

APPENDIX A – ZONING AND LAND USE CODE
ARTICLE V. ADMINISTRATION AND ENFORCEMENT

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Sec. 1. Conformity required.

No building hereafter erected, moved, added to or structurally altered, no existing building or structure and no land shall be used except in conformance with the provisions, regulations and restrictions of this Code. All construction or moving of buildings and structures or the alteration of the land shall be in conformance with this Code.

Sec. 2. Violation as a nuisance.

Any property or use existing in violation of this Code is a nuisance.

Sec. 3. General provisions.

A. Lots and Setbacks.

- (1) *Arrangement of Buildings and Structures on Lots.* All buildings and other structures shall be so located and arranged on lots as to provide safe and convenient access for fire protection, servicing and off-street parking and loading located on the premises. No building or structure may be constructed or erected on any lot of record that existed prior to December 9, 1987, which does not have at least fifty (50) feet of frontage or twenty-five (25) feet of frontage for lots located in the Centreville and Mill Districts or forty (40) feet of frontage in the Riverfront (RF) and Downtown Residential (DR) districts.

However, lots of record that existed prior to December 9, 1987, which were legally established having less than fifty (50) feet of frontage, may apply for a variance pursuant to Article VIII, section 4(2) of this Code in order to have a building or structure constructed or erected on said lot.

- (2) *No Undersized Lots.* No division of land shall be made whereby any lot created thereby is smaller than the minimum size required for the district in which said lot is located, or has less frontage or setback than the minimum required, except as provided by Article VI and herein, Section 3, General Provisions, A, Lots and Setbacks (10), and Section 3, General Provisions, C, Structures (7).

In addition, the following criteria apply to the creation of all lots unless demonstrated adequately to the reviewing authority that the application of one (1) or more of the following criteria is not practical:

- (a) *Lots Along Physical Barriers.* If a lot on one (1) side of a stream, road, or other similar barrier fails to meet the minimum lot size required by the zoning ordinance, it may not be extended to the other side of the barrier to meet the minimum lot size or for the purposes of individual, on-site waste disposal.
- (b) *Irregular Lots Prohibited.* Lots in which parcels of land such as narrow strips are used or are joined to other parcels to meet minimum lot size or frontage requirements, or other reconfiguration of parcels which create irregular-shaped lots are prohibited.
- (c) *Lot Width.* For all proposed lots the lot width shall be at least equal to the minimum frontage requirement.
- (d) *Required Lot Proportions.* All proposed lots must be able to completely contain

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within its boundaries an area as would be defined by a circle with minimum diameter equal to the required minimum frontage for the district.

- (3) *Land Taken by Eminent Domain.* Any land taken by eminent domain, or conveyed to a public entity incident to the construction or improvement of a public way or utility line shall not be deemed to be transferred in violation of the area, width, and setback provisions of the Code.
- (4) *No Reduction in Space and Bulk Requirements.* Except as provided in subsection w and z, below, no lot may be reduced in size if, as a result, the setbacks, or other open spaces are smaller than prescribed by this Code. No setback, or other open space may be counted as required open space for more than one (1) building.
- (5) *Corner Lots and Setback.* On a corner lot in any district, a building or structure may face either street, and the front setback shall be between the principal building or structure and the street on which the building or structure is to be numbered. The side setback between the building and sidestreet, shall meet front setback requirements of the applicable district. Additionally, the rear setback between the principal building and the abutting property on the side street, shall meet side setback requirements of the applicable district.
- (6) *Non-compliant Land Areas in Calculating Lot Size.* The following land areas shall not be included in the calculation of net lot area or minimum lot size in any zoning district:
 - (a) Land which is situated below the normal high water mark of any water body.
 - (b) Land which is located within the one-hundred (100) year flood plain as identified by an authorized federal or state agency.
 - (c) Land which is located within a wetland as identified and defined by the State of Maine.
 - (d) Land within the lines of a street may not be counted as part of any lot for the purposes of meeting the area requirements of this Code even though the fee to such land is owned by the owner of such lot.
- (7) *Lot Size Calculations for Certain Developments.* The minimum lot size, minimum frontage and minimum setback requirements of Article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks shall apply to the development in its entirety as if it were a single unit. The setback requirements shall apply only where the development abuts an existing public street or easement or property which is not part of the development. Individual buildings or lots within these developments shall comply with the space and bulk regulations appropriate to the type of use.
- (8) *Reduced Lot Frontage on Cul-De-Sacs.* Lots which front on existing or proposed culs-de-sac may reduce their required frontage by not more than 25 percent as long as the lot width is not less than the minimum frontage required in the district.
- (9) *Gas Stations on Nonconforming Lots.* Notwithstanding the provisions under article VI, nonconformance, lots on which a gasoline service station existed on December 9, 1987, which are going through modernization modifications, may replace existing nonconforming pump islands as long as the installation does not worsen the existing violation of the required setback, and is approved in connection with development review

