

**APPENDIX A – ZONING AND LAND USE CODE**  
**ARTICLE II. DEFINITIONS**

**Sec. 1. Meaning of words.**

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural. The word "lot" shall include "parcel" and "plot." The word "shall" is used to indicate the mandatory and the word "may" is used to indicate the permissive. The words "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

**Sec. 2. Definitions.**

Unless otherwise expressly stated, the following words shall, for the purpose of this Code, have the meaning herein indicated:

*Abutting property* means any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located across a public or private street or way from the lot in question in such a manner so that the extension of the side lot lines of the subject lot would touch the lot or enclose the lot.

*Accessory use or structure* means a subordinate use of a building, other structure or land, or a subordinate building or other structure:

- (1) Whose use is customary in connection with the principal building, other structure or use of land;
- (2) Whose use is clearly incidental to the use of the principal building, other structure or use of land;
- (3) Which is located on the same lot with the principal building, other structure or use of land or on a lot abutting such lot if in the same ownership or part of the same establishment, even if located in another district, or off-street parking in accordance with Article XII, Section 17(e)(2) of this Code. However, if the accessory use of structure is proposed to be located on a lot which is in another district and across a public or private street from the principal building, the use or structure must be permitted in that district in order to be allowed. Furthermore, accessory structures to be located on a lot across a public or private street may not be utilized for a home occupation and the sale of either lot in common ownership separating the accessory structure from the principal structure will create an illegal nonconformance which shall either be removed or brought into conformance with all provisions of the Code; and
- (4) Which does not constitute, in effect, conversion of the principal use of the premises to one not permitted.

*Addition* means as applied to a building or structure, means any construction which increases the floor area or the height of any portion of the building or structure.

*Adjacent grade* means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Adjoining property* means any lot which is physically contiguous with the lot in question

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even if only at a point.

*Adult business establishment* means a business which:

- (1) Keeps for public patronage, or permits or allows the operation of, any adult amusement device as defined in Chapter 22, Article I, section 22-2 of the Code of Ordinances of the City of Lewiston; or
- (2) Offers live entertainment, customarily exhibits motion pictures, or displays any other visual representation described or advertised as being "X-Rated" or "For Adults Only", and which excludes persons from any portion of the premises by reason of immaturity of age or by use of such, or similar phrases; or
- (3) Offers as a substantial portion of its stock-in-trade, books, magazines, other periodicals, video recordings, marital aides, and devices characterized by their emphasis on specified anatomical areas or specified sexual activities, as defined in Chapter 22, Article I, section 22-2 of the Code of Ordinances of the City of Lewiston, "adult amusement devices"; or
- (4) Has an adult oriented live entertainment license pursuant to Chapter 10, Article IV of the aforementioned Code; or

As used in this definition, "customarily" shall mean more often than an average of one (1) calendar week during any calendar month of operation, and "substantial portion" shall mean greater than thirty (30) percent of the books, magazines, other periodicals, video recordings, marital aides, and devices carried as stock-in-trade.

*Agriculture* means the cultivation of the soil, production of crops, including crops in commercial greenhouses, and raising and keeping of livestock, including animal husbandry, orchards, truck gardens, plant nurseries, poultry and other nondomestic animals, bees, the use of manure and fertilizers, the processing of agricultural products.

*Allowed use* means a use which is a permitted use or a conditional use, for which a conditional use permit has been granted, in the district in which it is located.

*Alteration* means as applied to a building or structure, means any change or modification in construction, exit facilities or permanent fixtures or equipment which does not include an addition to the building or structure. Ordinary repairs shall not be considered alterations.

*Amendment* means the addition of new material to this Code or the correction, modification or alteration of this Code by the city council in the manner prescribed by this Code for its amendment.

*Aquifer* means a geologic formation composed primarily of rock or sand and gravel which stores and yields significant quantities of groundwater to wells, springs, or streams.

*Area of special flood hazard* means the land in the flood plain having a one (1) percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article XIV of this Code.

*Art & craft studio* means a business or commercial establishment which provides working space for artists or craftspeople including facilities for classes or demonstrations. Activities may include the accessory sales of supplies or materials necessary for these activities.

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*Arterial street* is a public street shown on the most recent functional classification of the Maine Department of Transportation as a major or minor arterial, providing longer through travel between major trip generators (larger cities, recreational areas, etc.).

