute or be construed to be grounds for any action against or liability on the part of the city or any of its employees for any subsequent failure of any part or of the whole of any sewage disposal system except as may be provided for by law.

(Code 1982, § 23-61)

Sec. 74-82. Violator's liability.

Any person violating any of the provisions of this division shall become liable to the city for any expense, loss or damage occasioned to the city by reason of such violation.

(Code 1982, § 23-62)

Sec. 74-83. Notice of violation.

Any person found to be violating or in violation of any provision of this division shall be served by the city, by its health officer, with a written notice stating the nature of the violation and providing a reasonable time limit, as determined by the plumbing inspector, for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all such violations.

(Code 1982, § 23-63)

Sec. 74-84. Sanitary facilities required.

- (a) Every building intended for human habitation, use or occupancy shall have sanitary facilities for disposing of human excreta and liquid conveyed material, including bathroom, kitchen and laundry wastes, approved by the plumbing inspector as provided for in this division.
- (b) The provisions of subsection (a) of this section shall not be applicable to an accessory

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structure located on the same lot as a principal building containing sanitary facilities which are available at all times to users or occupants of the accessory structure. If food is sold, served, prepared, processed, packaged or repackaged in or from the accessory structure, the provisions of this subsection do not apply.

(Code 1982, § 23-64)

Sec. 74-85. Independent system for each building; exception.

- (a) The sewer or drain and plumbing system of each new building and of new work installed in an existing building shall be separate from and independent of that of any other building except as provided for in this division; and every building shall have an independent connection with a public or community sewerage system when available, or a private sewage disposal system.
- (b) When one building stands or is to be constructed in the rear of another building on an interior lot and no sewer or drain is available or can be constructed to the rear building, the sewer or drain of the front building may be extended to the rear building and the whole will be considered as an independent connection.

(Code 1982, § 23-65)

Sec. 74-86. Existing systems--Use and abandonment.

The sewer or drain of a new building may be connected to an existing sewer or drain or sewage disposal system if, on examination and test, the existing sewer or drain or sewage disposal system is found to be adequate and in suitable condition for further use as provided for in this division. Any sewer or drain or sewage disposal system found not adequate or suitable shall be altered to meet the requirements of this division or shall be abandoned. Every abandoned sewer or drain shall be plugged with concrete for at least one foot of its length or, if the sewer or drain extends into a building, it shall be stopped by capping the sewer or drain with a cap properly leaded in place. Every abandoned septic tank or cesspool shall be drained and then filled with gravel or earth or other suitable material.

(Code 1982, § 23-76)

Sec. 74-87. Same--Inspection and permits.

The determination of the adequacy and condition of any existing sewer or drain connected to a public or community sewerage system shall be made by the director of public works and he shall issue a permit to make use of such existing sewer or drain only when the provisions of this division have been complied with. If such existing sewer or drain or sewage disposal system is private, the determination of its adequacy and condition shall be made by the plumbing inspector and he shall issue a permit to make use of such existing sewer or drain or sewage disposal system only when the provisions of this division have been complied with.

(Code 1982, § 23-77)

Sec. 74-88. Installation to be made apart from other utilities, exception.

The sewer or drain shall be installed in a trench not used in common with any other

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utility except that when the sewer or drain is installed in a trench excavated through bedrock, the director of public works may, at his discretion, permit joint use of the trench with other utilities in accordance with such rules and regulations as he may prescribe.

(Code 1982, § 23-78)

Sec. 74-89. Connection to public or community system.

If a public or community sewage disposal system is extended to the point where it becomes feasible to connect a sewer or drain already connected to a private sewage disposal system, such sewer or drain shall be connected without delay to the public or community system if the health officer declares that the operation or failure of the private sewage disposal system constitutes a nuisance or health hazard. The owner of the private sewage disposal system shall, at his own expense, connect his sewer or drain to the public or community system. No effluent from any septic tank or cesspool shall be allowed to enter a public or community sewage disposal system without prior approval from the director of public works.

(Code 1982, § 23-79)

Secs. 74-90--74-100. Reserved.

DIVISION 4. SEWER ASSESSMENTS

Sec. 74-101. Purpose.

The purpose of this division is to provide a means for property abutters to pay a sewer assessment on a term basis whenever a sanitary sewer project is undertaken. The abutter may choose to pay the assessment on a lump sum basis or on a term basis.

(Code 1982, § 23-101)

Sec. 74-102. Authorization to adopt policy.

The city council shall adopt a sanitary sewer assessment policy to carry out the purpose of this division, pursuant to 30-A M.R.S.A. § 3442.

(Code 1982, § 23-102)

Sec. 74-103. Payment on term basis.

The abutter opting for payment under this division on a term basis shall comply with the policy prescribed by the city council, and further execute an agreement to be recorded in the county registry of deeds.

(Code 1982, § 23-103)

Sec. 74-104. Payment due, interest rate.