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pursuant to article XIII hereof.

- (10) *Subdivision of Lots with Multiple Principal Structures.* Notwithstanding Appendix A, Article XI Section 23 of this Code, single lots developed with three or more principal structures in residential use, at the time of the division, may be divided to create new lots for each of the individual principal structures in residential use, provided that the following provisions can be met and satisfied:
- (a) All principal residential structures on the lot to be divided were constructed prior to the enactment of State Subdivision Law (ie. September 23, 1971).
 - (b) All principal residential structures on the lot to be divided are single-family detached dwellings, two-family dwellings and three-unit multifamily dwellings.
 - (c) All new lots must, to the greatest extent practicable, comply with the applicable space and bulk requirements of Appendix A, Article XI Section 23 and Article XII, Section 2 of this Code. Whether the new lots meet this standard shall be in the reasonable judgment of the code enforcement director, whose approval shall be required.

B. Uses and Access

- (1) *Determination of Similar but Not Listed Uses.* A use which is not specifically listed as a permitted or conditional use shall be regulated as a conditional use if the board of appeals or the planning board, reviewing a major development under Article XIII, determines that the proposed use is substantially similar to and compatible with permitted or conditional uses in that district.
- (2) *Transition of a Legal Use to a Conditional Use.* Any use which was a legally existing permitted use prior to the adoption or subsequent amendment of this Code and which becomes a conditional use as a result of the adoption or amendment shall not be deemed to be a nonconforming use but shall be deemed to be, and regulated as, a conditional use for which a permit was duly issued.
- (3) *Prohibition of Access through Residential Districts.* Except for streets, no access for a use shall be permitted across a residential zoning district in which said use is not permitted, unless no other means of access is available and the proposed access and use are to be located on a single lot of record in existence as of December 9, 1987; and the use complies with the standards of Article XI, district regulations and the development of the lot and access complies with the standards of Article XII, performance standards; and Article XIII, development review standards, of this Code.

C. Structures

- (1) *Multiple Principal Structures Prohibited.* Unless expressly designated as an allowed use under Article XI of this Code, no lot in any zoning district may contain more than one (1) single family or two-family principal structure in residential use.
- (2) *Temporary Structures.* In all zones, non-permanent structures may be used for the purposes of temporary construction offices during on-site construction. Permits for such

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structures will be issued for a period not to exceed twelve (12) months. Such permits may be extended by the Code Enforcement Official upon submission of evidence that construction is proceeding in good faith and in accordance with approved plans.

- (3) *Unenclosed Projections in Required Setbacks.* Lots on which a building existed on December 9, 1987 may contain unenclosed porches, landings, other similar building features up to thirty-six square feet in total area, and wheelchair ramps, which project up to seven feet into a required setback.
- (4) *Other Projections in Required Setbacks.* Chimneys, air conditioners, cornices, eaves, belt courses, sills, canopies and awnings made of nonpermanent materials, architectural or other similar features, excluding building projections with interior space such as bay windows, may encroach into a required setback by up to two feet. [Canopies made of permanent materials, such as those commonly found at gasoline service stations, must meet setback requirements at their fixed location on or in the ground, and the ends and sides of the canopies must meet all setback requirements.]

