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ARTICLE XII. PERFORMANCE STANDARDS

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Sec. 1. Applicability.

The performance standards contained in this article shall apply to all uses and activities in the city, unless otherwise specified, whether or not specific approval or a permit is required.

Sec. 2. Shoreland area standards.

1. *Purpose.* The purpose of this section is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to waters; to conserve natural beauty and open space, and to anticipate and respond to the impacts of development in shoreland areas.

2. *Authority.* This section has been prepared in accordance with the provisions of Title 38, sections 435-448 of the Maine revised statutes Annotated (M.R.S.A.).

3. *Applicability.* This section applies to:

A.) General Description- For the purposes of this ordinance, the following description will be used to describe, in a general way, the Shoreland Area: Lands within or distance from the normal high-water line of a water body, great pond, tributary stream, upland edge of a wetland or resource conservation district.

B.) Specific Descriptions-

- i.) All land areas within 250 feet, horizontal distance, of the normal high watermark of the Androscoggin River, No Name Pond, and to all areas included within the Resource Conservation District, as shown on the "Official Zoning Map of the City of Lewiston, Maine";
- ii.) All land areas within 250 feet, horizontal distance, of the defined upland edge of all ten acres or greater wetlands, located in the City of Lewiston, as shown on the City of Lewiston Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989, and identified by the following wetland identification numbers: 56 through 62.
- iii.) All land areas within 75 feet, horizontal distance, of the normal high-water line of No Name Brook, No Name Brook Tributary B, Stetson Brook, and Salmon Brook (beginning at the confluence of Moody and Salmon Brook to the Androscoggin River).
- iv.) All land areas within 25 feet, horizontal distance, of the normal high-water line of a stream (Salmon Brook, Moody Brook, No Name Brook Tributary A, Hart Brook, and Jepson Brook).
- v.) Any structure, existing or proposed, built on, over, or abutting a dock, wharf, or pier, or other structures extending beyond the normal high-water line of a water body or within a wetland.

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vi.) The perimeters of the above-referenced shoreland areas shall be superimposed over the underlying zoning districts. The provisions of the underlying zoning district shall be adhered to subject to compliance with the provisions of the shoreland area. Where uncertainty exists as to the exact location of shoreland area boundary lines, the Board of Appeals shall be the final authority as to location.

4. *Shoreland Zoning Definitions*- The following definitions shall apply to any development activity within the Shoreland Zoning Area Overlay. Any definition listed below with an * indicates a definition that is also found in the Lewiston Zoning and Land Use Code, Article II, Section 2, Definitions.

*Accessory structure or use** - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered a particularized injury as a result of the granting or denial of such permit or variance.

*Agriculture** - the production, keeping, or maintenance for sale or lease, of plants or animals, including but not limited to: forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits, and vegetables, and ornamental green-house products. Agriculture does not include timber harvesting.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

*Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

*Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

*Canopy** – the more or less continuous cover formed by tree crowns in a wooded area.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income

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from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

*Development** – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

*Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Emergency operations - operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

*Essential services** - gas, electrical, or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry, or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms, and police call boxes, traffic signals, hydrants, and similar accessories, but shall not include service drops or buildings that are necessary for the furnishing of such services.

Excavation contractor - an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or firm is retained to perform. Disturbance includes: grading, filling, and removal. A person or firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state, and federal employees engaged in projects associated with that employment are not considered excavation contractors.

Expansion of a structure - an increase in the footprint or height of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint or ground area devoted to a particular use.

*Family** - one or more persons occupying a premises and living as a single housekeeping unit.

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*Floodway** - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

*Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls. (See floor area ration in the ZO definitions)

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to: cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick, or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

*Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to waters. Recreational boat storage buildings are not considered to be a functional water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the

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artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as but not limited to: hurricanes, hurricane-force winds, tornados, microbursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

*Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. (See height of building in ZO definitions)

*Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in non-vegetated surfaces, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions, which in-fill irregularly shaped structures. (See nonconforming structure in ZO definitions)

*Individual private campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10)

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individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform. (See campground in ZO definitions)

*Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

*Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots. (See lot and associated definitions in ZO definitions)

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

*Mineral exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

*Mineral extraction** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

*Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines. (See lot and associated definitions in ZO definitions)

*Multi-unit residential** - a residential structure containing three (3) or more residential dwelling units. (See multi-family development in ZO definitions)

Native – indigenous to the local forests.

*Nonconforming condition** – nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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*Nonconforming lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

*Nonconforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, non-vegetated surfaces or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

*Nonconforming use** - use of buildings, structures, premises, land, or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

*Normal high-water line** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

*Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity. (See owner in ZO definitions)

Piers, docks, wharves, bridges and other structures and uses extending or located below the normal high-water line or within a wetland.

Temporary - Structures, which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent - Structures, which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

*Principal structure** - a structure other than one, which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot. (See principal building in ZO definitions)

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg Hadley Limerick

Lovewell Medomak Ondawa

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Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

*Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

*Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units. (See dwelling and dwelling unit in ZO definitions)

Riprap - rocks, irregularly shaped and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Sapling – a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling – a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.

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2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

*Setback** - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area. (See setback, normal high water mark from ZO definitions)

*Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line or upland edge of a freshwater wetland.

Storm-damaged tree – a tree that has been uprooted, blown down, is lying on the ground, or remains standing, and is damaged beyond the point of recovery as a result of a storm event.

*Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey, on the website of the United States Geological Survey or the national map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

*Structure** - whether temporary or permanent: anything located, built, constructed, or erected for the support, shelter, or enclosure of persons, animals, goods, or property of any kind; anything built, constructed, or erected on or in the ground. The term structure includes decks, patios, and satellite dishes. Structure does not include fences; poles; wiring, guy wires, guy anchors, and other aerial equipment normally associated with service drops; subsurface wastewater disposal systems as defined in

Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; and wells or water wells as defined in Title 32, section 4700-E, subsection 8.

*Substantial start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of the estimated total cost. (See start of construction, substantial development, and substantial improvement in ZO definitions)

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*Subsurface sewage disposal system** – any system designed to dispose of waste or wastewater on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of vegetation in the shoreland zone associated with any other land use activity, and the cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone, shall not be considered timber harvesting. Such cutting or removal of vegetation shall be regulated pursuant to Sub-Section 9 (N), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting. *Note: Timber harvesting within the shoreland zone is regulated by the Maine Forest Service*

Tree – a woody perennial plant that has a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, that has a more or less definite crown, and that reaches a height of at least ten (10) feet at maturity.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. *NOTE: Water setback requirements apply to tributary streams within the shoreland zone.*

*Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

*Wetland** - a freshwater wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

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5. *Severability.* Should any section or sub-section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

6. *Conflicts with Other Ordinances.* Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

7. *Shoreland Zoning Map and Shoreland Ordinance.*

A. Official Shoreland Zoning Map.

All lands described in Article XII, Sub-Section 3, Applicability, and the following areas to which this Ordinance is applicable are as shown on the Official Shoreland Zoning Map(s), which is made a part of this Ordinance:

The Official Shoreland Zoning Map shall be located in the office of the City Clerk and certified by the signature of the Municipal Clerk.

B. Changes to the Official Shoreland Zoning Map.

If amendments are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

C. Effective Date of Ordinance and Ordinance Amendments.

This Ordinance, which was adopted by the Lewiston City Council on September 21, 2021, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment within forty-five (45) days of his/her receipt of the Ordinance or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance or Ordinance Amendment is approved by the Commissioner.

D. Availability.

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available

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to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

8. *Non-conformance.*

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Sub-Section 8. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General.

(1) Transfer of Ownership. Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) Repair and Maintenance. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures, including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures.

(1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with Sub-Section 8 C (1) (a) through (f) below.

a. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

b. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

c. Notwithstanding Sub-Section 8 (C) (1) (b), if a nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a

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water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met and the expansion is not prohibited by Sub-Section 8 (C) (1) above:

- (i) The maximum total footprint of the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
- (ii) The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

d. All other nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by Sub-Section 8 (C)(1) and (a), (b) or (c) above:

- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
- (ii) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
- (iii) For structures located less than 100 feet from the normal high-water line of No Name Pond, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
- (iv) For structures located less than 100 feet from the normal high-water line of No Name Pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
- (v) For structures located less than 100 feet from the normal high-water line of No Name Pond, any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary

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stream, or upland edge of a wetland must meet the footprint and height requirements of Sub-Sections 8 (C)(1)(d)(i) and (ii).

e. In addition to the limitations in Sub-Section 8 (C)(1) and Sub-Sections (a), (b), and (c) above, structures that are nonconforming due to their location within the Resource Conservation District and are located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

(i) The maximum combined total footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater.

(ii) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.

(iii) Any portion of the structures located less than 100 feet from the normal high-water line of No Name Pond must meet the footprint and height requirements of Sub-Sections 8 (C)(1)(d)(iii) and (iv).

(iv) Any portion of the structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of Sub-Sections 8 (C)(1)(d)(i) and (ii).

f. Any approved plan for expansion of a nonconforming structure under Sub-Section 8 (C)(1) must be recorded by the applicant in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary, and evidence of approval by the municipal permitting authority.

2. Foundations. Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the appropriate reviewing authority, basing its decision on the criteria specified in Sub-Section 8 (C)(3).

3. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as

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determined by the appropriate reviewing authority and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the appropriate reviewing authority shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure the appropriate reviewing authority shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation, which may consist of grasses, shrubs, trees, or a combination thereof.

The appropriate reviewing authority may also require replanting in accordance with Sub-Section 9 (Q).

4. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage,

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destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Sub-Section 8 (C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of the footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Sub-Section 8 (C)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the appropriate reviewing shall consider, in addition to the criteria in Sub-Section 8 (C)(3) above, the physical condition and type of foundation present, if any.

5. Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the appropriate reviewing authority shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain

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management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses.

1. Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the appropriate reviewing authority, be expanded within existing residential structures or within expansions of such structures as allowed in Sub-Section 8 (C)(1)(a) above.

2. Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the appropriate reviewing authority may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water-dependent uses in the CFMA district, than the former use, as determined by the appropriate reviewing authority. The determination of no greater adverse impact shall be made according to criteria listed in Sub-Section 8 (C)(5) above.

E. Non-conforming Lots.

1. Non-conforming Lots. A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to a setback or other requirements not involving lot area, lot width, or shore frontage shall be obtained by the action of the Board of Appeals.

2. Contiguous Built Lots. If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above-referenced law and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots. Vacant or Partially Built. If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

(a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

(b) Any lots that do not meet the frontage and lot size requirements of Sub-Section 8 (E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

9. *Land Use Standards.* All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

1. Development within the General Development Shoreland Zone shall use the underlying district standards for minimum lot area and (street) frontage.

2. The minimum lot size for all residential uses located in the Shoreland Zone area shall be 40,000 sf. per dwelling unit and have 200 feet of shore frontage.

3. The minimum lot size for all governmental, institutional, commercial, or industrial uses located in the Shoreland Zone area shall be 60,000 sf per principal structure and have 300 feet of shore frontage.

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4. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

5. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

6. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

7. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

B. Principal and Accessory Structures.

1. All new principal and accessory structures shall be set back at least:

a. One hundred (100) feet, horizontal distance, from the normal high-water line of No Name Pond.

b. Seventy-five (75) feet, horizontal distance from the from the normal high-water line of a water body, tributary stream or upland edge of a freshwater wetland.

c. In the General Development District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance.

d. In the Resource Conservation district, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

e. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

f. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the

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storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including non-vegetated surfaces and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Conservation District or Shoreland Protection Area shall not exceed thirty-five (35) feet in height.

a. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

b. This shall exclude a non-habitable feature mounted on a structure roof for observation purposes, such as a cupola, a dome or a widow's walk, provided the following conditions are met:

- (i) the feature is being added to, or is part of, a conforming structure,
- (ii) the structure is not located in a Resource Conservation District,
- (iii) the feature does not extend beyond the exterior walls of the structure,
- (iv) the feature has a floor area of fifty-three (53) square feet or less, and
- (v) the feature does not increase the height of the structure, as defined, more than seven (7) feet.

3. The openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance that is consistent with the April 2005 or later version under the National Flood Insurance Program.

4. Impervious surfaces shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone, except areas designated as General Development Districts. In the areas designated as General Development Districts, non-vegetated surfaces shall not exceed seventy (70) percent of the portion of the lot within the shoreland zone. Impervious surfaces include, but are not limited to, the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings

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are not counted as non-vegetated surfaces for lots that were recorded on March 24, 1990, and that has been in continuous existence since that date.

Sub-Section 9 (B) (4) shall not apply to public boat launching facilities, regardless of the district in which the facility is located.

5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, is no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

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(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Sub-Section 9 (N)(2)(a), may traverse the buffer.

6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

7. Notwithstanding the requirements in Sub-Section 9 (B)(1) above, the permitting authority may approve a deck over a river if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, which may include the revitalization of structures formally used as mills that do not meet the setback requirements, provided that the following requirements are met:

(a) The total deck area attached to the structure does not exceed seven hundred (700) square feet;

(b) The deck is cantilevered over a segment of the river that is located within the boundaries of the downtown revitalization project;

(c) The deck is attached to, or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project; and

(d) The construction of the deck complies with all other applicable standards, except the setback requirements in Sub-Section 9 (B)(1).

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending or Located Below the Normal High-Water Line of a Water Body or Within a Wetland; and Shoreline Stabilization.

1. No more than one structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as

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specified in Sub-Section 9 (A), a second structure may be allowed and may remain as long as the lot is not further divided.

2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location shall not interfere with existing developed or natural beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries.
5. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf shall not be wider than six feet for non-commercial uses.
6. No new structure shall be built on, over, or abutting a pier, wharf, dock, or other structure extending or located below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
7. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the appropriate reviewing authority that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
8. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending or located below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
9. Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending or located below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
10. The appropriate reviewing authority may approve shoreline stabilization of an eroding shoreline, provided that the following requirements are met:
 - (a) Construction equipment must access the shoreline by barge when feasible, as determined by the appropriate reviewing authority.
 - (b) When necessary, the removal of vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than twelve (12) feet in width. When the shoreline stabilization is complete, the construction equipment access way must be restored.

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(c) Any restoration or revegetation shall occur in accordance with Sub-Section 9 (Q).

D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation and land below the normal high-water line of a water body shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of No Name Pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. On a vacant lot, one campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

2. On a lot that contains a principal use or structure, the lot shall contain the minimum lot dimensional requirements for that principal use or structure separately from the thirty thousand (30,000) square feet of lot area within the shoreland zone required per individual private campsite.

3. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of No Name Pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

4. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

5. The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter in a Resource Conservation District shall be limited to one thousand (1000) square feet.

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6. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.

7. When a recreational vehicle, tent, or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the appropriate reviewing authority finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream, or wetland and, where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) Typical parking space shall be nine (9) feet wide, and eighteen (18) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(b) Internal travel aisles shall be twenty (20) feet wide.

G. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features.

1. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of No Name Pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the appropriate reviewing authority. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent

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sedimentation of the water body, tributary stream, or wetland. Such techniques may include but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent, the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Sub-Section 9 (G)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Sub-Section 9 (G)(1) except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Conservation district except that the appropriate reviewing authority may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the appropriate reviewing authority in a Resource Conservation District upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Conservation district, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Sub-Section 9 (R).
5. Road and driveway grades shall be in conformance with the City's Street and Sidewalk Policy.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed

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to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

8. Ditches, culverts, bridges, dips, water turnouts, and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

H. Storm Water Runoff.

1. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment

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conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwater.

2. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

I. Septic Waste Disposal.

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland; and

(b) a holding tank is not allowed for first-time residential use in the shoreland zone.

J. Essential Services.

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Conservation or Shoreland District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

3. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

K. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods, which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration, which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

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1. A reclamation plan shall be filed with and approved by the appropriate reviewing authority before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Sub-Section 9 (K)(4) below.
2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of No Name Pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the appropriate reviewing authority may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

L. Agriculture.

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to No Name Pond, or within

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seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the appropriate reviewing authority. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the appropriate reviewing authority.

M. Timber Harvesting – Repealed - October 21, 2021. Timber harvesting in the Shoreland Zone, as defined in Article XII, Sub-Section 2, is now regulated by the Maine Department of Forestry.

N. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

1. In a Resource Conservation District, there shall be no cutting of vegetation within the shoreline buffer extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees in accordance with Sub-Section 9 (O).

Elsewhere, in any Resource Conservation District, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Sub-Section 9 (N)(1) above, within a shoreline buffer extending one-hundred (100) feet, horizontal distance, inland

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from the normal high-water line of a great pond or within a shoreline buffer extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the shoreline buffer is not created.

(b) Selective cutting of trees within the shoreline buffer is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Sub-Section 9 (N)(2)(b) a "well-distributed stand of trees" adjacent to No Name Pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 ft. above ground level (inches)	Points
2 < 4 in.	1
4 < 8 in.	2
8 < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;

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- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Sub-Section 9 (N)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath as described in Sub-Section 9 (N) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain the vegetation in the shoreline buffer, removal of storm-damaged, hazard or dead trees and any required replanting shall occur in accordance with Sub-Section 9 (O).
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Sub-Section 9 (N)(2).

3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a

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wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

4. In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of the lot within the shoreland zone, including the shoreline buffer area. This provision shall not apply to the General Development Districts.

5. Legally existing nonconforming cleared openings may be maintained, in accordance with Sub-Section 9 (P). If these areas, fields or other cleared openings have reverted back to primarily woody vegetation, as a result of not maintaining them in accordance with Sub-Section 9 (P), then the provisions of Sub-Section 9 (N) shall apply.

O. Hazard Trees, Dead Trees and Storm-Damaged Trees

1. Hazard trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the opening shall be replaced with native tree species, unless there is new tree growth already present near to where the hazard tree was removed. New tree growth is considered to be at least two (2) inches in diameter, measured at four and one half (4.5) feet above ground level. If new growth is not present, then replacement trees shall consist of native species, be at least four (4) feet in height and be no less than two (2) inches DBH. Stumps shall not be removed.

(b) Outside the shoreline buffer, if the removal of hazard trees results in more than forty (40) percent of the volume of trees, four (4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then replacement with native tree species is required, unless there is new tree growth already present near to where

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the hazard tree was removed. New tree growth is considered to be at least two (2) inches DBH. If new growth is not present, then replacement trees shall consist of native species and be no less than two (2) inches DBH.

(c) The code enforcement officer may require the applicant to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(d) The code enforcement officer may require more than a one-for-one replacement for removed hazard trees that exceeded eight (8) inches in diameter at four and one half (4.5) feet above ground level.

2. Dead trees may be removed without a permit, provided the following requirements are met:

(a) The trees are dead from natural causes. Dead trees are those that contain no foliage during the growing season.

(b) The removal of dead trees does not result in the creation of new lawn areas or other permanently cleared areas.

(c) Stumps shall not be removed.

3. Storm-damaged trees may be removed without a permit after consultation with the Code Enforcement Officer, provided the following requirements are met:

(a) Within the shoreline buffer, if the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, the following shall be required:

(i) The area shall be required to naturally revegetate. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required at a density of one seedling/sapling per every eighty (80) square feet of open canopy.

(ii) The removal of storm-damaged trees does not result in the creation of new lawn areas or other permanently cleared areas.

(iii) Stumps shall not be removed.

(iv) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree.

(b) Outside the shoreline buffer, if the removal of storm-damaged trees results in more than forty (40) percent of the volume of trees, four

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(4) inches or more in diameter as measured at four and one half (4.5) feet above ground level, being removed in any ten (10) year period; or results in cleared openings of more than twenty-five (25) percent of the lot area within the shoreland zone or more than ten thousand (10,000) square feet, whichever is greater; then the area shall be required to naturally revegetate. If, after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings shall be required on a one-for-one basis.

P. Exemptions to Clearing or Removal of Vegetation

The following activities are exempt from the standards for clearing or removal of vegetation set forth in Sub-Section 9 (N), provided that all other applicable requirements of this Ordinance are complied with, and the removal of vegetation is limited to that which is necessary:

1. The clearing or removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the standards of Sub-Section 9 (N), such as but not limited to cleared openings in the canopy or fields. If any of these areas revert back to primarily woody vegetation due to a lack of removal of vegetation every two (2) years, the requirements of Section 9 (N) shall apply.
2. The clearing or removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 9 (B) are not applicable.
3. The clearing or removal of vegetation from the location of public swimming areas associated with allowed public recreational facilities.
4. The clearing or removal of vegetation associated with allowed agricultural uses, provided that all requirements of Sub-Section 9 (L) are complied with, and that best management practices are utilized.
5. The clearing or removal of vegetation associated with brownfields or voluntary response action program projects pursuant to 38 M.R.S.A section 343-E, provided that the following provisions are met:
 - (a) The clearing or removal of vegetation is within the shoreland zone of rivers that do not flow to great ponds that are designated as General Development Districts; and
 - (b) The clearing or removal of vegetation is necessary for remediation activities to clean up contamination.

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6. The clearing or removal of non-native invasive vegetation, provided that the following requirements are met:

- (a) If clearing or removal of vegetation occurs via wheeled or tracked motorized equipment, then the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that the wheeled or tracked motorized equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
- (b) The clearing or removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
- (c) If the clearing or removal of non-native invasive vegetation results in a standard of Sub-Section 8(N) being exceeded, then the area shall be revegetated in accordance with Sub-Section 8(Q) to achieve compliance with the applicable standard(s) of Sub-Section 8(N).

7. The clearing or removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

Q. Revegetation Requirements.

When revegetation is required to address the removal of non-native invasive species of vegetation, to address the removal of vegetation in conjunction with shoreline stabilization, in response to violations of the standards set forth in Sub-Section 9 (N), or as a mechanism to allow for development that may otherwise not be permissible due to the standards of Sub-Section 9 (N), then revegetation shall comply with the following requirements:

- 1. The applicant must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where the existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- 2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and must occur at a density comparable to the pre-existing vegetation. If this is not feasible due to shoreline stabilization, then revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
- 3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the

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expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:

- (a) All trees and saplings removed must be replaced with native noninvasive species;
- (b) Replacement vegetation must consist of saplings at a minimum;
- (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
- (d) No one species shall make up 50% or more of the number of trees and saplings planted;
- (e) If revegetation is required for shoreline stabilization, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or saplings must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
- (f) A survival rate of at least eighty (80) percent of planted trees/saplings is required for a minimum of five (5) years.

5. Revegetation activities must meet the following requirements for all woody vegetation and for other vegetation under three (3) feet in height:

- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
- (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
- (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
- (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained in Sub-Section 9 (N) for a minimum of five (5) years.

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6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (b) Where necessary due to a lack of sufficient ground cover, the area must be supplemented with leaf mulch and/or bark mulch at a minimum of four (4) inches deep to prevent erosion and provide for effective infiltration of stormwater; and
- (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Ordinance for a minimum of five (5) years.

R. Erosion and Sedimentation Control in Shoreland Areas.

1. All activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- (a) Mulching and revegetation of disturbed soil.
- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
- (c) Permanent stabilization structures such as retaining walls or riprap.

2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

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- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg, and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with riprap.
6. When an excavation contractor will perform these activities, compliance with the following shall be required:
- (a) A person certified in erosion control practices by the Maine Department of Environmental Protection shall be responsible for the management of erosion and sedimentation control practices at the site. This person shall be present at the site each day these activities occur for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until the installation of erosion and sedimentation control measures that will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.
 - (b) Include on the required plan or permit application the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

S. Soils.

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development, and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties.

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The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

T. Water Quality.

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

U. Archaeological Sites.

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

10. *Administration*

A. Permits Required For:

1. After the effective date of this Ordinance, no person shall, without first obtaining a shoreland permit, engage in any activity or use of land or structure requiring a permit in the Shoreland zone in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on-site while the work authorized by the permit is performed.

2. A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

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3. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

4. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

B. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, including a narrative that addresses the approval criteria 1-9 of Sub-Section 10, (C), Procedure for Administering Permits.

2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

3. All applications shall be dated, and the appropriate reviewing authority, as appropriate, shall note upon each application the date and time of its receipt.

4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

5. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management

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practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

C. Procedure for Administering Permits.

Within 30 days of the date of receiving a written application, the appropriate reviewing authority, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The appropriate reviewing authority shall approve, approve with conditions, or deny all permit applications in writing within 30 days of receiving a completed application.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

Approval Criteria- After the submission of a complete application to the appropriate reviewing authority, they shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities;
8. Will avoid problems associated with floodplain development and use; and
9. Is in conformance with the provisions of Sub-Section 9, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an

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unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

D. Expiration of Permit.

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

E. Installation of Public Utility Service.

A public utility, water district, sanitary district, or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials, or other written arrangements have been made between the municipal officials and the utility.

(Ord. No. 92-5, 3-5-92; Ord. No. 92-19, 9-10-92; Ord. No. 99-17, 10-12-99; Ord. No. 00-11, 6-15-00; Ord. No. 06-17, 2-8-07; Ord. No. 06-18, 2-8-07; Ord. No. 11-15, 01-19-12; Ord. 21-08f, 10-21-21)

Sec. 3. Timber harvesting standards.

(a) *In Resource conservation districts.*

(1) Clear-cutting, and timber harvesting, other than for road building and water crossings for which all required city, state or federal permits have been obtained, or in conjunction with approved development activities, pursuant to article XIII of the Code, is prohibited.

(b) *In shoreland areas, as defined in article XII, section 2, not within a resource conservation district.* No clear-cutting is permitted within a shoreland area and timber harvesting activities shall comply with the standard set forth in article XII, section 2, subsection (r), timber harvesting.

(c) *In lake conservation overlay district (LC).* Except for approved construction and landscaping projects, timber harvesting shall not remove, in any ten-year period, more than 40 percent of the volume on each acre involved of trees six inches in diameter and larger, measured at four and one-half feet above ground level, applied equally to all size classes (six-inch, eight-inch, ten-inch, etc.) within the area being harvested. Removal of trees less than six inches in diameter, measured as above, is permitted if otherwise in conformance with the standards of this Code. No clear cutting shall be allowed and harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained so as to maintain the aesthetic and recreational value and water quality of the lake conservation overlay district. For the purpose of these standards, volume may be determined as being equivalent to basal area. A stand means a contiguous group of trees, sufficiently uniform in species, arrangement of classes and condition to be identified as a homogeneous and distinguishable unit.

(d) *Within all districts.* Timber harvesting shall comply with the state department of conservation standards for forest regeneration, established pursuant to 12 M.R.S.A., ch. 805,

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subchapter III-A, as amended. Clear-cutting, except in resource conservation, shoreland areas, and lake conservation overlay districts, is permitted only if an accepted forest management plan is filed with the code enforcement official at least seven days prior to the commencement of clear-cutting activities. Except for approved construction and landscaping projects, for which all required city, state or federal permits have been obtained, timber harvesting operations shall maintain a continuous natural buffer of at least fifty feet from all property lines and streams, except for roads required to gain access to the land to be harvested.

Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a well-distributed stand of trees and other vegetation shall be defined as maintaining a rating score of six or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

<i>Diameter of tree at 4 1/2 feet above ground level (inches)</i>	<i>Points</i>
2--4	1
4--12	2
> 12	4

Storm damaged, diseased, unsafe or dead trees may be removed at the landowner's discretion. However, when their removal results in the creation of cleared openings, these openings shall be replaced unless existing new tree growth is present, with native species in order to maintain a buffer strip of vegetation.

Pruning of tree branches within the buffer strip, on the bottom one-third of the tree is permitted. However, existing vegetation under three feet in height and other ground cover shall not be removed, except for safety reasons, where the removal of vegetation immediately surrounding a tree to be cut is permitted. Cleared openings legally in existence within the required buffer area, as of the effective date of this Code, may be maintained but not enlarged. There shall be no cutting of trees for any reason within 50 feet of a stream, whether the stream is located within the required 50-foot buffer or anywhere else on the property.

Clear-cutting within the required buffer area is permitted only if the landowner secures a written agreement from the abutting landowner(s) stating that the abutter(s) is(are) aware that the required buffer area is to be clear-cut and has agreed to its elimination. Written notification shall be presented to the code enforcement official at least seven days prior to clear-cutting of the buffer area. The notification shall indicate the proposed location of the buffer area on a map, drawn to scale, of the property under consideration; the names, addresses and telephone numbers of both the landowner and all abutting property owners; and all original, signed agreements from any abutters who have agreed to the elimination of the buffer area.

(e) *Notification requirement.* Except for approved construction and landscaping projects for which all required city, state or federal permits have been obtained, written notification shall be made to the code enforcement official at least seven days prior to the commencement of timber harvesting operations. The notification shall indicate the proposed location, nature, number of acres to be harvested and time period of the operations, and shall contain the names, addresses and telephone numbers of both the land owner(s) and operator(s) and any licensed forester involved. The notification shall also include a map drawn to scale indicating the required buffers

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and extent of any clear cutting, and to what use, if any, the site will be converted to after completion of harvest activities. For all timber harvesting operations which require notification to the state, a properly completed "Notification of Intent to Harvest Forest Products" may be submitted to meet this requirement.

(Ord. No. 92-5, 3-5-92; Ord. No. 92-18, 9-10-92; Ord. No. 96-11, 9-12-96)

Sec. 4. Community garden standards.