The city council shall annually file with the collector a list of installment payments due the city, which shall be collected at the rate determined by the city council.

(Code 1982, § 23-104)

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Secs. 74-105--74-115. Reserved.

DIVISION 5. SEWER IMPACT FEES*

*State law references: Authority to establish schedule of charges for sewage disposal, 30-A M.R.S.A. § 3406.

Sec. 74-116. Purpose.

The purpose of this division is to provide a means for sanitary sewer users to pay a fee to offset the effect additional sewer connections and use will have on the existing sanitary sewer system and a means for sanitary sewer users to pay their fair share of the existing sewer system and improvements thereto, including sewer mains, pumping stations and the wastewater treatment plant. The fees shall be used to offset the effect of new or changed connections to the existing sanitary sewer system as may be provided by the capital improvement program, section 6.05 of the Charter. Such fees shall be paid prior to the issuance of a building permit and/or a sewer connection permit. Such fees may be applicable to both new structures and/or uses and existing structures and/or uses.

(Code 1982, § 23-125)

Sec. 74-117. Authorization to adopt policy.

The city council shall adopt a sewer impact fee policy to carry out the purpose of this division.

(Code 1982, § 23-126)

Secs. 74-118--74-199. Reserved.

ARTICLE III. NON-STORM WATER DISCHARGE

Sec. 74-200. Purpose.

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the City of Lewiston through the regulation of non-storm water discharges to the municipality's storm drainage system as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the city's storm drainage system in order to comply with requirements of the Federal Clean Water Act and state law.

(Ord. No. 05-14, 9-8-05)

Sec. 74-201. Objectives.

The objectives of this article are:

- (1) To prohibit unpermitted or unallowed non-storm water discharges to the storm drainage system; and
- (2) To set forth the legal authority and procedures to carry out all inspection, monitoring and enforcement activities necessary to ensure compliance with this

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article.

(Ord. No. 05-14, 9-8-05)

Sec. 74-202. Definitions.

For the purposes of this article, the following shall mean:

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq., also known as the "Clean Water Act"), and any subsequent amendments thereto.

Discharge. "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to "waters of the state", "direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Enforcement authority. The person(s) or department authorized under section 74-204 of this article shall administer and enforce this article.

Exempt person or discharge. Means any person who is subject to a multi-sector general permit for industrial activities, a general permit for construction activity, a general permit for the discharge of stormwater from the Maine Department of Transportation and the Maine Turnpike Authority Municipal Separate Storm Sewer Systems, or a general permit for the discharge of stormwater from state or federally owned authority municipal separate storm sewer system facilities; and any non-storm water discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. Environmental Protection Agency ("EPA") or the Maine Department of Environmental Protection ("DEP").

Illicit discharge. Any direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in this article. The term does not include a discharge in compliance with an NPDES storm water discharge permit or a surface water discharge permit, or resulting from fire fighting activities exempted pursuant to this article.

Industrial activity. Activity or activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

Municipality. The City of Lewiston, Maine.

Municipal separate storm sewer system, or MS4. "Municipal separate storm sewer system" or "MS4" means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, state agency or federal agency or other public entity that discharges directly to surface waters of the state.

National pollutant discharge elimination system (NPDES) storm water discharge permit. This means a permit issued by the EPA or by the DEP that authorizes the

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discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-storm water discharge. Means any discharge to an MS4 that is not composed entirely of storm water.

Person. Means any individual, firm, corporation, municipality, quasi-municipal corporation, state agency or federal agency or other legal entity which creates, initiates, originates or maintains a discharge of storm water or a non-storm water discharge.

Pollutant. Means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Premises. Means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the storm drainage system are or may be created, initiated, originated or maintained.

Regulated small MS4. "Regulated small MS4" means any small MS4 regulated by the State of Maine "General permit for the discharge of stormwater from small municipal separate storm sewer systems", dated June 3, 2003 ("general permit"), including all those located partially or entirely within an urbanized area (UA) and those additional small MS4s located outside a UA that as of the issuance of the general permit have been designated by the DEP as regulated small MS4s.

Small municipal separate storm sewer system, or small MS4, means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, state or federally-owned systems, such as colleges, universities, prisons, Maine Department of Transportation and Maine Turnpike Authority road systems and facilities, and military bases and facilities.

Storm drainage system. The municipality's regulated small MS4 and areas outside the UA that drain into the regulated MS4 and all premises.

Storm water. Any storm water runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "storm water".

Urbanized area ("UA"). "Urbanized area" or "UA" means the areas of the State of Maine so defined by the latest decennial census by the U.S. Bureau of the Census.

(Ord. No. 05-14, 9-8-05)

Sec. 74-203. Applicability.

This article shall apply to all persons discharging storm water and/or non-storm water discharges from any premises into the storm drainage system.

(Ord. No. 05-14, 9-8-05)

Sec. 74-204. Responsibility for administration.