*Automobile dealer (new)* means an establishment primarily engaged in the retail sales of new automobiles together with accessory repair, service and parts facilities which are incidental to the sales operation. Sales of used vehicles are permitted as an accessory use.

*Automobile dealer (used)* means an establishment primarily engaged in the retail sales of used automobiles together with accessory repair and service facilities which are incidental to the sales operation.

*Automobile graveyard* means a yard, field or other area used as a place of storage for three (3) or more unserviceable, unregistered and/or uninspected, discarded, worn-out or junked motor vehicles.

*Automobile repair garages* means facilities for major maintenance and repair of passenger vehicles, motorcycles, pickup trucks and similar vehicles, including those uses listed under NAICS 8111-811198. The type of work normally provided by repair garages includes engine overhauls, transmission repairs, glass replacement, body work, painting and similar work not involving routine maintenance. Repair garages shall include muffler shops, brake shops, body shops, paint shops, and tune-up centers.

*Automotive services, except repair* means the uses listed under NAICS 8111-811198, which include car washes, detailing, automotive diagnostic centers, lubricating services, road services, rustproofing and other service uses similar to those listed.

*Auxiliary business establishment* means a business establishment primarily engaged in performing management, support services, and other general administrative functions related to business offices, located in a central facility, for other establishments such as, but not limited to, computer operation facilities, corporate offices and clearinghouses.

*Awning (or canopy)* means a roof-like cover that provides shelter or ornamentation. Awnings and canopies are said to be made of nonpermanent materials when constructed of cloth and small-diameter tubing, such as those commonly found projecting from buildings for the purpose of shielding doorways or windows from the elements.

*Base flood* means the flood having a one (1) percent chance of being equalled or exceeded in any given year, commonly called the one hundred (100) year flood.

*Basement* means a story (or portion of a story) of a building or structure having one-half or more of its clear height below grade or having its floor subgrade below ground level on all sides.

*Bed and breakfast establishment* means an accessory use to a single-family dwelling involving the renting of rooms to transient guests who are staying for a limited duration and the serving of breakfast to houseguests. A bed and breakfast establishment with four (4) or fewer rooms available for lodging shall be considered a home occupation if criteria (1) through (7) for home occupations are met. A bed and breakfast establishment may have five (5) or six (6) rooms available for lodging and shall also be considered a home occupation if approved pursuant to Article XIII and:

- (1) Criteria (2) through (7) for home occupations are met;

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- (2) The lot on which it is located has frontage on one (1) of the following streets:  
College Street;  
East Avenue;  
Lisbon Street;  
Main Street;  
Russell Street;  
Sabattus Street;  
Webster Street; and
- (3) Any meeting facilities are limited to twelve (12) non-guests.
- (4) Special outdoor functions such as weddings are limited to daylight hours only with no more than two (2) functions per month and a total of eight (8) functions per year. (Note: meeting facilities and special outdoor functions are limited to bed and breakfast establishments with five (5) or six (6) rooms available for lodging.)

Notwithstanding the provisions of criterion (5) for home occupations, the applicant shall submit plans and evidence to the reviewing authority that, due to the presence of physical buffers, as further described in Article XIII, and the location of outdoor functions on the property, noise associated with outdoor functions is not expected to be greater off the lot than that associated with normal residential activities.

A bed and breakfast establishment with seven (7) or eight (8) sleeping rooms for the public shall be considered as a tourist home for the purposes of this Code. A bed and breakfast establishment with more than eight (8) rooms shall be considered a hotel.

*Board of appeals* means the Lewiston Board of Appeals shall constitute the board of appeals within the meaning of this Code.

*Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*Buffer* means a portion of a lot along a property boundary reserved for the purpose of mitigating the impacts of the use of the parcel on adjacent parcels. Within this portion of the lot, improvements consisting of landscaping, fencing, earth mounding or other similar devices shall be installed and maintained.

*Building* means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels. For floodplain purposes, see Structures.

*Building and construction contractors* means a business or commercial establishment that may include an office, warehousing or equipment storage of a contracting firm.

*Business and professional office* means the uses listed under NAICS 52 through 56 and 62 which include financial, real estate, and insurance offices, tradesman's offices, social

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services, doctor's offices, legal offices, engineering offices, architectural offices, surveying services, research, development and testing services, and management services and other office uses similar to those listed.