The following standards shall apply to the establishment or creation of any community garden in City of Lewiston:

1. A community garden may be located in any zoning district with the exception of the Resource Conservation district.
2. Unless located in the Rural Agricultural district, a community garden may be no larger than 20,000 square feet.
3. Unless permitted by the underlying zoning district, on-site sale of community garden products shall be prohibited.
4. The site shall be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining on to streets or adjacent properties.
5. Accessory structures including buildings or signs shall comply with requirements of the underlying zoning district.
6. Cultivated areas shall be prevented from encroaching onto adjacent properties.
7. The property shall be maintained free of high grass, weeds, and debris. Dead garden plants shall be removed by no later than November 30th of each year. This is not intended to prohibit composting or soil enhancing cover crops.
8. Use of mechanical equipment shall be limited to that customarily identified as household lawn and garden equipment. Use of said equipment shall be restricted to the hours 7:00 a.m. to 7:00 p.m.
9. The community garden shall be subject to applicable odor provisions contained in article XII, section 19(4).
10. It shall be the responsibility of the property owner that uses a lot or a portion thereof as a community garden meets the above referenced performance standards. If leased or used by other individuals or organizations, it shall be the responsibility of the property owner to ensure the above referenced performance standards are met.
11. It shall be the responsibility of any person, including, but not limited to, the property owner, their agent, individuals, organizations, or other person having an interest in establishing a community garden on a lot(s) or a portion thereof for a community garden to obtain a Use Permit from the City prior to commencing said use of land.

(Ord. No. 12-04, 04-05-12)

Sec. 5. Earth material removal standards.

(a) *Applicability.* The standards and procedures of this section shall apply to the removal of topsoil, sod, loam, peat or other organic materials, clay, sand, gravel, stone or other earth products from a parcel of land for removal from the site except as otherwise provided for in this section. These standards shall apply to:

- (1) The commencement of a new earth material removal activity;

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- (2) The expansion of an existing earth removal activity onto a parcel of land not undergoing removal activities as of the date of adoption of this Code; and
- (3) The creation of a new removal site on a parcel of land undergoing removal activities as of the date of adoption of this Code.

The standards and procedures of this section shall not apply to the following earth material removal activities:

- (1) Removal incidental to any lawful use of land or of a building or incidental to, and necessitated by, any building construction for which a building permit has lawfully been issued under this Code prior to such earth removal;
- (2) Removal necessitated by the construction or installation of utilities or other engineering works for public service on such lot or in such way, or as may be necessitated in constructing ways;
- (3) Removal, grading or transforming from one part of a lot, tract or parcel of land to another part of the same lot, tract or parcel of land in the same ownership.
- (4) Removal incidental to the construction of driveways or private ways,
- (5) Removal from a site in operation as of the date of adoption of this Code, provided that it does not involve expansion onto another parcel of land or the creation of a new removal site and has been in continuous operation as a removal site.

(b) *Development approval required.* Any earth removal activity involving more than 1,000 cubic yards of material shall commence only after a development plan has been reviewed and approved according to the standards and procedures of article XIII.

(c) *Additional submission requirements.* In addition to the submission requirements set forth in article XIII, section 3, applications for review for earth removal activities shall contain the following additional information:

- (1) Copies of soils tests, test borings, other field tests, laboratory studies and similar information to identify the type and amount of material available for removal and the depth to the seasonal high-water table over the area proposed for removal activities;
- (2) A management plan setting forth the operating procedures and monitoring protocol for the site including, but not limited to, hours of operation, control of noise, blasting vibration, dust and particulate emissions, site security, limits on work areas, etc.
- (3) A restoration plan setting forth the final grades of the restored site together with provisions for re-establishment of vegetative cover when the site involves overburden extraction.

(d) *Conditions of approval.* In approving development plans for earth removal activities in accordance with the standards and procedures set forth in article XIII, the planning board may impose conditions on the approval including, but not limited to the following if necessary to meet the standards of subsection (e):

- (1) Method of removal;
- (2) Type and location of temporary structures;
- (3) Hours of operation;
- (4) Policing of traffic entering and leaving site;

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- (5) Routes of transporting the material through the City of Lewiston;
- (6) Area and depth of excavation;
- (7) Distance of excavation to street and lot lines;
- (8) Steepness of slopes excavated;
- (9) Re-establishment of ground levels and grades;
- (10) Provisions for temporary and permanent drainage;
- (11) Disposition of boulders and tree stumps;
- (12) Replacement of topsoil over the area of removal;
- (13) Planting of the area to suitable cover;
- (14) Buffering and fencing;
- (15) Control of noise, vibration and dust and particulate emissions.

(e) *Standards for removal activities.* All earth removal activities shall conform to the following standards:

- (1) *Traffic.* Provisions for access to and into the site shall conform to the following standards:
 - a. Public roads providing access to the site shall be capable of accommodating the additional traffic without reducing traffic safety or the level of service of roads and intersections within one-quarter mile of the site. If streets functionally classified as local streets are used to provide access to the site, the applicant shall demonstrate by a traffic impact study that these streets can safely accommodate the increased use without a reduction in the level of service.
 - b. Truck traffic to and from any removal site shall use the most direct travel route between the arterial road system and the site unless an alternative route is approved as part of the development approval process.
 - c. The sight distance where the access road(s) to the site intersects with a public street shall meet the minimum sight distance requirements of the Maine Department of Transportation.
 - d. All access roads shall have a maximum road slope of three percent for a distance of 100 feet from the intersection with a public street.
 - e. The roads providing access to the site shall be capable of supporting the loadings imposed by trucks servicing the removal site. If the roads are not capable of supporting the loads, the planning board may require, as conditions of approval, that gross vehicle weights be limited and/or a financial guarantee posted to provide for the repair of any damage resulting from the site traffic.

- (2) *Buffering.* The removal activity shall conform to the following standards:
 - a. A natural vegetative strip at least 50 feet in width shall be maintained around the perimeter of the site. This buffer strip shall be treated with a combination of landscaping, fencing or earth berming sufficient to screen the removal operation from view from public streets or abutting properties. The planning board may modify this requirement where the topography of the site makes screening impractical.
 - b. If written permission of the abutter is obtained, a buffer strip of no less than 25 feet may be allowed.
 - c. The buffer strip may be entirely eliminated between abutting properties when both properties are used in similar excavation activity provided a written agreement between both parties is furnished.

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(3) *Excavations.* Any excavation involving the removal of materials to a final elevation which is lower than the surrounding land shall be carried out in accordance with the following standards:

- a. No excavation shall occur within 100 feet of any property line or street line.
 - 1. Overburden extraction. For excavation in excess of 50 feet in depth, this unexcavated area shall be increased one foot in width for each one foot in depth in excess of 50 feet.
 - 2. Bedrock quarries. Bedrock quarry operations will retain a minimum buffer strip of 150 feet from all property lines. The working edge of an extractive activity will be no closer than 150 feet to any public road or way.
- b. No excavation shall extend below the seasonal high-water table for the site unless provisions are made to lower the water table through manmade means.
- c. Except for bedrock quarries, no standing water shall be permitted to accumulate in any site either during or after extraction operations.
- d. Slopes.
 - 1. Overburden extraction. No slopes steeper than two feet horizontal to one foot vertical shall be permitted at any removal site during or after excavation operations except that during active operations, steeper working slopes shall be permitted provided that in any location where the slope exceeds two to one for a height of more than 15 feet, a fence shall be erected to limit access to the site.
 - 2. Bedrock quarry. The applicant shall submit a report by a qualified geotechnical engineer or certified geologist recommending appropriate rock slope and bench configurations. The report should be based on appropriate field and laboratory study and analysis to establish the stability of the cut slopes both during the extraction period and after use of the site has been terminated. Rock quarries must be enclosed by a fence.
- e. No portion of any ground area disturbed by extraction activity on a face sloping toward a body of water shall be closer to the normal high-water mark of the body of water than is indicated by the following table, provided, however, that no portion of such ground area on a back face shall be closer than 50 feet:

<i>Average Slope of Land Between Exposed Mineral Soil and Normal High-Water Mark (percent)</i>	<i>Width of Strip Between Exposed Mineral Soil and Normal High- Water Mark (feet along surface of the ground)</i>
0	50
10	90
20	130
30	170
40	210
50	250
60	290
70	330

- f. Within 250 feet of any water body, the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams or such other control devices

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which are effective in preventing sediments from being eroded or deposited into such water body.

- (4) *Operations.* The operation of any earth removal activity shall conform to the following standards:
- a. The operation shall be conducted in a manner to minimize dust.
 - b. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the chief of police for minimizing the impact on traffic flow and safety.
 - c. All access roads leading from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud, unless the site is located in a groundwater conservation overlay district.
 - d. No equipment, debris, junk or other materials shall be permitted at an extraction site except those directly relating to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
 - e. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate both during operation of the pit and following its permanent closure.
 - f. Storage of hazardous materials and petroleum products in the pit is prohibited.
 - g. Any washing and crushing operations shall be conducted in a manner that will minimize runoff.
 - h. Noise levels at the property line shall be limited to 75 decibels, as measured on a scale by a sound level meter and frequency weighting network manufactured in accordance with the standards of the American Standards Association.
 - i. Any topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased.
- (5) *Reclamation.* Within two years of the cessation of removal activities for the site or portions of the site for operations exceeding five acres in size, the following standards shall apply:
- a. Following the completion of extraction operations at any extraction site or at any one or more locations within an extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the planning board; all debris, stumps, boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two feet of soil.
 - b. Retained topsoil and subsoil shall be respread over the disturbed area with any additional loam required to create a minimum seed bed depth of four inches, and the soil shall then be limed, fertilized and seeded with a grass or legume mixture which will meet the minimum standards of the technical guide, as amended from time to time, adopted by the Androscoggin Valley Soil and Water Conservation District; the foregoing restoration measures shall be completed within such period not exceeding eight months following completion of extraction operations as may be determined by

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the planning board, and the planted area shall be protected from erosion during the establishment period using good conservation practices.

- c. The proposal will adequately control erosion and stormwater runoff, and upon completion of active extraction operations, the land shall be left so that natural storm drainage and water courses leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not increased.
- d. A depleted bedrock quarry may be allowed to fill naturally with precipitation and groundwater provided the following conditions are met:
 - 1. Physical access for the general public is to be prevented by continuous fencing of the entire perimeter at least six feet high.
 - 2. Any gates shall be locked at all times when the site is not in operation.
 - 3. Earthen berms shall also be created along all public ways where the natural contours of the land do not impede vehicular traffic.

(6) *Use of explosives.* The use of explosives and blasting agents for earth removal activities, as defined in subsection (a) of this section, shall comply with the following standards:

- a. Prior to the commencement of blasting activity at a permitted site, a preblast survey shall be conducted on all off-site buildings not owned by the applicant within 500 feet of the excavation boundaries to document the existing condition of these buildings. Alternative building locations may be chosen when the maximum effects from the blast are expected to occur at those locations. Any structural defects, cracks, displacement, etc. shall be described in written and pictorial form. A copy of the survey shall be provided to the property owner, the code enforcement officer, and kept on file by the applicant throughout the active life of the excavation activity.
- b. Blasting shall be prohibited between the hours of 7:00 p.m. and 7:00 a.m. and all day on Sunday.
- c. The storage, transport and use of explosives shall be conducted in compliance with all applicable state and federal regulations, including, but not limited to those promulgated by the U.S. Mine Safety and Health Administration and the Maine Fire Marshal's Office.
- d. Prior to each blast a blasting plan shall be made showing the drilling pattern and depth; the amount and placement of explosives and blasting agents; and the time delays used, if any, for detonation. Adherence to the plan shall be verified by the on-site person responsible for the safe use of explosives as shown by his or her signature on the plan. The plans shall be kept on file, for inspection by the code enforcement officer, for three years following the blast.
- e. Every blast shall be monitored for ground vibration and airblast overpressure (noise) at the nearest off-site building or at an on-site location along a straight line between the blast and the nearest off-site building. An alternate building may be chosen when the maximum effects from the blast are expected to occur at that location. Instrumentation used for blast monitoring shall be capable of measuring and recording peak particle velocity (in inches/second) and frequency (in cycles/second) along three axes, airblast overpressure (in dBL), and internal calibration checks. Monitoring records shall be kept on file, for inspection by the code enforcement officer, for three years following the blast.
- f. Blasting shall be designed and conducted in a manner to ensure compliance with the following standards:

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1. Ground vibrations shall not exceed the frequency dependent peak particle velocities indicated by Figure 1.
2. Airblast overpressure (noise) shall not exceed the levels indicated in the table below depending on the specification of the microphone used:

<i>Microphone Maximum</i>	<i>Overpressure (dBL)</i>
0.1 Hz high-pass system	134
2 Hz high-pass system	133
5-6 Hz high-pass system	129
C-Slow (<2 sec. duration)	105

The ground vibration and noise levels associated with the use of explosives shall be exempt from the standards in article XII, subsection 19(b) and (c).
(Ord. No. 89-16, 11-30-89)

Sec. 6. Swimming pool standards.

(a) *Placement requirements.* No swimming pool shall be constructed closer than ten feet from the side or rear lot line to the waterline of said swimming pool. If said swimming pool is located on the street side, it shall not be so located closer than 25 feet from the front lot line to the water's edge of said swimming pool.

(b) *Enclosures.*

(1) There shall be erected and maintained around every outdoor swimming pool, a good quality fence or wall, no less than four feet in height and of a character to exclude children. The exterior walls of an aboveground pool may serve as the required fence, if the following conditions are satisfied:

- a. The resulting enclosure shall be of sturdy construction and meet the intent of this section;
- b. All stairs, ladders and ramps shall be secured, removed, fenced or otherwise made inaccessible when not in actual use; and
- c. The pool wall shall be free of any construction feature or appurtenance which could be used to facilitate access to the pool.

Required fencing shall be so constructed as not to have openings, holes or gaps larger than four square inches, except for fences constructed of vertical posts or louvers, in which case, the openings shall not be greater than four inches in width to a height of four feet, with no horizontal members between the top and bottom plates. Doors and gates are excluded from the minimum dimension requirements. A dwelling house or accessory building may be used as part of such enclosure.

- (2) All gates or doors opening through such enclosure shall be equipped with a self-latching device for keeping the gate or door securely locked at all times when not in actual use.
- (3) Any view-obstructing fence shall not be closer than 15 feet from any street lot line.

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- (c) *Electrical connections and outlets.* All electrical connections to the swimming pool and to electrical fixtures or outlets within the enclosed area established in subsection (b) shall meet the requirements of the national electrical code, as amended, for use in swimming pools.
- (d) *Pools under construction.* No swimming pool under construction shall be left unattended without a fence or cover.
- (e) *Other pools.* Any other outdoor pool not covered by this section must be fenced, drained or covered when not in use.
- (f) *Construction permit and approval.*
 - (1) Before work is commenced on the construction of swimming pools, or on any alteration, addition, remodeling or other improvement to a swimming pool, an application for a permit to construct and the plans and specifications and pertinent explanatory data shall be submitted to the code enforcement official for his approval, and no part of the work shall be commenced until the code enforcement official has granted such approval by a written permit to construct and has further evidenced his approval by a suitable endorsement upon such plans and specifications. No department of the city charged with the duty of issuing permits for plumbing or electrical work, for sewer connections or for other work in connection with the construction of a swimming pool or the construction or any alteration, addition, remodeling or other improvement to a swimming pool shall issue a permit for a swimming pool until the plans and specifications therefore have been thus endorsed and approved by the code enforcement official. The code enforcement official shall review such plans and specifications to determine whether they comply with the provisions of this Code and with reasonable standards of swimming pool construction for the protection of the public safety, health and morals.
 - (2) The application to the code enforcement official for a permit to construct a swimming pool or to construct any alteration, addition, remodeling or other improvement to a swimming pool shall be submitted in such forms and be supported with such information and data, as well as plans, specifications and pertinent explanatory data, as the code enforcement official may require.