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The city administrator or his/her designee is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(Ord. No. 05-14, 9-8-05)

Sec. 74-205. Prohibition of non-storm water discharges.

- (a) *General prohibition.* Except as allowed or exempted herein, no person shall create, initiate, originate or maintain a non-storm water discharge to the storm drainage system. Such non-storm water discharges are prohibited notwithstanding the fact that the municipality may have approved the connections, drains or conveyances by which a person discharges un-allowed non-storm water discharges to the storm drainage system.
- (b) *Allowed non-storm water discharges.* The creation, initiation, origination or maintenance of the following non-storm water discharges to the storm drainage system is allowed:
 - (1) Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)); uncontaminated pumped ground water; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; and individual residential car washing;
 - (2) Discharges specified in writing by the enforcement authority as being necessary to protect public health and safety; and
 - (3) Dye testing, with verbal notification to the enforcement authority prior to the time of the test.
- (c) *Exempt person or discharge.* This article shall not apply to an exempt person or discharge, except that the enforcement authority may request from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the discharge(s).

(Ord. No. 05-14, 9-8-05)

Sec. 74-206. Suspension of access to the municipality's small MS4.

The enforcement authority may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened non-storm water discharge(s) to the storm drainage system which present or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the municipality to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize non-storm water discharges to the storm drainage system. If the person fails to comply with a suspension order issued in an emergency,

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the enforcement authority may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons, provided, however, that in taking such steps the enforcement authority may only enter upon the premises that is the source of the actual or threatened non-storm water discharge to the storm drainage system with the consent of the premises' owner, occupant or agent. (Ord. No. 05-14, 9-8-05)

Sec. 74-207. Monitoring of discharges.

In order to determine compliance with this article, the enforcement authority may enter upon and inspect premises subject to this article at reasonable hours with the consent of the premises' owner, occupant or agent; to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring sampling and testing of the discharge to the storm drainage system.

(Ord. No. 05-14, 9-8-05)

Sec. 74-208. Enforcement.

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this article. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

- (1) *Notice of violation.* Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may order compliance with this article by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
 - a. The elimination of non-storm water discharges to the storm drainage system;
 - b. The cessation of discharges, practices, or operations in violation of this article;
 - c. At the person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-storm water discharges to the storm drainage system and the restoration of any affected property; and/or
 - d. The payment of fines, of the municipality's remediation costs and of the municipality's reasonable administrative costs and attorneys' fees and costs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.
- (2) *Penalties/fines/injunctive relief.* Any person who violates this article shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violations continues shall constitute a separate

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violation. Moreover, any person who violates this article also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the municipality for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

- (3) *Consent agreement.* The enforcement authority may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.
- (4) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the board of appeals in accordance with the City's Code of Ordinances. The notice of appeal must be received within 30 days from the date of the notice of violation. The board of appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The board of appeals may affirm, reverse or modify the decision of the enforcement authority. A suspension under section 74-206 of this article remains in place unless or until lifted by the board of appeals or by a reviewing court. A party aggrieved by the decision of the board of appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the board of appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (5) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 45 days of the decision of the municipal board of appeals upholding the decision of the enforcement authority, then the enforcement authority may recommend to the municipal officers that the town attorney file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.
- (6) *Ultimate responsibility of discharger.* The standards set forth herein are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This article shall not create liability on the part of the municipality, or any agent or employee thereof for any damages that result from any person's reliance on this article or any administrative decision lawfully made hereunder.

(Ord. No. 05-14, 9-8-05)

Sec. 74-209. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this article.

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(Ord. No. 05-14, 9-8-05)

Sec. 74-210. Basis.

The City of Lewiston enacts this article pursuant to 30-A M.R.S.A. § 3001 (Municipal Home Rule Ordinance Authority), 38 M.R.S.A. § 413 (the "Wastewater Discharge Law"), 33 U.S.C. § 1251 et seq. (the "Clean Water Act"), and 40 CFR Part 122 (U.S. Environmental Protection Agency's regulations governing the National Pollutant Discharge Elimination System ("NPDES")). The Maine Department of Environmental Protection, through its promulgation of the "general permit for the discharge of stormwater from small municipal separate storm sewer systems", dated June 3, 2003, has listed the City of Lewiston as having a regulated small municipal separate storm sewer system ("small MS4"); under this general permit, listing as a regulated small MS4 necessitates enactment of this article as part of the municipality's storm water management program.

(Ord. No. 05-14, 9-8-05)

Secs. 74-211--74-299. Reserved.

ARTICLE IV. STORMWATER UTILITY

Sec. 74-300. Findings.