However, for nonresidential uses, all types of proposed awnings and canopies may encroach into a required setback to the extent the existing setback has been legally occupied by pavement, crushed stone or hard-packed gravel, as long as the installation will not result in undue impact on adjacent properties, due to the placement of the awnings or canopies, location of service, parking or storage areas, or blocking of solar access, and shall in no way interfere with the utilities or with convenient and safe use of the sidewalk and street right-of-way by all pedestrians and vehicles, but in no case may the canopy be closer than two feet from the property line.

- (5) *Awnings.* Awnings and canopies that are attached to a building without any support structures affixed to the ground or pavement may project over a sidewalk or street right-of-way as long as the following criteria are met:
 - (a) The awning or canopy must be safely made, fixed, supported and maintained, so as in no way to interfere with the convenient and safe use of the sidewalk and street right-of-way by all pedestrians and vehicles;
 - (b) The lowest part of such awning or canopy shall be at least eight feet in height above the sidewalk or street right-of-way;
 - (c) The awning or canopy shall be a minimum distance of two feet from the curb-face or edge of pavement line;
 - (d) On designated historic structures, or within designated historic districts, canopy or awning installations must be approved by the historic preservation review board for appropriateness as provided under article XV, section 5; and
 - (e) Signage on the awning or canopy must conform to the standards of article XII, section 16.
- (6) *Unenclosed Fire Escapes.* Lots on which a building existed on December 9, 1987 may contain unenclosed fire escapes to the lot line if they are required by law as a second means of egress. Fire escapes will be located and designed to minimize encroachment into the setback area. This provision shall not apply when a fire escape is required as a result of alterations to a building.

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- (7) *Conveyance of Attached Principal Residential Structures.* In the downtown residential zoning district, attached principal residential structures that do not share common hallways or stairways for access to individual dwelling units and detached principal residential structures may be conveyed separately if the staff review committee, pursuant to the provisions of article XIII section 3, finds that all the following standards are met:
- (a) The structures were constructed prior to December 9, 1987.
 - (b) At least one dwelling unit in each building shall be owner occupied.
 - (c) The lot shall be divided to minimize any resulting nonconformities with regard to the space and bulk standards of the zoning district in which the buildings are located.
 - (d) The applicant shall assure implementation of any easements required for access, parking, utilities, maintenance and similar circumstances.
 - (e) The applicant shall submit a standard boundary survey plan prepared by a professional surveyor depicting the location of each building and the boundaries of each lot. Such plan shall also include any easements as described in subsection (4), above.
- (8) *Setbacks for one story detached accessory structures.* Notwithstanding the provisions under article XI, district regulations, with respect to standards for minimum side and rear setbacks, one structure not exceeding 200 square feet in floor area and a height of ten (10) feet accessory to a residential use and 125 square feet and a height of ten (10) feet accessory to a commercial use, and is to be utilized for storage purposes only, may be constructed no closer than five (5) feet of the side or rear property line.

D. Property Maintenance

- (1) *Multiple Unregistered Vehicles Prohibited.* Unless expressly designated as an allowed use under Article XI of this Code, a lot in a residential zoning district or a lot in residential use may not contain in outside storage more than one (1) unregistered or uninspected vehicle.
- (2) *Parking of Commercial Vehicles in a Residential District.* No lot in any residential zoning district may contain any vehicle utilized for commerce which is parked thereon when not in use except for one passenger-type van, small utility van or pickup truck, and an enclosed trailer not to exceed eighteen (18) feet in total length (but not including tow trucks or ambulances).

E. Temporary Housing

- (1) *Temporary Housing.* Notwithstanding article V, section 3(1) and article XI, district regulations, mobile homes and recreational vehicles such as motorhomes and travel trailers may be used as temporary housing on lots where owner occupied single-family detached dwellings and owner occupied two-family dwellings have been damaged or destroyed by fire, flood, lightning, wind, structural failure or any other cause provided

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that the following conditions can be met and satisfied:

- (a) Temporary housing shall only be approved in those situations where the homeowner makes a valid case to the satisfaction of the code enforcement official that it is in the best interest of the home owner to not leave the site for other temporary housing.
- (b) Temporary housing shall be approved on a lot where reconstruction is underway or pending.
- (c) Upon receipt of a permit by the code enforcement official, temporary housing may be established for not longer than 90 days; however, two extensions, each not to exceed 90 days, may be granted by the code enforcement official provided that the reconstruction of the permanent housing is being diligently pursued to a level of completion where a temporary certificate of occupancy may be issued by the code enforcement official.
- (d) Temporary housing shall be placed not closer than five feet from a side and rear property line and ten [feet] from a front property line; however, the ten-foot front setback may be reduced by the code enforcement official to the extent necessary to accommodate temporary housing if he/she finds, following an on-site inspection of the premises, that a lesser distance will neither create, nor aggravate a safety hazard or interfere in municipal snow plowing activities.
- (e) Temporary housing must be located a minimum of six feet from the nearest point of any principal structure.
- (f) There shall not be more than one mobile home or recreational vehicle placed on any lot for use as temporary housing.
- (g) The temporary housing shall be connected to an approved electrical supply other than a generator, and to municipal or private water and sewer; and connection permits are required.
- (h) Temporary housing shall be removed within 30 days from the completion of the reconstruction; however, in the event that the reconstruction is not completed at the termination of the approved time period, including any extensions, the temporary housing must be removed within 30 days from said termination.

(Ord. No. 89-3, 4-7-89; Ord. No. 90-15, 1-11-91; Ord. No. 91-1, 3-19-91; Ord. No. 92-27, 11-19-92; Ord. No. 93-17, 10-7-93; Ord. No. 95-8, 7-20-95; Ord. No. 97-2, 4-17-97; Ord. No. 98-6, 7-2-98; Ord. No. 99-11, 5-20-99; Ord. No. 00-5, 5-4-00; Ord. No. 03-17, 1-1-04; Ord. No. 08-10, 1-15-09; Ord. No. 10-14, 1-6-11; Ord. No. 15-07, 08-13-15; Ord. No. 15-13, 12-31-15; Ord. No. 16-06, 10-6-16; Ord. No. 18-08, 9-13-18; Ord. 19-14, 12-19-19; Ord. 20-10c, 11-05-20; Ord. No. 22-16b, 07-21-22; Ord. No. 23-03, 2-16-23)

Sec. 4. Administrative official.

Unless otherwise specifically stated, the director of code enforcement and the code enforcement officers and inspectors under his supervision (hereinafter code enforcement official) shall administer and enforce this Code and shall have all the powers and duties provided for in Title 30-A M.R.S.A., Section 4451, as amended. (Ord. No. 13-04, 06-20-13)

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Sec. 5. Administrative procedures.

- (a) A permit shall be required for all activities regulated by this code including, but not limited to the following:
 - (1) The construction, alteration, relocation, demolition, placement, or removal of or the addition to any structure or building or part thereof;
 - (2) The construction/ installation of a wall or fence 3.5 feet or greater in height in accordance with Article XII, Sec. 7;
 - (3) The erection/ installation of a sign or the replacement of a sign face regulated in accordance with Article XII, Section 16 of this code;
 - (4) The construction/ installation of a swimming pool regulated in accordance with Article XII, Section 6 of this code;
 - (5) The construction of a driveway or parking lot;
 - (6) The change of use or occupancy of a building, structure, or lot of land
 - (7) Campgrounds
 - (8) Any activity or use that expands, changes, or replaces an existing use or structure; or renews a discontinued non-conforming use in a Shoreland Zone.

- (b) No permit shall be issued for the construction, addition, alteration, removal, demolition or change of use of any building, structure or part thereof, or for the use of any premises unless the plans and intended use indicate that the building, structure or premises is to conform in all respects to this Code and the land use laws of the State of Maine.

- (c) Permits are not required for the following; however, work exempt from a permit shall not be deemed to grant authorization for any work to be done in any manner in violation of this code or any other laws or ordinance:
 - (1) Residential One-story detached accessory structures, provided that the floor area does not exceed 200 square feet and commercial One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet.
 - (2) Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.
 - (3) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
 - (4) Prefabricated swimming pools that are less than 24 inches deep.
 - (5) Swings and other playground equipment.
 - (6) Window awnings supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.
 - (7) Decks not exceeding 200 square feet in area that are not more than 30 inches above grade at any point and not attached to a dwelling.