(Ord. No. 20-10i, 11-05-20)

Sec. 7. Walls and fences.

- (a) *Maximum height of walls and fences:*
 - (1) Front setbacks. No wall or fence in a required front setback may exceed three and one-half feet in height, except as provided below.
 - (2) Side and rear setbacks. No wall or fence in a required side or rear setback may exceed eight feet in height, except as provided below.
 - (3) Corner cutbacks. No wall, fence, building, landscaping or other visual obstruction more than three feet in height is permitted within a corner cutback, except that part of a building more than eight feet in height, which is not otherwise prohibited, and except as provided below.

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- (4) Height measurement. For purposes of this section, the height of walls, fences, buildings, landscaping and other structures shall be measured from the top of the existing curb grade or the crown of the abutting street, whichever is lower.
- (b) *Retaining walls.* Retaining walls may be constructed, altered, added to or changed anywhere on a lot to the lot line provided the following conditions are met:
- (1) Retaining wall exceeding four (4) feet in height shall be designed by a registered professional engineer in accordance with the requirements of the Maine Uniform Building and Energy Code, as amended, and shall be approved by the code enforcement official prior to the start of construction.
 - (2) A wall or fence may be required by the code enforcement official in accordance with subsection (c) if a potential safety hazard will be created by a retaining wall.
 - (3) The retaining wall shall be located and constructed in a manner that will not create a barrier or undue impediment to public safety officers in performing their function in connection with the premises or adjacent properties.
 - (4) Retaining walls may be located in the corner cutback area of any lot provided the height of the wall does not exceed three feet.
- (c) *Hazardous areas.* The code enforcement official may require walls or fences not less than six feet in height along the perimeter of any area that, by reason of the existence on the property of physical hazards, such as frequent sudden inundation, erosion, excavation or grade differential, he determines to be dangerous.
- (d) *Barbed wire.* No barbed wire fencing is permitted below a height of six feet, except in the rural-agricultural district in conjunction with an agricultural use.
- (e) *Other requirements.*
- (1) Corner cutbacks. Fences not more than three and one-half feet in height are permitted in a corner cutback, provided the vertical surface is not more than ten percent solid.
 - (2) Automobile graveyards and junkyards. Walls, fences or other screening surrounding an automobile graveyard or junkyard may exceed the maximum height permitted in front, side or rear setbacks, but not in corner cutbacks, if necessary to meet the requirements of applicable state law.
 - (3) Mobile home parks. Walls, fences or other screening surrounding a mobile home park may exceed the maximum height permitted in front, side or rear setbacks, but not in corner cutbacks, if necessary to meet the requirements of this Code.
 - (4) Tennis courts. A fence enclosing a tennis court located within the rear half of a lot may exceed the maximum height permitted in side or rear setbacks, provided the vertical surface of that part of such fence more than eight feet in height is not more than ten percent solid.
 - (5) Security fencing. Security fencing may exceed the maximum height permitted in front, side or rear setbacks if required by a governmental agency.
- (f) *Modifications.* The code enforcement official may allow a modification in the requirements of this section if he finds, following an on-site inspection of the premises, that the modification will neither create, nor aggravate a safety hazard. The owner(s) of the property(ies)

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which is(are) directly impacted by the proposed modification and is(are) abutting to the subject property will be notified by the code enforcement official of said determination.

If an abutter feels that the code enforcement official erred in his determination, he may request an administrative appeal in writing within ten days of the mailing date of the notification in accordance with article VIII, section 4(a) of the Code of Ordinances of the City of Lewiston [appendix A].

(Ord. No. 93-15, 8-19-93; Ord. No. 20-10i, 11-5-20; Ord. No. 22-16e, 7-21-22; Ord. No. 22-29, 12-1-22)

Sec. 8. Wind energy conversion systems.

- (a) *Purpose.* The regulation of wind energy conversion systems (WECS) is intended to permit the location of such devices within the community while ensuring that the public health, safety and welfare are not adversely affected.
- (b) *Requirements.*
- (1) WECS shall be set back from all lot lines a minimum distance equivalent to the distance between the ground level elevation and the highest point on the WECS plus ten feet.
 - (2) All WECS shall be protected against unauthorized access by one or more of the following:
 - a. Anti-climbing shroud;
 - b. Removal of tower climbing apparatus to a height of at least ten feet;
 - c. Fence of at least six feet in height; or
 - d. Other device approved by the code enforcement official to prevent unauthorized access.
 - (3) All WECS shall utilize a clutch, feathering device, brake, overspeed control or similar device, either single, or in combination, to automatically shut down the WECS when wind speed exceeds 45 miles per hour.
 - (4) A WECS shall not be installed upon or attached to any building or structure, except a tower integral to the WECS, except when the board of appeals determines under the miscellaneous appeal provisions of this Code, that said building or structure is capable of safely supporting a WECS and that a WECS installed or attached in such a manner shall not present a safety hazard to the neighborhood.
 - (5) One WECS shall be permitted per lot.
 - (6) All plans for the design and installation of a WECS shall be certified by an engineer or architect registered in the State of Maine to perform such analyses as to the safety and integrity of design and installation and compliance with the requirements of this section.
 - (7) A WECS shall be installed only upon issuance of a building permit. The code enforcement official shall perform periodic inspections during the installation of a WECS, which shall include, but not be limited to, inspection of all tower anchorage prior to backfilling, inspection of the tower installation prior to attachment of the energy conversion device, and upon completion of the WECS installation. The applicant shall ensure that each required inspection is completed prior to proceeding with the next stage of installation.
 - (8) Noise created by the action of a WECS shall not exceed the levels set forth in article XII, section 19 of this article.

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- (c) *Location.* WECS shall be permitted in all districts except the neighborhood conservation "B" district, centreville district and urban enterprise district.
(Ord. No. 00-19, 10-5-00)

Sec. 9. Adult business establishment, tattoo establishment, and drinking place standards.

The regulation of the density of adult business establishments, tattoo establishments, and drinking places is intended to permit the location of such establishments within the community, yet ensure that they will not become overly concentrated in neighborhoods or areas outside the downtown to the detriment of other uses. Therefore, in addition to the regulations of Article XI, adult business establishments, tattoo establishments, and drinking places shall conform to the following standards:

- (1) Except for businesses located in the Centreville, Mill, or Riverfront zoning districts, the minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and/or drinking places in the same or adjoining zoning district shall be 500 feet as measured along the ordinary course of travel between the main entrance of each premises.
- (2) Except as provided in subsection 2(a) below, an adult business establishment, or drinking place may not be located within 300 feet, as measured along the ordinary course of travel between the main entrance of each premises, of a public or private school, school dormitory, religious facility, or legally-established dwelling in a residential zoning district, in existence prior to the establishment of the business.
 - (a) The restriction in this section does not apply to drinking places if a proposed public or private school, school dormitory, or religious facility:
 - (1) Locates in a commercial zone that includes restaurants or bars as permitted uses and that had been established prior to the public or private school, school dormitory, or religious facility locating in the commercial zone; or
 - (2) Is located in the Centreville, Mill or Riverfront zoning district pursuant to Title 30-A, section 4301, subsection 5-A.

(Ord. No. 89-3, 4-07-89; Ord. No. 00-19, 10-5-00; Ord. No. 02-21, 1-9-03; Ord. No. 04-10, 5-6-04; Ord. No. 05-07, 3-17-05; Ord. No. 13-10, 10-17-13; Ord. No. 20-09, 08-06-20)

Sec. 10. Frontage right-of-way provisions.

Purpose: The purpose of the Frontage Right of Way (R.O.W.) provision is to allow and encourage new, smaller-scale residential and commercial development. Residential Frontage R.O.W. subdivision may create up to six (6) new lots and Commercial Frontage R.O.W. may create up to two (2) new lots. New lots created under this provision shall meet the minimum lot frontage requirements for the underlying zoning district of Article XI, Section 23, Space and Bulk standards. Frontage R.O.W.'s shall meet the design standards found in figure 1, depending on the number of lots proposed.

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(a) Approval Criteria for a Frontage Right-of-Way

1. The Frontage R.O.W. must be approved pursuant to the applicable provisions of Article XIII;
2. The Frontage R.O.W. must utilize existing curb cuts to access the property unless the applicant can demonstrate that doing so unduly impacts the existing or proposed lot;
3. The Frontage R.O.W. is the principal means of access to the lot(s);
4. The area within the Frontage R.O.W. shall not be used in calculating or meeting any space and bulk requirements for the existing lot or the new Frontage R.O.W. lot(s);
5. The Frontage R.O.W. does not create any nonconformance with respect to lot size or structures; newly created lots will be required to meet front setbacks from the Frontage R.O.W.;
6. The Frontage R.O.W. shall include a cul-de-sac, T-shaped, or hammerhead turnaround. A cul-de-sac shall have a radius of 50 feet measured from the centerline of the travel surface. A T-shaped or hammerhead turnaround shall be 50 feet long measured from the centerline of the travel surface. The turnaround shall be approved by the Police, Public Works, and Fire Departments;
7. Intersections, access, and sight distances for the Frontage R.O.W. shall be in accordance with Lewiston's Policy for the Design and Construction of Streets and Sidewalks;
8. Only one Frontage R.O.W. may be created per parent lot;
9. The roadway within the Frontage R.O.W. must be unobstructed and permit vehicle access at all times;
10. No part of a proposed public or private street(s) shall be used for the above referenced Frontage R.O.W. provisions;
11. A paved apron must be constructed a minimum length of 25 feet from the edge of the Frontage R.O.W.'s intersection with an approved public street or private road;
12. Stormwater management standards must be met or waived in accordance with Article XIII, Section 4(f) of this Code;
13. A note shall be added to the plan stating: "It is the responsibility of the owner(s) of those lots from which frontage and access is obtained from the Frontage R.O.W. to assure the long-term maintenance, repair, and replacement of and improvements within the Frontage R.O.W.".
14. A note shall be added to the plan stating, "This Frontage R.O.W. is considered private and the City of Lewiston is not responsible for maintenance, repair, plowing, trash collection, or other municipal services for the lots accessed by the Frontage R.O.W. way shown on this plan. If the way has not been built to public street standards, the City Council will not accept it as a public street."
15. The approved Frontage R.O.W. plan shall be recorded in the Androscoggin County Registry of Deeds within 90-days of approval. If the plan is not recorded within this time period, the development review and/or subdivision approval shall be null and void.
16. Prior to the issuance of occupancy permits for any of the lots served by the Frontage R.O.W., the applicant's engineer shall certify to the City of Lewiston

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that the Frontage R.O.W. has been constructed in accordance with the requirements contained in this section and the approved plan.

17. The Frontage R.O.W. may only be accessed from a public or private street.
18. The Frontage R.O.W may be an easement or held in fee interest by a lot or lots accessed by the R.O.W.

Figure 1- Frontage Right-of-Way Design Standards
 Residential (one and two-family dwellings)

Number of Lots Accessed by ROW	1-2	3-4	5-6
Right-of Way	40 feet	40 feet	50 feet
Minimum Roadway Width	14 ft.	18 ft.	20 ft.
Minimum Roadway shoulders	2 ft.	2 ft.	2 ft.
Maximum Roadway Length	500 ft.	1,000 ft.	1,500
Passing lane providing a minimum roadway width of 30' x 20' every ft.	250 ft.	250 ft.	N/A
Minimum Sub-base	12 inches	15 inches	15 inches
Minimum base	3 inches	3 inches	3 inches
Surface Type	Gravel or Paved	Gravel or Paved	Paved
Maximum Grade	10%	8%	8%
Minimum Grade	0.50%	0.50%	0.50%
Turnaround	Yes	Yes	Yes
Stormwater Management Approval	Public Works	Public Works	Public Works
Stamped Engineered Plans	No	Yes	Yes

Commercial Type (multifamily, mixed used, non-residential uses)

Number of Commercial Lots Accessed by ROW	1-2
Right-of Way/Easement Width	50 feet
Minimum Roadway Width	24
Minimum Roadway shoulders	2 ft.
Maximum Roadway Length	1,000 ft.
Minimum Sub-base	18 inches
Minimum Base	3 inches
Surface Type	Paved
Maximum Grade	8%
Minimum Grade	0.50%
Turnaround	Yes
Stormwater Management Approval	Public Works
Stamped Engineered Plans	YES

(Ord. No. 07-01, 3-8-07; Ord. No. 22-16e, 07-21-22; Ord. No. 22-29, 12-1-22)

Sec. 11. In-law apartment standards.

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An in-law apartment meeting the following standards shall be considered to be part of a single-family detached dwelling and shall not be considered to be a dwelling unit in terms of the space and bulk standards of article XI. In-law apartments shall be permitted only in those districts where they are allowed uses. Apartments not meeting these requirements shall be considered to be separate dwelling units and shall meet the use and space and bulk requirements of article XI:

- (1) The in-law apartment shall be accessory to the use of the premises as a single-family detached dwelling and only one in-law apartment shall be created as part of a single-family dwelling.
- (2) The in-law apartment shall be created within or attached to a single-family detached dwelling.
- (3) The person(s) occupying the in-law apartment must be a family member of the principal occupant(s) of the single-family home and the burden of proof of this relationship shall be on the homeowner.
- (4) The creation of the in-law apartment unit shall not alter the single-family character of the property. The following standards shall be met in creating the unit:
 - a. The in-law apartment must share a joint entrance with the single-family home and the in-law apartment shall not have a separate front entrance from the outside. A joint entrance shall consist of an enclosed structure with access to the in-law apartment and the single-family dwelling. Any second-story side entrance must be contained within the building envelope; and
 - b. Provisions for one (1) additional parking space shall be made in conformance with article XII, section 17. However, no additional curb cuts or driveways may be created to facilitate the creation of the in-law apartment and any new or expanded driveway entrance curb cut on the property must not exceed twenty-four (24) feet in width.
 - c. The habitable area of the in-law apartment shall not exceed 900 square feet and shall not contain more than two (2) bedrooms.
- (5) One of the units must be owner-occupied.
- (6) All applicable fire safety and egress laws must be observed in the creation of the in-law apartment.
- (7) There shall not be separately metered electric or water service for the in-law apartment.
- (8) In-law apartments on properties with private sewer shall comply with the State of Maine Subsurface Wastewater Disposal Rules for new or expanded systems, as applicable.
- (9) Evidence of documentation recorded in the Androscoggin Registry of Deeds identifying that the in-law apartment and the use of the in-law apartment must conform to the performance standards of Appendix A, article XII, section 11 of the Zoning and Land Use Code. Said evidence must be provided to the City prior to issuance of an occupancy permit for said in-law apartment.

(Ord. No. 94-15, 11-3-94; Ord. No. 98-7, 9-10-98; Ord. No. 10-11, 11-18-10; Ord. No. 12-03, 04-05-12; Ord. No. 17-20a, 12-21-17)

Sec. 12. Campground standards.