Whereas the city council finds that water quality in the watersheds within and surrounding the city, including but not limited to watersheds associated with the Androscoggin River, No Name Pond, Garcelon Bog, Jepson Brook, Hart Brook, No Name Brook, Stetson Brook, Gully Brook, Goff Brook, Moody Brook and Salmon Brook, along with their tributaries are potentially threatened by pollutants associated with existing land use and future development; and

Whereas the city council finds that poor water quality in the watershed can threaten public health, safety, and welfare; and

Whereas the existing stormwater management system is deteriorating and may be inadequate to meet existing and future needs, and flooding concerns may arise; and

Whereas requirements of the U.S. Environmental Protection Agency ("EPA") demand a comprehensive approach to municipal stormwater management, and the city wishes to take a proactive approach to these requirements; and

The city council makes the following additional findings:

- The stormwater management needs of the city have been identified in a needs analysis entitled (Stormwater/CSO Utility Feasibility Study Preliminary Results) dated April 11, 2002, by Camp Dresser and McKee, Inc. and an analysis entitled "Clean Water Act Master Plan" dated December 12, 2000, by Metcalf & Eddy ("stormwater studies") that indicate more effective stormwater management in the city would contribute to the health, safety and welfare of the residents. Further, this analysis reveals that stormwater facilities and activities associated with stormwater management provide services and benefits to all properties, property owners, residents and citizens of the city.

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- Given the scope of stormwater management needs identified by the stormwater studies, it is appropriate and necessary to authorize the formation of a stormwater utility unit, as a program comprised of personnel from the city's department of public services and department of public works and with dedicated funding components, charged with the responsibility to establish, operate, maintain, control, and enhance the stormwater management programs, services, systems, and facilities of the city.
- In order to establish, operate, and maintain the stormwater infrastructure of the city, ensure the future usefulness of the existing system through additions and improvements, and provide other services associated with stormwater and watershed management, sufficient and stable funding is required for the operation, maintenance and improvement of the stormwater management programs, services, systems, and facilities of the city.
- A stormwater utility service fee schedule that efficiently takes into account impervious surface area, and uses intensity and nature of land use as the most appropriate and equitable method of allocating the cost of stormwater management programs, services, systems, and facilities of the city and between and among rural and urbanized areas of the city and residential dwelling units, non-residential properties and other developed lands for governing assessments and collections of the utility.

(Ord. No. 06-10, 7-27-06)

Sec. 74-301. Purpose.

Stormwater runoff is one (1) of the largest contributors to water quality violations in urban and urbanizing areas of Maine. According to the US EPA, polluted stormwater runoff is a leading cause of impairment to the nearly forty (40) percent of surveyed U.S. water bodies which do not meet water quality standards (U.S. EPA, 1995). When polluted stormwater runoff is discharged directly into surface water bodies, several adverse effects can occur: public health can be threatened from contaminated drinking water sources, food sources, and recreational waters; aquatic habitats can be damaged or destroyed; and aesthetic values of waterways can decline. Management of stormwater is critical to ensuring the integrity of valuable surface water resources. An effective approach to managing stormwater and related impacts is creation of a utility that delivers stormwater management services to a community.

Therefore, the city hereby establishes a stormwater management utility for the following purposes:

- To determine the necessary level of municipal stormwater management services for the city;
- To maintain and improve the drainage facilities of the city, to ensure that they perform to design capacity while using best management practices to meet local, state, and federal water quality standards;
- To mitigate the damaging effects of uncontrolled and unmanaged stormwater runoff;
- To support and promote sound stormwater management practices that mitigate non-point source pollution, reduce flooding, and enhance area drainage within the city

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and;

- To support the goals and objectives of the city ordinances addressing stormwater management in other sections of this Code of Ordinances and to comply with applicable law, including the Maine Department of Environmental Protection Stormwater Management Regulations.

(Ord. No. 06-10, 7-27-06)

Sec. 74-302. Authority and jurisdiction.

- (a) Under the authority of the Maine Constitution, Article VIII, and Title 30-A M.R.S.A. § 3001, the city hereby establishes the Lewiston Stormwater Utility ("utility") as a program comprised of personnel of the department of public services and department of public works to provide stormwater management programs, services, systems, and facilities of the city. The city administrator will appoint a superintendent of stormwater management and a director of field operations to carry out the responsibilities of the utility.
- (b) The utility or its designee is authorized to assess and collect service fees from all persons owning land within the municipality that benefit from the services provided by the utility, including all persons that own land from which stormwater runoff discharges directly or indirectly to the stormwater management systems and facilities managed by the utility.
- (c) The utility will assume all responsibility for providing stormwater management programs, services, systems, and facilities of the city, including maintaining and improving stormwater infrastructure; providing engineering services for stormwater management; regulating, in accordance with local, state and federal regulations, stormwater discharges from each parcel contributing to the stormwater management systems and facilities; and collecting utility fees. The superintendent of stormwater management, or his/her designated representative, is authorized to make recommendations for stormwater management plans during any required review process for new and/or existing development.
- (d) The boundaries and jurisdiction of the stormwater utility shall encompass all portions of the City of Lewiston.