*Campground* means a plot of ground upon which two or more campsites are located and maintained for occupancy by tents, camper trailers or other recreational vehicles as temporary living quarters for recreational, educational or vacation purposes.

*Canopy*. See "awning."

*Cemetery* means land used for the internment of the dead and dedicated for cemetery purposes including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

*Certificate of compliance* means a document signed by the director of planning and code enforcement or his designee stating that a structure is in compliance with all of the provisions of this Code.

*Changeable message sign (or display)* means a sign capable of displaying words, symbols figures or images that can be electronically or mechanically changed by remote or automatic means.

*Church* means a building, together with its contiguous accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

*Civic and social organization* means a not-for-profit organization of a charitable, philanthropic, social or fraternal nature organized under the laws of the State of Maine.

*Clear-cut* means any timber harvesting on a forested site greater than one (1) acre in size which over a ten-year period results in an average residual basal area of trees over six (6) inches in diameter of less than thirty (30) square feet per acre, unless one (1) or both of the following conditions exist:

- (1) If, after harvesting, the average residual basal area of trees over one (1) inch in diameter measured at four and one-half (4 1/2) feet above the ground is thirty (30) square feet per acre or more, a clear-cut does not occur until the average residual basal area of trees six (6) inches or larger measured at four and one-half (4 1/2) feet above the ground is less than ten (10) square feet per acre; or
- (2) After harvesting, the site has a well-distributed stand of trees at least five (5) feet in height, that meets the regeneration standards applicable under 12 M.R.S.A., ch. 805, § 8869, subsection 1.

*Code enforcement officer* means a person certified under Title 30-A MRSA, Section 4451 (including exception in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances, including Lewiston's Zoning and Land Use Code.

*Collector street* is a public street shown on the most recent functional classification of the Maine Department of Transportation as a collector street which collects traffic from local roads and also connects smaller cities and towns with each other and to the arterials.

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*Commercial parking facilities* means a facility for the short or long term parking of passenger vehicles which is not accessory to another use.

*Commercial solid waste disposal facilities* means a facility for the disposal of solid wastes which is operated as a business or commercial enterprise and not by a unit of local or state government. This definition shall include landfills, incinerators and similar facilities. Cogeneration facilities which involve the production of electricity are also included.

*Community garden* means the use of a lot(s) or a portion thereof for the purpose of growing vegetables, flowers and/or other cultivated plants which are intended for consumption and/or use primarily by the surrounding neighborhood as regulated under Article XII, section 4.

*Comprehensive plan* means a compilation of policy statements, goals, standards, maps and all pertinent data relative to the past, present and future trends of the municipality as defined by the laws of the State of Maine.

*Conditions (requirements)* means three (3) broad categories of conditions are recognized:

- (1) General conditions defined in a land use control ordinance which must be met by all applicants seeking a required permit under this Code;
- (2) Special conditions defined in a land use control ordinance which must be met, in addition to the general conditions, by applicants seeking a conditional use permit under this Code;
- (3) Those conditions which may be imposed by a board of appeals or planning board in granting approval of an application to protect abutting and nearby property owners from any adverse effects which would otherwise flow from the grant of the requested approval and to ensure consistency with the comprehensive plan.

*Conditional use* means a use which would not be appropriate without restriction but is acceptable if controlled as to number, area, location, relation to the neighborhood and similar criteria.

*Congregate care and assisted living facilities* means a residential facility that is primarily engaged in providing residential and personal care services for the elderly and/or other persons who are unable to or do not desire to live independently. The care typically includes room, board, supervision, and assistance in daily living, such as housekeeping, community spaces, common dining areas, transportation and specialized services such as medical support and physical therapy.

*Contaminant* means any substance whose concentration in surface or groundwater exceeds the background level or the current public health drinking water standards for Maine or standards for aquatic toxicity, whichever are most stringent. Background levels can be established by pre-development groundwater analysis. The drinking water and aquatic toxicity standards referenced above may be obtained from current manuals, including but not limited to: State of Maine Rules of the Department of Human Services relating to Drinking Water; "Drinking Water and Health" published by the National Academy of Sciences; "Suggested No-Adverse Response Levels" as determined by the EPA; "Ambient Water Quality Criteria" manuals, published by the EPA, or equivalent criteria.