The following standards shall apply to the establishment or expansion of any campground or travel trailer park in the City of Lewiston in addition to any requirements of the State of Maine:

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- (1) The plans for the construction or expansion of any facility shall be reviewed and approved by the planning board under the development review provisions of article XIII prior to the start of construction and the occupancy of any site.
- (2) Camping areas located within shoreland areas, as defined in section 2 of this article, shall contain a minimum of 5,000 square feet of suitable land, not including roads and driveways, for each site. Camping areas located outside shoreland areas shall contain a minimum of 2,500 square feet of suitable land, not including roads and driveways, for each site.
- (3) All recreational vehicles, tents, or shelter and utility and service buildings, shall be set back a minimum of 75 feet from the normal high-water mark of any water body or stream.
- (4) All recreational vehicles, tents, utility and service buildings and other structures shall be located at least 75 feet from all property and street lines.
- (5) A buffer area at least 50 feet in width meeting the requirements of article XIII shall be maintained along all property and street lines.
- (6) Sanitary and recreational facilities shall be located to conveniently and safely service the occupants of the facility.

Sec. 13. Standards for the installation of mobile homes on individual lots.

The installation of mobile homes on individual residential lots shall conform to the following standards:

- (1) The installation of a mobile home on an individual lot shall be a permitted use in the district where it is located.
- (2) The unit shall be located on the lot in conformance with the space and bulk requirements of the district in which it is located.
- (3) The unit shall have its wheels, axles and tongue removed and shall be placed on a permanent foundation meeting the requirements of the Maine Uniform Building and Energy Code.
- (4) The area under the unit shall be fully enclosed by a wall consisting of one of the following materials:
 - a. Loose laid or mortared masonry blocks;
 - b. A poured concrete wall;
 - c. Approved vinyl or metal mobile home skirting; or
 - d. Painted wood or similar materials.

The area under the unit shall be provided with a suitable accessway and ventilation.

- (5) The unit shall be connected to a public sewer or an approved private sewage disposal system meeting the requirements of the Maine State Plumbing Code, as amended.
- (6) The mobile home shall be anchored in accordance with the standards of Article XIV, if it is located in an area of special flood hazard as identified by the flood insurance rate map of the city.

(Ord. No. 20-10i, 11-05-20)

Sec. 14. Standards for the installation of mobile homes in mobile home parks.

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The creation of mobile home lots in mobile home parks and the installation of mobile homes on those lots shall conform to the following standards:

- (1) *Lot development standards.*
 - a. *Utilities.* Each lot shall be serviced by public water and sewer and provided with electrical and telephone service, all in accordance with the standards contained in article XIII, section 4(j) of this Code.
 - b. *Stand.* Each lot shall be developed with a suitable stand for the mobile home. This stand may consist of any one of the following systems:
 1. A four-inch reinforced concrete slab. This slab shall be located on soils which are not susceptible to frost action or shall be located on a 12-inch gravel base with appropriate underdrains; or
 2. A pair of reinforced concrete grade beams designed in accordance with the Maine Uniform Building and Energy Code, as amended; or
 3. A series of columns and footings in which the footings are a minimum of two feet on a side and extend below the frost line.
 - c. *Off-street parking.* Each site shall contain two off-street parking spaces meeting the requirements of article XII, section 17. This parking shall be surfaced with a minimum of two inches of bituminous paving on a 12-inch gravel base or equivalent as approved by the city engineer.
 - d. *Drainage.* Each site shall be graded to provide positive surface water drainage away from the stand and into the overall stormwater system.
 - e. *Landscaping.* All areas of the lot not covered by buildings, structures, paving or other improvements shall be maintained in a vegetated state.
- (2) *Installation standards.*
 - a. *Placement of units.* The mobile home shall be placed on the lot so that it is located no closer than 15 feet to the front lot line and ten feet to the side and rear lot lines.
 - b. *Skirting.* The area between the ground or stand and the bottom of the unit shall be fully enclosed by skirting. This skirting shall provide for access and adequate ventilation of the space under the unit. This skirting may consist of one of the following materials:
 1. Approved vinyl or metal mobile home skirting; or
 2. A poured concrete wall; or
 3. A mortared or loose laid masonry wall.
 - c. *Fuel tanks.* Any fuel tank shall be installed so that it is not visible from the road or an abutting lot. Tanks may be located beneath the steps to the unit if permitted by applicable fire and safety codes. If the tank is located adjacent to the unit, it shall be fenced and landscaped to screen it from view.

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- d. *Accessory buildings.* Freestanding buildings such as storage sheds or garages may be located on a mobile home lot provided that all of the following standards are met:
 - 1. The building is not located between the street and a line parallel to the front line of the mobile home; and
 - 2. If located in a side or rear setback area, is at least ten feet from the lot line; and
 - 3. Is installed on a suitable foundation in accordance with the building code.

- e. *Additions to units:* Additions may be made to mobile homes including, but not limited to, porches, decks, attached garages, "bump-outs" and similar attached structure provided that all of the following standards are met:
 - 1. The addition is located at least 15 feet from the front lot line and ten feet from side and rear lot lines; and
 - 2. The architectural style of the addition is similar to the mobile home; and
 - 3. The addition is located on a foundation that is frost protected to the same extent as the mobile home.

- f. All units shall have a pitched, shingled roof and exterior siding that is residential in appearance.

(Ord. No. 90-10, 10-4-90; Ord. No. 20-10i, 11-05-20)

Sec. 15. Erosion and sedimentation control.

(a) *Statement of purpose.* The purpose of this section is to further maintain the safe and healthful conditions of the city and neighboring communities; to prevent and control water pollution, to protect aquatic life, bird and other habitat; to protect buildings and lands from accelerated erosion; to protect historic resources; to protect wetlands; to control building sites; to conserve ground cover; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in the City of Lewiston.

(b) *Applicability.* The standards of this section shall apply to all activities which involve filling, grading, development, earth-moving, excavation, removal of topsoil, sod, loam, peat or other organic materials, clay, sand, gravel, stone or other earth products or other similar land use activities which result in unstabilized soil conditions. This section shall apply if the activity does or does not require a permit under this Code. Lawfully established agricultural fields shall be exempt from this section.

(c) *Standards.* Any person, entity or property owner who conducts, causes or allows to be conducted, an activity which results in unstabilized soil conditions shall take measures to prevent unreasonable erosion of sediment or soil beyond the project site or into a protected natural resource as defined by M.R.S.A, Title 38 § 480-B. Erosion control measures must be in place before the activity begins and remain in place and be maintained until the site is permanently stabilized. All erosion control and stabilization measures required by this section shall be in accordance with Maine Erosion and Sediment Control Best Management Practices (BMPs)

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Manual for Designers and Engineers, October 2016, as amended or other measures determined to be appropriate by the Lewiston Director of Planning and Code Enforcement.

(Ord. No. 05-06, 3-17-05; Ord. No. 06-17, 2-8-07; Ord. No. 20-10i, 11-05-20)

Sec. 16. Signs.

(a) *General provisions.*

- (1) For the purposes of this Code, a sign shall be any structure, device, letter, banner, symbol, or other representation which is used as or is in the nature of an advertisement, announcement, or direction; which is erected, assembled, affixed out of doors, or painted on the exterior of a building or structure and which is visible from a public way. "Visible from a public way" means capable of being seen without visual aid by a person of normal visual acuity, from a way designated for vehicular use and maintained with public funds.
- (2) The area of a sign shall equal the area of the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the facing of a sign, including copy, insignia, background and borders, but not including structural supports of the sign. A sign's area is the sum of the areas of each of its sides. A wall sign's area shall be based on the area of a freestanding sign as calculated above that would be required to accommodate the same features, or in the case of individual graphics added to walls, or other architectural features of a building, the sum of the areas of each of the graphic elements displayed.
- (3) No signs shall be erected or altered unless in conformity with the provisions of these regulations. Signs must be kept clean, legible and free from all hazards, such as, but not limited to, faulty wiring, loose fastenings, or deterioration, and must be maintained at all times in such condition so as not to be detrimental to the public health or safety, detract from the physical appearance and the natural beauty of the community, or constitute a distraction or obstruction that may impair traffic safety.
- (4) No sign shall be permitted which causes a traffic, health, or safety hazard or creates a nuisance due to its illumination, placement, display, or manner of construction. No sign shall be located so as to obstruct views of traffic.
- (5) All signs must conform to the building and electrical codes as adopted by the City of Lewiston, except as specifically provided to the contrary herein.
- (6) Any legally existing nonconforming sign to be relocated or altered shall be brought into conformance with the provisions of this Code except when relocation or alteration is pursuant to a violation order issued by the code enforcement official. Except for prohibited signs as listed in subsection (g), changes in the content of a nonconforming sign including names, words, logos or similar information shall not constitute an alteration requiring conformance with this section, as long as the changes do not make the sign more nonconforming and a permit is obtained for the changes from the code enforcement official.
- (7) All such signs must be properly maintained by the owner thereof or the owner of the premises on which they are located, and any such sign that becomes a nuisance or a hazard to public safety must be promptly removed from the premises if so ordered by the code enforcement official.

(b) *Signs permitted in all districts.*

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- (1) The following types of signs may be erected in all zoning districts without obtaining a permit from the code enforcement official:
- a. *Public safety signs.* Governmental bodies may erect and maintain signs necessary for the public safety and welfare, or as required by law, ordinance or government regulation.
 - b. *Posting private property.* Signs permitted to post private property shall only be for the following or similar conditions: no hunting, no fishing, no snowmobiles, no trespassing. Posted signs shall not exceed two square feet per private property sign.
 - c. *Temporary signs.* Temporary signs listed below shall not be placed in a position that will impair vision, obstruct traffic, or in any manner create a hazard or nuisance to the general public.
 1. *Organization signs.* Signs and banners advertising charitable functions, notices of meetings, and similar noncommercial signs. These may be placed for a period not exceeding ten days prior to the event and shall be removed within two days after the event or meeting.
 2. *Real estate signs.* Two temporary real estate signs including temporary open house directional signs and advertising the sale, lease or rental of a parcel or structure may be placed on any property. Within a farming or residential district the maximum sign size shall be six square feet. Within a commercial or industrial district the maximum sign size shall be 32 square feet. Such signs shall be removed by the owner or his agent within ten days of such sale, lease, or rental, or for the open house directional signs within 24 hours after the open house is over. The sign(s) may be attached to a building or be freestanding.
 3. *Construction.* A temporary construction sign, providing a general identification of a project and those responsible therefor, may be erected on the construction site provided it shall not exceed 32 square feet and shall be removed within ten days after project completion.
 4. *Home sales.* A sign advertising a temporary home, yard, garage, barn or basement sale on the premises may be placed for no more than three days prior to said sale and shall be removed within 24 hours of the end of the sale.
 5. *Political signs.* Signs of a temporary nature bearing political messages relating to an election, primary or referendum may be placed within the public right-of-way of any street or highway in accordance with the timelines established in M.R.S.A. Title 23, §1913-A. Political signs outside of the public right-of-way are not subject to time limits. Political signs are prohibited on City owned property including schools, parks, cemeteries and municipally owned buildings. Notwithstanding article V, section 8, the code enforcement official or designee may remove any political signs erected contrary to this section.
 6. *Temporary signs, banners, decorations.* Upon approval of the city council, temporary signs, banners, flags and other decorations may be erected in the public right-of-way when in relation to a special event.

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- d. *Occupant signs.* Any residential property may contain one sign not exceeding two square feet in area and being only property numbers, post box numbers, names of occupants of the premises or other noncommercial identification. These signs may be freestanding or attached to a building or structure.
 - e. *Flags.* Flags or insignia of any government.
 - f. *Public notices.* Legal notices, identification, informational or directional signs erected or required by governmental bodies.
 - g. *Architectural features.* Integral, decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - h. *Memorials.* Memorial signs or tablets, names of buildings and date of erection, when cut into masonry, bronze or other noncombustible material.
- (2) The following types of signs may be erected in all zoning districts following the obtaining of a permit from the code enforcement official. The application shall indicate the type, size and location of the sign:
- a. *Identification signs.* A sign identifying a lawfully existing home occupation or family day care homes operated in conjunction with a residential use, is allowed on the premises, providing the sign does not exceed six square feet in display area.
 - b. *Institutional signs.* Signs may be erected for noncommercial purposes in connection with any church, museum, library, school or similar public structure. In residential districts, such signs shall not exceed 32 square feet in display area and not more than one sign shall be permitted per property. In nonresidential districts, notwithstanding the provisions of article XII, subsection 16(c)(2)(a)(1)(iii), permanent or temporary projecting wall banner(s) and associated structural supports may not extend above the level of a flat roof or the eaves of any other type of roof, may not be lower than ten feet above the adjacent grade and may not extend farther than 36 inches beyond the face of the wall to which they are attached, the total sign area shall not exceed ten percent of the gross area of the principal facade of the structure and no part of the sign and/or supports shall encroach into the travel way.
 - c. *Driveway signs.* Entrance and exit signs may be placed at driveways and shall not obstruct view of traffic. Such signs shall not exceed four square feet per side in display area per driveway sign.
 - d. *Farm products.* Not more than two signs advertising the sale of farm or forestry products available on the premises. Each sign may not exceed 16 square feet.
 - e. *Building directory.* A sign may be attached at the entrance to a building to identify the occupants for pedestrians entering the building and shall be in addition to any other signs permitted by this Code. A building directory shall not exceed 16 square feet.
- (3) The following types of signs shall be permitted for any legally existing business subject to issuance of a permit:
- a. *Advertising and promotional signs.* Signs, banners and similar specialty advertising devices used temporarily in conjunction with special events or sales provided they are used for 30 days or less and are located on or attached to the

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premises where the sale or event is occurring. Such signs shall not be permitted more than four times in any 12-month period.

(4) The following types of signs shall be permitted for any retail grocery store subject to the issuance of a sign permit:

a. *Beverage signs.* Each establishment may display one illuminated malt beverage display sign in addition to one other illuminated or nonilluminated display sign.

(c) *Permitted signs.* The following standards shall govern the erection of signs throughout the City of Lewiston. Any permitted sign shall be erected, changed or relocated only after a permit is obtained from the code enforcement official in accordance with the provisions of the building code. Permitted signs shall be considered to be accessory to the principal use of the premises and shall pertain only to activities or products available on the premises. Notwithstanding the above, permits are not required for the placement of temporary day and window signs as identified in article XII, subsection 16(c)(2)a.2. of this Code.

(1) Rural, residential and resource conservation districts.

a. The following signs shall be permitted in the rural, residential, resource conservation and neighborhood conservation districts:

1. A single sign, not over 15 square feet in area, attached to a building or detached and located in the front setback, describing an apartment house, residential development or other legally existing residential use.
2. A single sign, not over 32 square feet in area, attached to a building or freestanding and located in the front setback describing a legally existing nonresidential use.

b. The following standards shall govern the installation of signs in rural, residential and neighborhood conservation districts:

1. Any sign attached to a building shall be a wall sign;
2. Any freestanding sign shall have a maximum height to the highest point on the sign area of eight feet above adjacent grade.
3. Signs may be illuminated by a shielded external light source. Internally illuminated signs and/or changeable message signs shall not be permitted in residential districts.