(Ord. No. 06-10, 7-27-06)

Sec. 74-303. Definitions.

The definitions contained in Maine's Stormwater Management Law and Regulations (38 M.R.S.A. § 420D; 06-096 CMR Ch. 500 (Oct. 30, 2005)), are incorporated herein by reference. Additional terms used in this article are defined as follows:

Credit: Credit shall mean a conditional reduction in the amount of a stormwater service fee to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility or other service or activity that reduces the stormwater management utility's cost of providing services.

Customers of the stormwater utility: Customers of the stormwater utility shall include all persons, properties, and entities served by and/or benefiting from the utility's

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acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and persons, properties, and entities which will ultimately be served or benefited as a result of the stormwater management program.

Developed land: Developed land shall mean property altered from its natural state by removal of vegetation, construction, or installation of improvements such as buildings, structures, or other impervious surfaces, or by other alteration of the property that results in a meaningful change in the hydrology of the property during and following rainfall events (agricultural and forestry operations that do not create impervious surface area excepted).

Ephemeral stream: A channel that flows only during wet weather following a precipitation event and typically flows no more than a few days after the storm.

Equivalent residential unit (ERU): A measure used to standardize the utility service fees for residential properties, or classes of residential properties, and based on the average amount of impervious area of a base residential parcel. The ERU shall also be used as the basis for standardizing and determining the equivalent size of non-residential properties and other developed lands. The staff of the utility, together with consulting engineers, shall undertake an analysis to identify the amount of square feet of impervious surface area of an ERU and this will be identified as part of the stormwater service fee schedule policy.

Exemption: Exemption shall mean not applying to, or removing the application of the stormwater management utility service fee from, a property. No permanent exemption shall be granted based on taxable or non-taxable status or economic status of the property owner.

Hydrologic response: The hydrologic response of a property is the manner whereby stormwater collects, remains, infiltrates, and is conveyed from a property.

Impervious surfaces: Impervious surfaces are those areas that prevent or impede the infiltration of stormwater into the soil as it entered in natural conditions prior to development. Impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces that prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

Intermittent stream: A stream or river that flows during both wet and dry weather only during the wettest part of the year and exhibits no flow during dry weather during at least a portion of the year, and is depicted as a thin solid line on United States Geological Survey (USGS) quadrangle maps.

Other developed lands: Other developed lands shall mean, but not be limited to, mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, colleges, research facilities and stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water and wastewater treatment plants, and lands in other uses which alter the hydrology of the property from

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that which would exist in a natural state.

Perennial stream: A stream or river that flows during both wet and dry weather throughout the year and over multiple years in duration, and that is depicted as a bold line on USGS quadrangle maps.

Pollution: The contamination or other alteration of the physical, chemical or biological properties of any natural waters of the City of Lewiston, or the discharge of any liquid, gaseous, solid or radioactive or other substance into any such waters as will or is likely to create a nuisance, or render such water harmful, detrimental, or injurious to the public health, safety and welfare or to other beneficial uses.

Residential dwelling unit: Residential dwelling unit shall mean developed land containing one or more structures and which contains one or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy for dwelling purposes. Dwelling units may include single-family houses, single duplex units under common ownership, manufactured homes, condominiums, townhouses, and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a residential dwelling unit despite the presence of incidental structures associated with residential uses such as barns, garages, carports, or small storage buildings such as tool sheds or woodsheds.

Stormwater: Precipitation as it falls to the earth, surface runoff and drainage, and paths taken by such water.

Stormwater management programs, services, systems, and facilities: Stormwater management programs, services, systems, and facilities are those administrative, engineering, operational, regulatory, and capital improvement activities and functions performed by the City of Lewiston in connection with managing the stormwater management systems and facilities of the city, plus all other activities and functions necessary to support the provision of such programs and services.

Stormwater management systems and facilities: Those natural and man-made channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, city and state roads including the Maine Turnpike and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff and its discharge to and impact upon receiving waters.

Stormwater service fees: Stormwater service fees shall mean the periodic service fee imposed pursuant to this article for the purpose of funding costs related to stormwater management programs, services, systems, and facilities.

Stormwater service fee schedule policy: The policy approved by the city council identifying the specific fee structure and formulas upon which stormwater service fees and credits will be based.

Undeveloped land: Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted dirt or gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to

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collect, concentrate, or flow in a manner materially different than that which would occur naturally.

Lewiston Stormwater Utility: The program within the City of Lewiston staffed by the public services department and public works department, responsible for providing the stormwater management programs, services, systems, and facilities pursuant to this article.

(Ord. No. 06-10, 7-27-06; Ord. No. 06-14, 11-2-06)

Sec. 74-304. Establishment of stormwater fund.