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- (d) The code enforcement official is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Code.
- (e) The code enforcement official shall be given free access at reasonable hours to all parts of lots and structures regulated by this Code.
- (f) The code enforcement official shall act upon all written applications for building or use permits required by this Code signed by the applicant and directed to the code enforcement official, either by issuing or refusing to issue such permits within 30 days from the date of filing of the application. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative in writing and shall state the reasons for said refusal. The failure of the code enforcement official to issue a written notice of his decision, directed to the applicant, within 30 days from the date of filing of the application, constitutes a refusal of the permit. The applicant may then either appeal the decision of the code enforcement official to the board of appeals or reapply for a permit after changing whatever conditions led to the original denial.
- (g) All applications for permits for proposed buildings shall be accompanied by a site and a floor plan drawn to scale and submitted in duplicate reflecting the outside contour of all buildings and main bearing partitions, location of said building on the lot, and such other information as may be required to demonstrate compliance with this Code. All applications for permits for structures shall be accompanied by a sketch submitted in duplicate of the proposal giving the location of the structure on the property and all dimensions necessary for a clear understanding of what is intended.
- (h) The code enforcement official shall, upon approval of any application for a building or use permit required by this Code, furnish the applicant a permit and retain a copy for his files.

(Ord. No. 11-16, 1-19-12; Ord. No. 21-08b, 10-21-21, Ord. No. 22-16b, 07-21-22)

Sec. 6. Fees.

- (a) *Payment of fees.* A permit shall not be valid until the fees prescribed by the Policy Manual of the City of Lewiston have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
- (b) *Belated fees.* Any person who commences any work prior to obtaining a permit required by this code shall be subject to a double permit fee.
- (c) *Refunds.* Upon request by the applicant and approval of the director of code enforcement, a permit fee may be refunded within 90 days of issuance of the permit.

(Ord. No. 11-16, 1-19-12)

Sec. 7. Certificate of occupancy.

No building or structure, nor any use of land hereafter erected, moved, added to, or structurally altered, nor any use of land which is intensified shall be permitted until the code enforcement official has issued a certificate of occupancy, certifying that the completed building, structure

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and/or use are in conformance with the terms of this Code. A temporary certificate of occupancy may be issued for a period of not more than six months, provided there is a schedule for timely completion of the work and the code enforcement official determines that there are no hazards to the occupants or the public. The code enforcement official may revoke any certificate of occupancy if he finds that any conditions of approval are not being met. (Ord. No. 89-3, 4-7-89; Ord. No. 11-16, 1-19-12)

Sec. 8. Violations.

- (a) The code enforcement official, on his own initiative, at the request of any municipal officer, or upon any complaint in writing of a possible violation of this Code, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation is said to exist.
- (b) If said investigation or inspection reveals evidence of a violation, the code enforcement official shall give notice of the violation to the owner or his agent and to the occupant of such premises. Said notice shall:
 - (1) Be in writing;
 - (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time fixed in the notice for the performance of any act it requires;
 - (4) Be served upon the owner or agent and the occupant of the premises, as the case may require, by the code enforcement official or be sent by certified mail to their last known address.
- (c) Whenever, after investigation and inspection, the code enforcement official finds evidence of a violation which requires immediate action to protect the public health and safety, he may, without notice, issue an order reciting the existence of such an emergency and require that such action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this Code, such order shall be effective immediately.

(Ord. No. 11-16, 1-19-12)

Sec. 9. Violation abatement.

If after such notice and demand (or demand in the emergency situation described in subsection 8(c), above) such violation has not been abated within the time specified, the code enforcement official will institute, in the name of the city, any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate for the enforcement of the provisions of this Code. The code enforcement official is hereby authorized to institute proceedings in the district court in accordance with Rule 80K of Maine Rules of Civil Procedure, as amended. (Ord. No. 11-16, 1-19-12)

Sec. 10. Penalty.

Any person, including, but not limited to, a land-owner, his agent, tenant, contractor or

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other person in possession of or having control or use of any building, structure, land or premise, or part thereof, who violates any of the provisions of this Code or fails to conform to any of the provisions thereof, shall be penalized in the manner provided for in 30-A M.R.S.A. Section 4452, as amended. Each day such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate violation. (Ord. No. 93-9, 6-17-93; Ord. No. 11-16, 1-19-12)