(2) *Nonresidential districts.* All signs within the riverfront, office residential, downtown residential, institutional office, community business, highway business, centreville, office service, industrial, urban enterprise and mill districts shall conform to the standards of this section.

a. Permitted signs. The following types of signs shall be considered necessary to the principal use of the premises on which they are located, provided they are maintained in a safe, neat and clean condition.

1. Permanent signs, including:

(i) Awning signs;

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- (ii) Single-faced or multiple-faced ground signs, provided no permanent ground sign shall have less than four-foot clearance above grade and no permanent ground sign or structural support shall extend higher than 25 feet above grade. Ground signs with less than four-foot clearance above grade shall be permitted if it is determined by the code enforcement official, following an on-site inspection of the premises, that the sign and its structural support will not create or aggravate a safety hazard;
- (iii) Single-face or multiple-faced projecting signs, provided no projecting sign may extend higher than 25 feet above grade, lower than ten feet above grade, and shall not encroach into the right-of-way or nearer than five feet from any other lot line. In the centreville district and in the riverfront district, limited to properties with frontage on Main Street, no sign shall extend farther than six feet beyond a street line (no sign shall encroach into the travel way), or nearer than five feet from any other lot line and signs may extend to a maximum height of 40 feet, but shall not extend above a flat roof or the eaves of any other type of roof;
- (iv) Wall signs, provided no wall sign or structural support may cover any portion of a visible window or window detail above the first story;
- (v) Window signs.
- (vi) Changeable message signs. Changeable message signs are permitted provided that each message remains fixed on the display surface, but "which may be changed at reasonable intervals by electronic process or remote control", and do not "include any flashing, intermittent or moving light or lights". (23 U.S.C. § 131) and in accordance with subsection M.R.S.A. 1914, subsection 11-A., Title 23. For the purposes of this section, signs whose text/numeric messages change by mechanical or electronic means are not prohibited as long as the intermittent lighting is used to change messages and not solely to attract attention. Those provisions of M.R.S.A. 23, § 1914 that are applicable to changeable message signs as they apply to controlled-access highways or ramps remain in effect. A "flashing" sign or messages with graphic, pictorial, animated, or photographic images will continue to be prohibited except as described below:
Changeable message signs shall be permitted only with the approval of the code enforcement officer and the sign shall meet the following requirements in addition to the dimensional requirements set forth in this ordinance.
Static display with a five-second hold rate of change minimum between changes including the use of subtle transitions such as fade, dissolve, travel and scrolling or similar transitions and with frames that appear to move or change in size, or be revealed sequentially rather than at once including the movement of illumination or the scintillation or varying of light intensity. Time

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and temperature signs are allowed to change display with a two-second message hold rate.

Changeable message signs shall be limited to either one changeable sign with two sides or two single-sided signs per lot of record where allowed by subsection 16(b)(2)(b) of this ordinance.

2. Temporary day signs:

- (i) Day signs, such as: sandwich signs, easel signs, and other similar day signs are permitted for the advertisement of specific products, daily specials, or for special events. They shall be made of durable materials (i.e., not of cardboard or paper) and shall not be placed to impede public access nor create a traffic hazard and shall also not exceed eight square feet per side. One sign per 50 linear feet of street frontage is permitted, not to exceed four such signs per property. Such signs can only be placed outside while the business is open.

- b. *Sign area.* The total area of all signs on a parcel shall conform to the following maximum aggregate sign area requirements. For multiple-faced signs, the area of each face shall be included in the computation of the aggregate sign area. Allocation of the maximum allowable sign area is to be determined by the property owner/agent.

- 1. *Community business, institutional office, highway business, downtown, centreville, office service, industrial, urban enterprise, mill and riverfront districts.*

- (i) Each business entity is permitted sign area not to exceed ten percent of the gross wall area of the principal facade of the building or structure or a minimum of 54 square feet, whichever is the greater, in the form of awning, projecting, wall, or window signs attached to the building or structure in which the business is located. Supplemental to the above building signage, a building or structure with frontage on two or more accepted city streets is permitted additional signage not to exceed a total of 54 square feet in area to be attached to a secondary facade of the building or structure.
- (ii) In addition, each premises shall be permitted one freestanding ground sign up to 168 square feet. Single parcels developed with multiple uses are permitted an additional 32 square feet of sign area per business use, up to an additional maximum of 216 square feet of sign area. Movie theaters where allowed shall be permitted additional sign area up to 36 square feet per cinema screen not to exceed a maximum of 360 square feet in total freestanding ground sign area per premises, notwithstanding article XII, subsection 16(a)(6). All signage permitted under this subsection shall be located at or near the principal vehicular entrance on one freestanding ground sign.
- (iii) For single parcels developed with multiple uses, an additional freestanding ground sign of up to 168 square feet identifying the development, and an additional 32 square feet of signage per business or use, up to an additional maximum of 216 square feet of sign area, all to be located on the same freestanding ground sign, is permitted at other major vehicular entry points located on arterial streets, provided such signs are not readily

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- concurrently visible with any other freestanding ground signs located on the premises.
- (iv) For single parcels developed with multiple uses, an additional freestanding ground sign area of a maximum of 168 square feet is permitted at other major vehicular entry points not located on arterial streets, provided such signs are not readily concurrently visible with any other freestanding ground signs located on the premises.
 - (v) Single parcels developed with multiple uses where there are separate principle vehicular entrances for the uses, concurrently visible ground signs not to exceed 40 square feet may be placed at such entrances to direct traffic to specific uses. No more than one freestanding ground sign is allowed at an entrance.
- 2. *Office residential, and downtown residential districts.* The aggregate sign area per premises may not exceed 72 square feet.
 - 3. *Properties with frontage on the interstate system.* One additional one-sided ground sign visible from any portion of the interstate system including ramps and interchange areas, not to exceed 20 feet in length, width, or height or 150 square feet in area, including borders and trim, but excluding supports, may be permitted more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on, provided such signs are not readily concurrently visible with any other freestanding ground signs located on the premises.
- c. *Special requirements.* For the purposes of this section, the following special requirement applies:
- 1. Awnings with graphic displays exceeding ten percent of the awning area (measuring from the outer most points) shall meet the applicable sign standards.
 - 2. Roof signs are not permitted and no part of any wall or projecting sign may extend above the level of a flat roof or the eaves of any other type of roof, with the following exceptions:
 - (i) Wall signs may project no more than five feet above the level of a flat roof or the eaves of any other type of roof as long as that portion of the sign does not exceed 20 percent of that signs total area. Wall signs on mansard roofs, the lower portion of gambrel roofs, false fronts, facades, parapets or other significant architectural features may not exceed the height of the architectural feature.
 - (ii) Roof signs not exceeding 54 square feet and wall and projecting signs may be located on or above the roofs of vestibules, canopies, porticos, loading docks, and similar single-story, attached structures, provided that the proposed sign is in compliance with article XII, section 16 (c)(2)(c)(2)(i) of this ordinance with regard to the roof of the principal building.
- d. *Development entrance signs.* Parcels of land subdivided for purposes of nonresidential development, are permitted one development entrance sign at the primary vehicular entry point, to identify the development and the business entities therein, provided the following requirements are met:
- 1. Such signs shall not exceed 168 square feet in total sign area;

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2. Such signs shall be sited on common land within the subdivision and shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard;
 3. For a nonresidential subdivision with secondary vehicular entry points, one additional development entrance sign, not to exceed 100 square feet in total sign area, may be sited at each secondary vehicular entry point, provided such signs are not readily concurrently visible with any other development entrance signs located on the same subdivided parcel.
- e. *Campus-type signs.* Parcels of land developed in a campus-type environment, as defined as larger parcels of land with multiple buildings including hospitals, mill complexes or public or private educational facilities, are permitted the following additional signage:
1. **Main entrance signs.** A freestanding ground sign to be located at the main vehicular entrance and unless otherwise permitted, such signs shall be limited to a symbol and/or name identifying the campus; and, if desired, the street address. In addition, the following standards must be met:
 - (i) Such signs shall not exceed 168 square feet in total sign area and exceed a height greater than 25 feet above the immediately adjacent finished grade.
 - (ii) Such signs shall be sited within the private land boundaries of the campus and shall not be located within the right-of-way of any public street or highway nor create or aggravate a traffic hazard.
 - (iii) For a campus-style parcel with secondary vehicular entry points, one additional main entrance sign, not to exceed 168 square feet in total sign area, may be sited at each secondary vehicular entry point, provided such signs are not readily concurrently visible with any other main entrance signs located on the same campus parcel.
 2. **Primary facility/campus directional signs.** Exterior boundary signs providing basic directional information to destinations within the campus boundary.
 - (i) Such signs shall not exceed 75 square feet in total sign area and exceed a height greater than 14 feet above the immediately adjacent finished grade.
 - (ii) Such signs shall be sited within the private land boundaries of the campus, should typically be limited to general destination names rather than specific destinations, and shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.
 - (iii) Whenever possible, such signs should be incorporated onto a main entrance sign which may be located in the immediate vicinity and/or at the same street intersection.
 - (iv) Quantities shall be based on an established overall message sequence and across campus preferred routes; displaying the required information only at the location of decision or identification.
 3. **Secondary campus directional signs.** Interior boundary signs providing more detailed directional and/or informational assistance.
 - (i) Such signs shall not exceed 25 square feet in total sign area and exceed a height greater than eight feet above the immediately adjacent finished grade.
 - (ii) Such signs shall be sited within the private land boundaries of the campus and shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.

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- (iii) Quantities shall be based on an established overall message sequence and across campus preferred routes; displaying the required information only at the location of decision or identification.
 - 4. *Campus directory.* Map directions graphically identifying the various destinations across the campus.
 - (i) Such signs shall only be located along private vehicular or pedestrian access ways or parking areas to prevent unsafe conditions along public ways.
 - (ii) Such signs shall not be located within the right-of-way of any public street or highway.
 - (iii) Such signs shall not exceed 50 square feet in total sign area and exceed a height greater than seven feet above the immediately adjacent finished grade.
 - 5. *Site identification signs.* A sign, located as close as practical to the vehicular entrance of a freestanding building within the campus (medical office, clinic, library, etc.). The sign shall display the name of the facility (XYZ Surgery Associates) and include the street address (1234 Main Street).
 - (i) Such signs shall not exceed 50 square feet in total sign area and exceed a height greater than eight feet above the immediately adjacent finished grade.
 - (ii) Such signs shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.
 - 6. *Exterior building signs.* Wall, projecting, awning, or window signs, installed upon the exterior portion of a building displaying the functional name of the facility.
 - (i) Each building is permitted exterior building sign area not to exceed a total of 54 square feet or ten percent of the gross wall area of the principal facade of the building, whichever is greater.
 - (ii) Supplemental to the above exterior building signage, a building with frontage on two or more accepted city streets is permitted additional signage not to exceed a total of 54 square feet in area to be attached to a secondary facade of the building.
 - (iii) The placement of exterior building signs must comply with subsection (c)(2)a. of this section.
 - 7. *Miscellaneous campus signs.* Signs displaying circulation, directional or regulatory information not exceeding a total sign area of six square feet, are exempt from the requirement of obtaining a sign permit. However, such signs shall be installed in accordance with all applicable requirements of article XII, section 16 and shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.
- (d) *Portable signs.*
- (1) *Defined.* A portable sign is one which is designed for and intended to be moved from place to place and not be permanently affixed to land, buildings or other structures.
 - (2) *Portable signs permitted.* Any use located in a business or industrial district, other than the centreville district, shall be permitted one portable sign of not more than 64 square feet in sign area for a maximum of 60 days in any 12-month period in addition to other signs permitted by this Code.

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- (3) *Permit required.* A sign permit shall be obtained from the code enforcement official prior to installing a portable sign. The application shall specify the location of the sign and time of use, and shall be accompanied by a fee as determined from time to time by the city council.
- (4) *Location.* A portable sign shall be located outside of the street right-of-way in such a manner that it will not obstruct or impair vision or traffic or in any way create a hazard or nuisance to the public. The electrical service [is] to be approved by the inspector upon installation.
- (e) *Official business directional signs.*
 - (1) *Authority.* The provisions of this section shall govern the installation and maintenance of official business directional signs authorized by the Maine Traveler Information Services Act, 23 M.R.S.A. sections 1901 through 1925, as amended.
 - (2) *Qualifying uses.* Uses include lawful businesses, and points of interest, and cultural, historic, recreational, educational and religious facilities.
 - (3) *Location.*
 - a. An official business directional sign may be installed in any district except the centreville district (CV).
 - b. In the centreville district (CV), signs located therein on December 31, 1982, may be replaced, but new directional signs shall not be erected.
 - c. Official business directional signs shall only be located in those vicinities where the traveler must change direction from one public way to another to reach the business, facility or point of interest.
 - d. Official business directional signs shall be not be erected more than 10 mile radius from the place of business, facility or point of interest.
- (f) *Special intracommunity service signs.* Special service signs for local information within Lewiston may be erected on state or state aid highways provided the following conditions are met:
 - (1) *Requests.* Requests for signs must be made by the Municipal Officers of Lewiston.
 - (2) *Eligible facilities.* Signs shall be limited to directing traffic to locations of special interest which include the following:
 - (a) Hospitals which provide emergency service 24 hours a day.
 - (b) Public transportation facilities including airports, railroad stations, bus terminals and ferries.
 - (c) Public recreational facilities such as beaches, parks, sport arenas, scenic areas and historical areas.
 - (d) Municipal subdivisions such as central business districts and villages within municipal boundaries. (i.e. industrial parks, business parks, etc.)
 - (e) Governmental buildings or agencies such as city halls, county buildings, schools, armories and fire or police stations. Signs for specific commercial establishments shall not be permitted.
 - (f) Colleges and Universities
- (g) *Prohibited signs.* The following signs are prohibited in all areas of the city, except as otherwise provided in these regulations:

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- (1) *Off-premises signs.* An outdoor sign bearing a commercial or business name, symbol, logo or message, located on any premises other than where the project, service or activity is located, except publicly erected information kiosks, special intra-community services signs, official business directory signs in accordance with subsection (e), above, and as provided in subsection (a), below.
 - (a) In the event an existing nonresidential use does not have frontage and the principal vehicular access is by easement, a single off-premises ground sign is permitted within said easement, pursuant to the standards contained in subsections (c)(2)(b)(1)(ii) through (v).
- (2) *Moving or flashing signs.* Signs, other than barber poles, time and weather devices, changeable message signs and similar public service signs that have visible moving parts or blinking illumination.
- (3) *Signs in street right-of-way.* No sign except political signs, traffic and similar public safety signs, erected in accordance with the Code of Ordinances, official business directional signs erected in accordance with subsection (e) of these regulations, and publicly erected information kiosks, special intracommunity service signs, or sign boards and signs approved by the city council advertising civic events and function shall be located in the public right-of-way of any street or highway.
- (4) *Terminated businesses.* Signs relating to any business which has been out of business for more than 180 days. The owner of the property or his agent shall be responsible for removing all mountings, brackets, poles, sign faces and other sign material.
- (5) *Signs on natural features.* No signs shall be permitted which are erected, painted or maintained upon trees, rocks and other natural features.