- (a) The city administrator shall establish a dedicated stormwater fund in the city budget and an accounting system for the purpose of managing all funds collected for the purposes and responsibilities of the utility. All revenues and receipts of the utility shall be placed in the stormwater fund, which shall be separate from all other funds, and only the expenses of stormwater management programs, services, systems, and facilities of the city shall be paid by the fund.
- (b) The utility and the stormwater fund may also accept loans, state, federal and private grants, and allocations of funds from the city's general fund or special purpose funds.
- (c) Stormwater service fees will be set at a rate that covers the costs necessary to carry out the stormwater management programs, services, systems and facilities approved by the city as necessary to carry out the functions of the utility. Expenditure of funds from the stormwater fund is limited to the following:
 - Operating expenses;
 - Non-operating expenses, such as equipment and supplies;
 - Payment on principal and interest on debt obligations;
 - Capital investments including stormwater best management practices (BMPs) and components (e.g., purchase of plants and other amenities to support stormwater management alternatives utilizing vegetation);
 - Reserve expenses; and
 - Others costs as deemed necessary by the city council.

(Ord. No. 06-10, 7-27-06)

Sec. 74-305. Requirements for on-site stormwater management.

All property owners and developers of property within the city shall provide, manage, maintain and operate their stormwater systems to meet all requirements of the Maine Stormwater Management Law, and regulations and all other applicable stormwater management requirements now specified or later specified in this Code of Ordinances, including, but not limited to, the non-stormwater discharge ordinance (section 74-200 et seq.), the private stormwater elimination policy, and applicable development performance standards contained in the Code of Ordinances. The city council hereby adopts and incorporates the requirements of the private stormwater elimination policy, subject to revision and amendment by the council upon recommendation of the superintendent of stormwater.

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Failure to comply with these requirements shall constitute a nuisance and be subject to abatement action, in addition to the enforcement actions described in subsection 74-311(a). In the event that a public nuisance is found to exist by a court of appropriate jurisdiction, and the property owner fails to abate said nuisance within a reasonable time as allowed by the court, the city may take all legally authorized actions necessary to enforce the court's judgment, including entering upon the property and causing such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. From the date of filing such action, the city shall have lien rights that may be perfected, after judgment, by filing a notice of lien in the court of appropriate jurisdiction. The city shall have the right, pursuant to this article, for its designated officer and employees to enter upon private and public property owned by entities other than the city, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to ensure compliance. Failure to comply with the standards identified herein will also subject the property owner to enforcement action, as described in section 74-311, herein.

(Ord. No. 06-10, 7-27-06)

Sec. 74-306. Services provided.

- (a) For the purposes of operating, maintaining and improving the stormwater management system and facilities, the city owns or has legal access to portions of the system that:
 - Are located within public streets, easements, and rights-of-way of the jurisdiction; and/or
 - Are subject to access provisions established by city for the purpose of operating, maintaining, and/or improving stormwater systems and facilities.
- (b) Stormwater systems located on private property or on public property for which no access provisions have been made shall be considered the legal responsibility of the property owner.
- (c) The utility may provide some or all of the following services in exchange for collecting a service fee:
 - Administer the stormwater management program for the city;
 - Perform necessary studies and analysis of the service area or potential service area(s);
 - Acquire, construct, operate, maintain, manage, protect, and enhance the stormwater infrastructure, including betterments and connections to the public drainage system; mapping of natural and man-made features affecting stormwater management;
 - Detect and eliminate illicit discharges to the stormwater management system;
 - Periodically inspect properties to determine contribution to municipal stormwater load;
 - Inventory stormwater management facilities;
 - Maintain an up-to-date database of residential and non-residential properties in the service area, billing class codes for each parcel, runoff contributions of each property to the stormwater system for non-residential properties, and charges and payments for each account;

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- Determine compliance with applicable local, state and federal regulations, the stormwater discharges from each parcel contributing to the stormwater system;
 - Perform inspections of stormwater management structures and facilities, both during and after development/construction;
 - Perform master planning and engineering for watershed management and capital improvements;
 - Recommend and provide advice to update and/or revise local comprehensive plans with respect to stormwater management;
 - Obtain federal and state permits necessary to conduct its duties;
 - Obtain and administer grants and loans from public and private sources as authorized by the city council;
 - Receive and track service fees collected by the city;
 - Review development plans and provide comment to the planning and code enforcement department of the city;
 - Make recommendations regarding acquisition of property, easements and rights-of-way in critical areas serving as buffers, retention or infiltrating areas, or providing means to gain access to properties to perform utility duties.
 - Educate and inform the public about the impacts of stormwater runoff and the components of a stormwater management plan; and
 - Perform any and all other necessary functions in connection with stormwater management programs, services, systems, and facilities of the city.
- (d) The utility will be responsible for addressing all applicable state and federal quantity and water quality standards for stormwater. This includes the responsibility for addressing all applicable state and federal stormwater permits required for the city, including National Pollutant Discharge Elimination System (NPDES) municipal separate storm sewer systems (MS4) permits and other Phase I and Phase II industrial stormwater permits for applicable municipal activities, and carrying out applicable actions under all local stormwater ordinances. Whereas the City of Lewiston is regulated under Phase II of the NPDES permit program, the utility will assume responsibility for meeting federal NPDES permit requirements for MS4s, including compliance with the six federally mandated minimum control measures:
- (1) Public education and outreach
 - (2) Public participation/involvement
 - (3) Illicit discharge detection and elimination
 - (4) Construction site runoff control
 - (5) Post-construction runoff control
 - (6) Pollution prevention/good housekeeping

(Ord. No. 06-10, 7-27-06)

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Sec. 74-307. Service area.