*Contributing structure* means a structure located within a designated local historic district and identified as contributing to the historical, architectural or geographical significance of said

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district.

*Cultural facilities* means facilities dedicated to recognized public or philanthropic purposes and intellectual endeavor, such as a library, museum, auditorium or performing or visual arts center.

*Day care center* means a building, structure or other place in which a person, or combination of persons, maintains or otherwise carries out a regular program, for consideration, for any part of the day providing protection and child care for more than twelve (12) children under thirteen (13) years of age, who are unattended by parents or guardians for any part of the day.

*Designated historic district* means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Code as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

*Designated historic structure* means any improvement, building or structure of particular historical, architectural or geographic significance to the community and designated in accordance with the requirements of this Code as appropriate for historical preservation.

*Developer* means any person, corporation, municipality or other governmental agency or authority or any combination of these entities engaged in any planning or land development activity or activities aimed at using, reusing or rehabilitating air space, land, water or other natural resources.

*Development* means any change caused by individuals or entities to improved or unimproved real estate, including, but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations; or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

*Discharge* means the accidental or intentional injection, dumping, spilling, leaking, or placing of materials upon or into any land or waters.

*Dissolve* means a mode of message transition on a changeable message sign accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

*Distribution facilities* means facilities for the storage and distribution of products via trucks or similar vehicles including related office facilities.

*Dormitories* means a *residence hall* providing sleeping rooms, bathrooms, study and recreation rooms and a common kitchen for individuals or for groups affiliated with an educational institution or a sports organization by contract or otherwise owned and operated by a sponsoring institution with full-time live-in resident supervisor assistant to provide support services and oversight of occupants.

*Drinking place (alcoholic beverages)* means a business or commercial establishment which customarily excludes persons under the age of twenty-one (21) from admission to its

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premises, including, but not limited to, uses for which a special amusement permit is required pursuant to Chapter 10, Article III of the Code of Ordinances of the City of Lewiston, class A lounges, dance halls and establishments serving alcoholic beverages other than restaurants as defined herein. Drinking places shall not include retail stores where alcoholic beverages are sold for consumption off premises.

*Drive-in restaurant* means an eating establishment which meets one (1) or both of the following criteria:

- (1) The establishment has no provisions for the consumption of food within the building and is designed so that customers eat in their cars or take the food from the premises for consumption, or
- (2) The establishment has facilities allowing the customer to purchase food or beverages without leaving his vehicle.

*Driveway* means an access for vehicles to a parking space, garage, dwelling or other structure. An entrance means an access serving all other uses.

*Dwelling* means any building or structure or portion thereof designed or used for residential purposes.

- (1) *Single-family detached dwelling.* A structure having a length to width ratio of less than four (4) to one (1), and a minimum horizontal dimension at its narrowest point of at least sixteen (16) feet and containing only one (1) dwelling unit for occupation by not more than one (1) family. A family shall include the group of individuals housed within a "community living arrangement" which is a housing facility for eight (8) or fewer persons with disabilities that is approved, certified or licensed by the State of Maine. A community living arrangement may include a group home, foster home or intermediate care facility. A single-family detached dwelling shall not include mobile homes as defined herein, but shall include any other manufactured housing meeting these criteria.
- (2) *Single-family attached dwelling.* A building containing single-family dwelling units each with two (2) or more vertical fire separation walls, or one (1) vertical fire separation wall in the case of a dwelling unit at the end of a group of attached units; which have no dwelling units above or below them; and which have no common hallways.
- (3) *Two-family dwelling.* A building containing two (2) dwelling units, such building being designed for residential use and occupancy by two (2) families living independently of each other.
- (4) *Multifamily dwelling.* A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units and which is not a single-family attached dwelling.

*Dwelling unit* means a room or group of rooms, containing at least three hundred (300) square feet of living area, designed and equipped exclusively for use as living quarters for one (1) family, including provisions for living, sleeping, cooking, and eating. The term shall not include hotel or motel rooms or suites, rooming house rooms, or similar accommodations.



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*Elevated building* means a nonbasement building (a) built, in the case of a building in Zones A or AE, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one (1) foot above the magnitude of the base flood. In the case of Zones A or AE, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article XIV, Section 6(1).