(Ord. No. 89-3, 4-7-89; Ord. No. 92-16, 8-13-92; Ord. No. 93-5, 3-18-93; Ord. No. 93-6, 5-6-93; Ord. No. 94-4, 7-7-94; Ord. No. 95-7, 6-1-95; Ord. No. 95-9, 7-20-95; Ord. No. 95-10, 9-14-95; Ord. No. 95-11, 9-14-95; Ord. No. 97-8, 10-16-97; Ord. No. 99-3, 3-4-99; Ord. No. 00-1, 2-17-00; Ord. No. 00-19, 10-5-00; Ord. No. 01-1, 2-15-01; Ord. No. 03-02, 3-20-03; Ord. No. 04-08, 4-15-04; Ord. No. 05-15, 9-8-05; Ord. No. 05-16, 11-3-05; Ord. No. 05-20, 1-19-06; Ord. No. 08-04, 5-15-08; Ord. No. 12-01, 3-5-12; Ord. No. 12-05, 5-3-12; Ord. No. 12-14, 1-03-13; Ord. No. 22-16e, 07-21-22; Ord. No. 22-29, 12-1-22)
Cross references: Advertising, ch. 6.

Sec. 17. Off-street parking and loading.

- (a) *Applicability.* The following minimum off-street parking and loading requirements except as provided for in subsections (e)(3) and (e)(4) shall be met for:
 - (1) The use of any parcel of land;
 - (2) The construction of any building or structure;
 - (3) The conversion of an existing building, structure or portion thereof to a new use;
 - (4) The enlargement of an existing building or structure; or
 - (5) The modification of an existing building or structure to create additional floor area, dwelling units, seats or similar measures of parking demand set out in the standards of subsection (d).

Modifications, enlargements or conversions of buildings or structures or the change in or intensification of use shall not be permitted unless off-street parking and loading is provided for an additional number of spaces representing the difference between what this Code requires for the existing building or structure and what this Code requires for the proposed building or structure.

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(b) *Classification of use.* Off-street parking or loading which is provided to serve an allowed use or legally existing nonconforming use shall be considered to be an accessory use if it is provided on the same lot or on another lot in the same zoning district in accordance with the standards of this section.

Off-street parking provided in one zoning district to serve a use in another zoning district or off-street parking not associated with a particular use shall not be considered to be an accessory use and shall be permitted only in those zoning districts where commercial parking facilities are allowed as a principal use.

(c) *Parking facilities.* Parking required by this section may be provided in open air parking spaces or by spaces located in a garage. Parking spaces shall be so arranged so that each space can be used without another vehicle having to be moved except for single-family detached and two-family detached dwellings and for assigned parking for an individual dwelling unit in an attached single-family or multifamily dwelling, or assigned employee parking in nonresidential projects that are classified as minor developments under this code when reviewed in connection with development review pursuant to article XIII hereof.

(d) *Off-street parking required.* The following minimum off-street parking shall be provided and maintained for each situation identified in subsection (a) unless otherwise exempt pursuant to subsection (e). In computing the number of spaces required, lots with two or more uses shall meet the combined requirement for all of the uses. In calculating the parking requirement, major fractional spaces (0.5 or greater) shall be rounded up to the next whole space. Employee parking is based on the largest shift.

Single-family detached dwellings	two spaces per dwelling unit
Two-family dwellings	two spaces per dwelling unit
Single-family attached or multifamily dwellings	one space per dwelling unit plus 0.1 spaces per dwelling unit for visitor parking for all single-family attached or multi-family dwellings
Housing for the elderly	one-half space per dwelling unit
Types "A" and "B" group care facilities	one space per three bedrooms, plus one space per employee
Tourist homes	two spaces plus one space per lodging unit
Motels, hotels and inns	three spaces plus one space per sleeping room (accessory eating and drinking establishments or other facilities shall provide additional parking as required).
Rooming houses, boarding houses, lodging houses	one space per three bedrooms
Bed and breakfast establishments	one space per guest sleeping room and two spaces per dwelling unit plus one space per every two employees on the largest shift; establishments approved by development review pursuant to article XIII for meeting facilities for non-guests or for special outdoor functions shall provide one space per two seats in any meeting facilities and one space per two special outdoor function guests based on the approved capacity; if such additional off-street

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	parking is provided off the site, it shall comply with the requirements of article XII section 17.e except that, notwithstanding the provisions of subsection e, the planning board shall have the authority to approve such off-site parking.
Hospitals	one space per patient bed plus one space per three employees
Medical clinics	two spaces per treatment room or patient bed, whichever is greater
Nursing or convalescent homes	one parking space per five resident beds and one space per employee
Child care and nursery school facilities	
Family day care	One on-site space for each staff person plus
Small day care	one space for each six children
Day care centers	
Schools	
Elementary schools	one and a half spaces per classroom
Secondary schools	five spaces per classroom
Residential colleges, universities and institutions of higher education, including accessory facilities athletic and assembly facilities designed primarily for student use	one space per 7 seats in classroom facilities
Business colleges and schools	one space per 4 seats in classroom facilities
Retail and personal service establishments	one space per two hundred fifty square feet of gross floor area. For retail stores which are part of a gasoline service station complex, one-half of the service spaces at the pump islands may be applied to meet not more than one-half of the required parking demand
Neighborhood retail store	one space per five hundred square feet of gross floor area
Eating and drinking establishments	one space per three seats
Drive-in restaurants	ten spaces plus one additional space per one hundred feet of gross floor area
Professional and business offices	one space per 300 square feet of gross floor area
Construction contractors, tradesman, offices, laboratories and similar uses	one space per 500 square feet of gross floor area
Adult business establishments, drinking place	one space per 3 seats or 200 square feet of gross floor area, whichever is greater
New and used car dealers	five spaces plus one space per 3,000 square feet of display area (indoor and outdoor)
Auto repair garages and gasoline service stations	two spaces per service bay plus one space per employee
Light industrial uses, industrial uses, wholesale, storage and distribution facilities	one space per 500 square feet of gross floor area up to 3,000 sq. ft. plus one space for each

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Community centers, libraries, museums, civic clubs, theatres, places of indoor assembly, amusement or culture, religious facilities, and similar uses	1,000 sq. ft. of gross floor area in excess of 3,000 square feet one space per 4 seats where fixed seating is provided plus 1 space per 200 square feet of area otherwise available for assembly
Auditoriums, stadiums, sport arenas, race tracks, skating rinks, gymnasiums, convention halls or similar uses	one space per each 4 seats; where individual seats are not provided, each 24 inches of bench or other similar seating, or eight sq. ft. of seating or standing space shall be considered as one seat for the purpose of determining requirements thereof
Self storage facilities	five spaces for facilities with an office
Uses not specifically listed or able to be placed into one of the above categories, or listed uses which can be clearly shown to have a differing parking need (either fewer or greater) than otherwise required	Sufficient spaces to accommodate the normal parking demand of the use without requiring on-street parking. The number of required spaces shall be determined by the planning board for major project development review or by the staff review committee for minor project development review or by the planning director if no review is required in accordance with accepted standards.
Homeless shelters	No parking spaces are required to be provided

(e) *Location of off-street parking facilities.* Required or provided off-street parking in all districts shall be located on the same lot as the principal building or use, except as provided below:

- (1) In residential districts, required or provided off-street parking, serving permitted or conditional uses, may be located off the site, provided it is located within 1,320 feet of the property line of the principal building or use and cannot reasonably be provided on the same lot. Such off-street parking shall be held in fee simple by the owner of the principal use served, or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use, provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by the planning director before the request is considered by the appropriate deciding body. Evidence of fee simple ownership or approved tenure shall be required.
- (2) In all zones other than residential, required or provided off-street parking may be located off the site, provided it is located within 1,320 feet of the property line of the principle buildings or use and cannot be provided on the same lot. Such off-street parking shall be held in fee simple by the owner of the use served, or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use, provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by the planning director before the request is considered by the appropriate deciding body. Evidence of fee simple ownership or approved tenure shall be required, and such lots shall be located within nonresidential districts.

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- (3) Required off-street parking in all districts may be substituted by parking facilities which, in the public's interest, may be provided by the municipality. Such substitution shall be shown to be representative of the off-street parking turnover or requirements of the particular use in question and shall take into consideration the needs of other uses with similar demands upon such public space. No such public off-street parking spaces shall be considered as a substitute unless located within 1,320 feet of the property line of the principal building or use.
- (4) No additional parking spaces shall be required for any structure that has been designated as significant for historic preservation under article XV of this Code that is proposed for reuse. Any expansion to the building will need to provide the required additional parking. All modifications to the building must be done in accordance with the criteria established under article XV, section 5 of this Code.
- (5) Riverfront, Mill, Centreville, Downtown Residential and Neighborhood Conservation “B” zoning district exemption:
 - a. No off-street parking is required for commercial uses,
 - b. Single-family detached and two-family dwellings require one space per dwelling unit,
 - c. Single-family attached or multifamily dwellings require 0.75 space per dwelling unit and no visitor parking.

(f) *Design of off-street parking facilities.*

(1) Parking space dimensions.

- a. Except as provided below, each parking space shall contain a rectangular area at least 18 feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
- b. Up to 40 percent of required parking spaces need contain a rectangular area of only eight feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.
- c. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by nine feet.

(2) *Parking aisle and driveway dimensions.*

- a. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	<i>Parking Angle (in degrees)</i>				
Aisle Width	0	30	45	60	90
One-Way Traffic	12	10	12	16	22
Two-Way Traffic	18	19	20	22	22

- b. Driveways providing access to parking aisles shall be not less than ten feet in width for one-way traffic and 18 feet in width for two-way traffic, except that ten-foot-wide driveways are permissible for two-way traffic when; (i) the driveway is not longer than 50 feet; (ii) it provides access to not more than six spaces; and (iii) sufficient turning space is provided so that vehicles need not back into a public street.

(3) *Design requirements.*

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- a. Unless no other practicable alternative is available, parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one- or two-family dwellings, although backing onto arterial streets is discouraged.
 - b. Parking areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
 - c. Every parking area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation or other obstruction.
 - d. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
 - e. The standards of the City of Lewiston's Site Plan Review and Design Guidelines shall apply to design and layout of parking areas.
 - f. Parking space and aisle and driveway dimensions for nonresidential projects that are classified as minor developments under this Code may be modified in connection with development review pursuant to article XIII hereof if no practicable alternative is available and all other provisions of this subsection are met.
- (g) *Construction of off-street parking facilities.*
- (1) Parking areas that; (a) include lanes for drive-in windows; or (b) are required to have more than six parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust. The base of parking areas and driveways shall consist of a minimum of 12 inches of gravel. If bituminous surfacing is used, it shall consist of one and one-half inches of B mix and one inch of C mix laid in two courses or equivalent as approved by the city engineer.
 - (2) Parking areas that are not provided with the type of surface specified in subsection (g)(1) shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a parking area abuts a paved street, the driveway leading from such street to such area shall be paved as provided in subsection (1) for a distance of 15 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family dwellings or other uses that are required to have only one or two parking spaces.
 - (3) Parking spaces in areas surfaced in accordance with subsection (g)(1) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (g)(2) shall be demarcated whenever practicable.
 - (4) Parking areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, parking area surfaces shall be kept in good condition (free from

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potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

- (5) When it has been determined under article XII, section 17(d) that a specific use requires less parking spaces than otherwise required, the additional parking spaces based on the listed use may be just shown as reserved on the plans. In addition, a developer may implement transportation demand management programs to reduce the need for off-street parking. The programs could involve strategies to involve more interurban transit use, car and van pooling, employee pick-up plans, flexible workhour schedules, subscription bus service and other similar incentives. These programs must be approved by the reviewing body prior to implementation and may not reduce the number of required spaces by more than 25 percent.

For projects classified as major under this Code utilizing the transportation demand management program provisions, or projects classified as minor under this Code that are proposing expansion, the reduced number of spaces must also be shown as reserved on the plans. Reserved parking spaces for all projects shall not be used for any purpose other than open space, and the reserved area may not be used to meet the minimum open space ratio. If the use changes with respect to the need for the additional spaces, or if the transportation demand management program is not successfully implemented, the additional number of spaces shall be constructed in accordance with the applicable design standards within 60 days of the change of use or determination that the transportation demand management program has not been successfully implemented.

For projects classified as minor under this Code utilizing the transportation demand management program, but not proposing any expansion, the occupancy permit shall be contingent on the satisfactory implementation of program. The required additional spaces shall be provided within 60 days of a determination that the program has not been successfully implemented. Otherwise, the use must cease or be converted to one that meets the required parking standards.

(h) *Joint use of parking facilities.*

- (1) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
- (2) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90 percent vacant on weekends, another development that operates only on weekends could be credited with 90 percent of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50 percent of capacity on days other than Sunday, another development could make use of 50 percent of the church lot's spaces on those other days.

- (i) *Other use of parking facilities.* Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind. The required parking areas shall be permanently available for use by patrons and employees of establishments providing such space.

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(j) *Off-street loading.*

- (1) Subject to subsection (5), whenever the normal operation of any development requires that goods, merchandise or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.
- (2) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the planning board may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

<i>Gross Leasable Area of Building</i>	<i>Number of spaces*</i>
5,000-- 79,999	1
80,000--127,999	2
128,000--191,999	3
192,000--255,999	4
256,000--319,999	5
320,000--391,999	6

Plus one space for each additional 72,000 square feet or fraction thereof.

*Minimum distance of 12 feet times 55 feet and overhead clearance of 14 feet from street grade required.

- (3) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can; (a) maneuver safely and conveniently to and from a public right-of-way; and (b) complete the loading and unloading operations without obstruction or interfering with any public right-of-way or any parking space or parking lot aisle.
- (4) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- (5) Whenever; (a) there exists a lot with one or more structures on it constructed before the effective date of this Code; and (b) a change in use that does not involve any enlargement of a structure is proposed for such lot; and (c) the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading, then the developer need only comply with this section to the extent reasonably possible, except as provided for in the district regulations of the urban enterprise district.

(Ord. No. 89-3, 4-7-89; Ord. No. 91-8, 10-3-91; Ord. No. 05-07, 3-17-05; Ord. No. 06-04, 4-20-06; Ord. No. 10-03, 03-04-10; Ord. 18-11, 11-15-18; Ord. No. 20-10i, 11-05-20, Ord. No. 22-20, 10-20-22; Ord. No. 22-29, 12-1-22)

Sec. 18. Public and private improvement standards for design and construction.