The service area of the utility will include all areas within the municipal boundaries of the City of Lewiston.

(Ord. No. 06-10, 7-27-06)

Sec. 74-308. Stormwater utility service fees.

- (a) The city may determine and modify from time to time the service fees of the utility in order that the funds generated correspond to the cost of stormwater management programs, services, systems, and facilities of the city. In general, funding for the stormwater utility shall be equitably derived based on methods that establish a link between the fees and degree of impact imposed on the stormwater management system and facilities.
- (b) To the extent that other funding methods are employed by the city to manage stormwater both within and outside the service area, stormwater service fees shall support and be consistent with plan review and inspection fees, special fees for services, fees in lieu of regulatory requirements, impacts fees, special assessments, and other fees. Fees collected to fund stormwater management activities of the utility can also be supplemented by other revenues available to the city, most notably state, federal, and private grants or loans.
- (c) After adoption of the ordinance, the utility, guided by the city administrator and with the assistance of those consultants deemed necessary by the utility and city administrator, shall undertake an analysis of the cost of stormwater management programs, services, systems, and facilities of the city for the purpose of setting an annual rate schedule for properties served by the utility. The recommendations of the utility (and/or city administrator) shall be submitted for approval by the city council. The fee schedule approved by the city council shall be designated as the stormwater service fee schedule and be made part of the city's policy manual. No bills will be issued to customers prior to city council approval of the stormwater service fee schedule.
- (d) Rate studies shall be conducted periodically by the utility to determine all changes and future updates to the stormwater utility use fee schedule policy. Any revision to the stormwater service fee schedule policy will be approved by the city council prior to implementation.

(Ord. No. 06-10, 7-27-06)

Sec. 74-309. Credits and exemptions.

- (a) Credits against service charges are an appropriate means of adjusting payments to the utility and will only be granted to those properties that go beyond the requirements of state and local laws and regulations. Credits against service charges may be granted on a sliding scale for properties providing on-site or off-site stormwater management measures that reduces the impact of the property on the cost of providing stormwater management services, provided that such systems are adequately maintained and exceed performance standards specified under Maine's Stormwater Management Law and regulations as well as any additional stormwater management performance standards

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imposed by this Code of Ordinances. A fee credit schedule and a manual for the stormwater utility shall be developed by the utility's staff and consultants specifying the necessary performance standards for stormwater systems to qualify for a credit. The scale for credits shall reflect the extent to which the subject properties reduce the peak rate of runoff from the property, or avoid other costs incurred by the stormwater management utility in the delivery of services, and shall be determined by the director, department of public services. The fee credit schedule shall be submitted to and approved by the city council as part of the stormwater service fee schedule policy and be made part of the city's policy manual.

- (b) Credits may be provided for the following:
- (1) Properties upon which a permanent and/or perpetual conservation or other protective easement has been provided may receive service fee credits, as established by the city council, provided such easement:
 - a. Reduces or compensates for the impact that the subject property, or an unrelated property, has on public or private stormwater systems or water quality of receiving waters;
 - b. Improves the function of public stormwater systems or the water quality of receiving waters; or
 - c. Provides other substantial benefits as identified by the city council.
 - (2) Creation of freshwater wetlands (assuming the created wetland is not part of a mitigation project associated with a permitted impact to a natural wetland);
 - (3) Stormwater management practices (e.g., on-site detention and retention facilities); and
 - (4) Peak flow reduction (may be same as c).
- (c) Exemptions from stormwater service fees are not allowed, except as provided in this section. Exemptions shall be allowed for:
- All city and state-owned or maintained roads and rights-of-way, including the Maine Turnpike, because these roads are part of the stormwater management systems and facilities.

(Ord. No. 06-10, 7-27-06; Ord. No. 06-14, 11-2-06)

Sec. 74-310. Fee collection schedule.

Stormwater service fees shall be collected quarterly. To minimize administrative costs, notification and collection of stormwater utility fees shall be coordinated, to the extent possible with the collection of water and sewer service charges. A customer shall have 30 days from receipt of a service fee bill to make payment. Interest, at a rate determined by the city council as part of the stormwater utility use fee schedule shall be charged on delinquent accounts after 30 days.

(Ord. No. 06-10, 7-27-06)

Sec. 74-311. Right to enforcement and violations.