The following standards shall apply to the design and construction of public and private improvements as part of any project requiring development review:

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- (1) *Public streets.* Any street, governed by this Code, which is proposed to be dedicated to the city as a public street shall be designed and constructed in accordance with the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks, adopted by the city council pursuant to chapter 66, article IV, section 66-96 of this Code.
 - (2) *Private/mobile home park roads.* Private roads may be constructed as part of a residential, commercial, or industrial development, and mobile home park roads may be constructed as part of a mobile home park upon approval of the planning board. The planning board shall approve a private/mobile home park road only if it finds that all of the following have been met:
 - a. The development served by the private/mobile home park road has direct access onto a public street;
 - b. The private/mobile home park road will not serve property outside of the development and it is unnecessary to provide for the extension of the street system to provide access to unsubdivided or undeveloped property;
 - c. The developer demonstrates to the satisfaction of the planning board that satisfactory legal arrangements exist to assure the long-term maintenance, repair and replacement of the private infrastructure, including roads, sanitary and storm sewer systems, and water supply systems;
 - d. The private/mobile home park road is constructed in accordance with the standards of the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks and;
 - e. All approved plans contain a note that reads "the roads shown on this plan as private/mobile home park roads shall not be maintained by the City of Lewiston".
 - (3) *Sanitary sewers.* Any sanitary sewer constructed as part of a project requiring development approval shall conform to the following standards:
 - a. The design and construction shall conform to the City of Lewiston's Department of Public Services Policy for the Design and Construction of Streets and Sidewalks.
 - (4) *Water supply system.* Any water supply system constructed as part of a project requiring development approval shall conform to the following standards:
 - a. The design and construction shall conform to the City of Lewiston's Department of Public Services Policy for the Design and Construction of Streets and Sidewalks.
 - (5) *Stormwater system.* Each stormwater system constructed as part of a project requiring development approval shall conform to the City of Lewiston's Department of Public Services Policy for the Design and Construction of Streets and Sidewalks.
- (Ord. No. 89-3, 4-7-89; Ord. No. 92-12, 6-4-92; Ord. No. 01-23, 2-7-02; Ord. No. 07-02, 3-22-07; Ord. No. 20-10i, 11-05-20)

Sec. 19. Environmental performance standards.

The following standards shall apply to all nonresidential uses in the city:

- (1) *Smoke.*
 - a. For the purposes of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringlemann number referred to in this section refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of

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equivalent opacity of the emission of smoke observed. For example, a reading of Ringlemann No. 1 indicates a 20 percent density of the smoke observed.

- b. All measurements shall be taken at the point of emission of the smoke.
 - c. In all residential districts and the OR district, no nonresidential use may emit from a vent, stack, chimney, or combustion process any smoke that is visible to the naked eye.
 - d. In the IO, CB, HB, D, OS and UE districts, no nonresidential use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 1, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 2 is permissible for a duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of a residential district.
 - e. In the I District, no nonresidential use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 2, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 3 is permissible for a duration not more than four minutes during any eight-hour period if the source of emission is not located within 500 feet of a residential district.
- (2) *Noise.*
- a. A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low) an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter.
 - b. The standards established in the table set forth below are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at ten-second intervals and computing the Leq.
 - c. Except as provided in subsections d. and e., the following table establishes the maximum permissible noise levels for nonresidential uses. Measurements shall be taken at the boundary line of the lot where the nonresidential use is located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the use is located.

Table of Maximum Permitted
Sound Levels, dB(A)

Zoning of Adjacent Lot

	<i>Residential and OR</i>	<i>Business IO, OS and UE</i>	<i>I</i>
Maximum sound level	50	60	70

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- d. In cases where measurements taken in accordance with subsections a. and b. demonstrate that the existing Leq exceeds the maximum permissible sound levels established in subsection c., then the nonresidential use may not generate sound levels greater than the measured existing sound levels.
- e. Impact noises are sounds that occur intermittently rather than continuously. Impact noises generated by sources that do not operate more than one minute in any one-hour period are permissible up to a level of ten dB(A) in excess of the figures listed in the table, except that this higher level of permissible noise shall not apply from 7:00 p.m. to 7:00 a.m. when the adjacent lot is zoned residential. The impact noise shall be measured using the fast response of the sound level meter.
- f. Noise resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section.

(3) *Vibration.*

- a. No nonresidential use in any residential, business, OR or IO district may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at; (a) the outside boundary of the immediate space occupied by the enterprise generating the vibration if the enterprise is one of several located on a lot; or (b) the lot line if the enterprise generating the vibration is the only enterprise located on a lot.
- b. No nonresidential use in an OS, UE or I district may generate any ground-transmitted vibration in excess of the limits set forth in subsection (3)e. Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (3)e.
- c. The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.
- d. The vibration maximums set forth in subsection (3)e. are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV = Particle velocity, inches-per-second

F = Vibration frequency, cycles-per-second

D = Single amplitude displacement of the vibration, inches.

The maximum velocity shall be the vector sum of the three (3) components recorded.

- e. Table of maximum ground-transmitted vibration.

Particle Velocity,
Inches-Per-Second
Adjacent Lot
Line
 0.20

Residential District
 0.02

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- f. The values stated in subsection e. may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.
 - g. Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.
- (4) *Odors.*
- a. For purposes of this section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter than can be detected by the olfactory systems of a panel of healthy observers.
 - b. No nonresidential use in any district may generate any odor that reaches the odor threshold, measured at the lot line of the enterprise generating the odor.
- (5) *Air pollution.*
- a. Any nonresidential use that emits any "air contaminant" as defined by the Maine Department of Environmental Protection shall comply with applicable state standards concerning air pollution.
 - b. No zoning or conditional use permit may be issued with respect to any development covered by subsection a. until the Maine Department of Environmental Protection has certified to the city that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.
- (6) *Electrical disturbance or interference.* No use may:
- a. Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
 - b. Otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

(Ord. No. 89-16, 11-30-89)

Sec. 20. Child care facility standards.

The following standards shall apply to the establishment and operation of all child care facilities in the City of Lewiston in addition to any Maine Department of Human Services licensing requirements.

- (a) *Statement of purpose.* The purpose of this section is to ensure that all child care facilities operate in a safe and convenient manner; to maintain adequate care and protection for those children who attend these facilities; to minimize the potential impact of these facilities upon the value and quiet possession of surrounding properties; and to maintain the general health, safety and welfare of the city. For the purposes of this section, a child care facility shall be defined as a house, dwelling unit, building, structure or other place in which a person, or combination of persons provides child care for three or more children under 13 years of age.
- (b) *Standards for establishing a child care facility.* The code enforcement official shall grant all necessary permits for the establishment of a child care facility provided that the following standards for operating a child care facility have been met:

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- (1) *Buffering.* All day care centers that abut a residential zoning district or a property in residential use shall provide buffering in accordance with the site plan review and design guidelines, as amended.
- (2) *Vehicular and pedestrian access.* All proposed child care facilities shall provide safe and convenient access to, into and within the site. Existing driveways shall be enlarged and/or relocated when the code enforcement official determines that the existing driveway does not provide safe and convenient access into the site. Pedestrian walkways and child drop-off and pick-up areas shall be separated from vehicular access ways whenever possible to minimize potential conflicts. Vehicles backing into a city street shall be discouraged whenever possible. In those instances where additional maneuvering room is not available on site, and vehicles must back into a city street, the code enforcement official may grant a waiver to this requirement provided that there is adequate sight distance available for exiting the site. However, for all proposed child care facilities located along the following streets, vehicles shall be prohibited from backing into these streets:

Central Avenue (from Sabattus Street to Montello Street);
College Street;
East Avenue;
Lisbon Street;
Main Street;
Montello Street;
Old Greene Road;
Pleasant Street;
Pond Road;
Russel Street;
Sabattus Street;
Webster Street.

The code enforcement official may grant a waiver to this prohibition if the applicant submits a report from a traffic engineer stating that backing into the aforementioned streets, from the property under consideration, shall not create any unsafe conditions.

- (3) *Off-street parking/drop-off and pick-up areas.* All proposed child care facilities shall provide adequate off-street parking for all full and/or part time employees.
 - i. For family day care homes, parking spaces may be arranged in a stacked manner, no more than two vehicles deep, where one vehicle is parked behind the other as long as the maneuvering on-site is safe and convenient. For small day care facilities and day care centers, only staff parking may be arranged in a stacked manner where one vehicle is parked behind the other as long as the maneuvering on-site is safe and convenient. The required front, side and rear setbacks for the zoning district in which the child care facility is proposed must be maintained, unless modified pursuant to Article IX. If the child care facility will operate with more than one shift, the number of parking stalls shall reflect the greatest number of employees in any one shift.
 - ii. The parking requirements for all child care facilities shall be in accordance with Article XII, section 17(d).

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- iii. All proposed child care facilities shall also provide adequate drop-off and pick-up areas. These areas shall be safe and convenient, and shall not conflict with on-site pedestrian and vehicular movements. All drop-off and pick-up shall occur on-site unless otherwise permitted pursuant to Article XII, section 17 (e). One parking space shall be provided for drop-off and pick-up purposes based on a ratio of one space per six children. These spaces shall not be arranged in a stacked manner.
 - iv. In the event that the code enforcement official determines that a proposed child care facility has less demand for drop-off, pick-up and parking due to interurban transit use, car and van pooling, bus service, foot traffic, etc. the above requirements may be reduced to reflect the anticipated demand. The code enforcement official may also reduce the above referenced parking requirements upon the applicant submitting a report from a licensed traffic engineer demonstrating the parking demand based on a comparison to at least three other comparable sized child care facilities, including, but not limited to the number of children attending the facility; the number of children licensed for the facility; location of the facility, etc. This report may be subject to a peer review conducted by the City at the applicant's cost.
 - v. Notwithstanding the above, there are no parking requirements for drop-off, pick-up and staff parking for family day care homes located on streets other than those identified in the above subsection.
 - vi. Off-street parking for child care facilities must meet the *off-street parking and loading* provisions contained in Article XII, section 17 (e), (f), and (g) (1-4) of the Zoning and Land Use Code.
- (4) *Licensing requirements.* All child care facilities shall be licensed by the department of human services.
- (5) *Outdoor play area requirements.* Child care facilities shall meet satisfy the requirements for outdoor play area as prescribed by the department of human services.
- (Ord. No. 97-7, 9-11-97; Ord. No. 03-18, 1-1-04; Ord. No. 06-12, 8-24-06; Ord. No. 15-09, 9-10-15; Ord. No. 20-10i, 11-05-20; Ord. No. 22-29, 12-1-22)

Sec. 21. Marijuana businesses.

All marijuana businesses shall conform to the following provisions:

- (1) A parcel with a marijuana store operating with City approval prior to December 13, 2018 is allowed to have one additional store located on the same parcel not subject to the separation requirements in section (9), provided all state and local requirements are met and if applicable, shall be treated as a nonconforming use pursuant to Article VI, Section 4 of the Zoning and Land Use Code.
- (2) There shall be no cultivation or storage of marijuana, marijuana products outside of a structure.
- (3) Nonconforming marijuana businesses are subject to the following provisions:
 - (a) Marijuana businesses with active or pending city licenses prior (*the effective date of this ordinance*) shall be entitled to continue operation whether such use does or does not conform to the locational requirements of Section 9 of this Article of this Code or applicable zoning ordinances and shall be treated as a nonconforming use pursuant to Article VI, Section 4 of the Zoning and Land Use Code. A nonconforming business may convert to another nonconforming business pursuant to Article VI, Section 4(e) of the Zoning and Land Use Code.

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- (b) Marijuana businesses with active or pending city licenses prior to (*the effective date of this ordinance*) may be sited no less than five hundred (500) feet from the lot lines of pre-existing schools or child care facilities, measured as a buffer from the property line of the school, or child care facility, to any portion of the marijuana business.
- (4) The odor of marijuana, noxious gases, or other fumes, must not be detectable offsite, i.e., must not be detected at premises that are not under the custody or control of the establishment.
- (5) Sufficient and appropriate security measures to deter the theft of marijuana and prevent unauthorized entrance into areas containing marijuana must be provided at all times. Security measures shall include, at a minimum, the following:
 - a. security surveillance cameras installed and operating 24 hours a day, 7 days a week to monitor all entrances, along with interior and exterior of the premises to discourage and facilitate the reporting of criminal acts and nuisance activities occurring at the premises;
 - b. door and window intrusion alarm systems with audible and Police Department notification components that are professionally monitored and maintained in good working order;
 - c. a locking safe or its functional equivalent permanently affixed to the premises that is suitable for storage of all adult use marijuana products, medical marijuana products and cash stored overnight on the premises; and
 - d. exterior lighting that illuminates the exterior walls of the premises and complies with applicable provisions of the Code of Ordinances; and (e) deadbolt locks on all exterior doors and locks or bars on any other access points (e.g., windows).
- (6) Sale of edible products. No food products shall be sold, prepared, produced or assembled by a marijuana business except in compliance with all operating and other requirements of state and local law and regulations including, without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.
- (7) Signs: Notwithstanding the requirements of the Article XII, Section 16 of the Zoning and Land Use Code, all signs used by and all marketing and advertising conducted by or on behalf of a marijuana business may not involve advertising or marketing that has a high likelihood of reaching persons under 21 years of age or that is specifically designed to appeal to persons under 21 years of age. The signs, marketing, or advertising are prohibited from making any health or physical benefit claims. All signage shall meet the City's sign ordinance requirements and may use an image or images of the marijuana plant or plants, or parts thereof, as long such image or images do not exceed 20% of the sign face. Pictorial representations of other marijuana products, by-products, or paraphernalia associated with the use or distribution of retail marijuana is prohibited.
- (8) Manufacture of marijuana using inherently hazardous substances. The extraction of marijuana using inherently dangerous hazardous substances is prohibited unless:
 - (a.) the person has sought and obtained authorization to do so with the State of Maine, and
 - (b.) such activity is located in a zoning district where a Marijuana Manufacturing Facility is an allowed use.
- (9) Notwithstanding Sec. 21 (1) and (3) all marijuana businesses shall be sited according to the setbacks in the table below:

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Protected Use	Setback from Protected Use	Method of Measurement ¹
Pre-existing schools, pre-existing child care facilities ²	1,000 feet	Buffer from the property line of the school, child care facility to any portion of the marijuana business
Public parks, playground or recreational facilities as per Chapter 22, Sec 22-422 ²	500 feet	Buffer from the property line of the public parks, playground or recreational facilities to any portion of the marijuana business
Minimum distance between a marijuana store or dispensary and any two other marijuana stores and/or dispensaries ³	500 feet	Buffer from the property line of proposed marijuana store or dispensary to any portion of two other marijuana stores and/or dispensaries
Pre-existing dwelling in a residential zoning district ²	100 feet	Buffer from the property of the dwelling to any portion of the marijuana business

¹If the marijuana business is located within a commercial subdivision or multi-tenant structure (e.g. business park, shopping plaza, etc.), the required setback shall be measured in the same manner.

²Does not apply to cultivation, manufacturing, testing, nurseries, and dispensaries operating within the Industrial zoning district.

³Applies to stores only. Notwithstanding the foregoing, more than one marijuana business may be located on the same parcel, provided all state and local requirements are met.

(Ord. No. 22-05, 3-31-22)

Editor's note: Ord. No. 06-17, effective Feb. 8, 2007, repealed art. XII, § 21, in its entirety. Formerly, said section pertained to additional standards for stormwater management and erosion and sedimentation control.

Sec. 22. Reserved.

Editor's note: Ord. No. 20-10i, effective Nov. 5, 2020, repealed art. XII, § 22, in its entirety. Formerly, said section pertained residential design standards for the downtown residential and riverfront districts.