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- (a) The city administrator, or his authorized designee is the enforcement authority who shall administer, implement, and enforce the provisions of this article.
- (b) It shall be unlawful for any person to violate or to fail to comply with the stormwater management requirements of section 74-305. Whenever the enforcement authority believes that a person has violated section 74-305, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452 and section 1-8 of the Code of Ordinances.
 - (1) *Notice of violation.* Whenever the enforcement authority believes that a person has violated this section 74-305, the enforcement authority may order compliance with this article by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it including, without limitation: the cessation of discharges, practices, or operations in violation of this article; at the person's expense, the abatement or remediation of conditions; and/or the payment of fines, of the city's remediation costs and of the city's reasonable administrative costs and attorneys' fees and costs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.
 - (2) *Penalties/fines/injunctive relief.* Any person who violates section 74-305 shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorneys' fees and costs, all in accordance with 30-A M.R.S.A. § 4452 and section 1-8 of the Code of Ordinances. Each day such violations continue shall constitute a separate violation. Moreover, any person who violates section 74-305 also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of section; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.
 - (3) *Consent agreement.* The enforcement authority may enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of section 74-305 and of recovering fines, costs and fees without court action.
 - (4) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the board of appeals in accordance with the City's Code of Ordinances, App. A, Art. IX. The notice of appeal must be received within 30 days from the date of the notice of violation. The board of appeals shall hold a de novo hearing on the appeal within 30 days from the date of receipt of the notice of appeal. The board of appeals may affirm, reverse or modify the decision of the enforcement authority. A party aggrieved by the decision of the board of appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the board of appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
 - (5) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 45 days of the decision of the board of appeals upholding the decision of the enforcement authority, then the enforcement authority may initiate an

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enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

- (c) Delinquent fees.
- (1) Any person that fails to pay the service fee when due shall be responsible for the amount of the unpaid service fee, interest on the unpaid amount at a rate determined by the city council as part of the stormwater utility use fee schedule, a minimum penalty of \$200.00, and attorneys' fees and other costs of collection. Delinquent amounts may be collected by a civil action against the person.
 - (2) A customer of the utility may request review of the amount of the service fee imposed on such customer by written request to the superintendent of stormwater within 30 days of the date the customer receives a service fee bill. The superintendent shall review the service fee and issue a determination, in writing, within 30 days. A customer may appeal the superintendent's decision to the city council within 30 days of the date of the superintendent's decision. Aggrieved persons may appeal a decision of the council to a court of competent jurisdiction within 30 days of the date of the council decision.

(Ord. No. 06-10, 7-27-06)

Sec. 74-312. Limitation of liability.

Floods from stormwater may occasionally occur which exceed the capacity of the storm drainage facilities constructed, operated, or maintained by funds made available under this chapter. This chapter shall not be interpreted to mean that property subject to the fees and charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or that stormwater systems capable of handling all storm events can be cost-effectively constructed, operated or maintained. Therefore the following limitations on liability are set forth:

- (1) It is the express intent of the city that this stormwater utility ordinance will protect the public health, safety and welfare of properties and persons in general. However, this ordinance does not create any special duty or relationship with any individual person or specific property either within or outside the jurisdiction of the stormwater utility.
- (2) The city shall not be held liable for flood damage or assessing and removing pollution sources, and reserves the right to assert all available immunities and defenses in any action seeking monetary compensation from the city, or its officers, agents or employees for alleged damages arising from alleged failure or breach of duties or relationship as may now exist or hereafter be created.
- (3) The issuance of any permit, plan approval or inspection shall not constitute a warranty, express or implied, nor shall it afford the basis for any action seeking the imposition of monetary damages against the city or its officers, employees or agents.
- (4) Operation of stormwater systems located on private property or public property not owned by the City of Lewiston and for which there has been no public dedication of such systems and facilities for operation, maintenance and/or improvements of the system, shall be the legal responsibility of the property

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owner, except as may be affected by the laws of the State of Maine and the United States of America.

(Ord. No. 06-10, 7-27-06)

Sec. 74-313. Severability.

Each section of this ordinance is severable from all other sections. If any part of this ordinance is deemed invalid by a court or competent jurisdiction, remaining portions of the ordinance shall not be affected and shall continue in full force. Whenever this ordinance conflicts with any other ordinance of the city, State of Maine, or federal government, the stricter standard shall apply, except as limited by state or federal law.

(Ord. No. 06-10, 7-27-06)

Sec. 74-314. Applicability.

This ordinance and the fees, obligations and requirements identified herein shall apply to all use of and benefit from the city's stormwater management systems and facilities, occurring on or after July 1, 2006. All persons owning land within the municipality that benefit from the services provided by the utility shall be subject to service fees for their use of the stormwater management systems and facilities occurring on or after July 1, 2006.

(Ord. No. 06-10, 7-27-06)