*Elevation certificate* means an official form (FEMA Form 81-31) that (a) is used to verify compliance with the flood plain management regulations of the national flood insurance program; and, (b) is required as a condition for purchasing flood insurance.

*Equipment dealer* means a business or commercial enterprise involving the retail sales and service of trucks and construction, wood harvesting, or similar wheeled or tracked vehicles designed primarily for nonhighway use.

*Equipment repair garage* means a business or commercial enterprise involving the major repair of trucks and construction, wood harvesting, or similar off-road equipment but not including the retail sales of these vehicles.

*Equivalent dwelling unit* means a measure of the density of use of a residential structure equal to one (1) dwelling unit having three (3) or more bedrooms or sleeping rooms, or one (1) and a third dwelling units having two (2) bedrooms or sleeping rooms or two (2) dwelling units having one (1) bedroom or sleeping room.

*Essential services* means the construction, alteration or maintenance of 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; and municipal storm drainage systems. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, channels, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

*Fade* means a mode of message transition on a changeable message sign accomplished by varying the light intensity, where the text message gradually reduces the intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

*Family day care home* means child care for three (3) to twelve (12) children under thirteen (13) years of age (not related by blood or marriage to, or legal wards of the operator, or foster children living in the private family residence (i.e. dwelling unit) serving as the day care home) who are unattended by parents or guardians for any part of the day. A family day care home shall be operated by a person who is domiciled and a resident within the private family residence, and who is the holder of all necessary licenses and permits from the State of Maine and/or the City of Lewiston.

*Farm housing* means dwelling units located on an active farm which are accessory to the agricultural use and are occupied by employees of the farm or members of the farm household. Any farm housing shall be located on the same parcel as the agricultural use.

*Farm stand* means a temporary structure containing less than five hundred (500) square

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feet of floor area for the sales of agricultural products between May first and December first.

*Fence* means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

*Flood or flooding* means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or run-off of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)a. of this definition.

*Flood elevation study* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

*Flood insurance study.* See "Flood Elevation Study."

*Flood plain or flood-prone area* means any land area susceptible to being inundated by water from any source (see definition of "flooding").

*Flood plain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

*Flood plain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Floodway.* See "Regulatory Floodway."

*Floodway encroachment lines* means the lines marking the limits of floodways on federal, state, and local flood plain maps.

*Floodproofing* means any combination of structural and nonstructural additions, changes or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floor area ratio* means the ratio of the sum of the floor area of all stories of a building or

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group of buildings (excluding basements) on one (1) lot to the total lot area.

*Food and/or Beverage Facility* means a facility wherein food and/or beverage is produced, sold on a wholesale or retail basis, distributed, and/or consumed on the premises as may be permitted by State of Maine law. This may include, but not be limited to, a microbrewery, coffee roaster and/or other facilities producing crafted alcoholic or non-alcoholic beverages and/or artisan food.

*Forest management* means timber cruising and other forest evaluation activities, management planning activities, insect and disease control, pruning and other stand improvement, regeneration of forest stands, and other similar associated activities.

*Forest management plan* means a site specific document signed by a forester registered in the state which outlines proposed activities to ensure compliance with performance standards and regeneration requirements established pursuant to 12 M.R.S.A., ch. 805, subchapter III-A, and describes how other natural resources are being protected.

*Frame* means a complete, static display screen on a changeable message sign.

*Frame effect* means a visual effect used on a changeable message sign to change from one message to another.

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

*Frontage* means the linear distance between the sidelines of a lot, measured along a continuous lot line that borders upon an accepted public street or public easement, or upon a private road within a commercial, industrial or residential development that has been reviewed and approved, pursuant to Article XIII of this Code, since January 9, 1988 or previously approved by the planning board. The lot frontage requirement cannot be met by accumulation of noncontiguous frontage segments. In the case of a lot situated on a T-turn or a curve of a way, the measurement of frontage may include the entire length of the property line along such way. Frontage for a single-family dwelling may also be obtained pursuant to Article XII, Section 10 of this Code.

For developed lots of record as of the adoption date of this Code which (i) have frontage on opposing streets and (ii) are themselves comprised of lots shown in whole or in part on recorded subdivision plans, if, but for the frontage could be so divided into two (2) or more lots, each of which will meet currently applicable space and bulk requirements, frontage for the developed parcel shall be deemed to be that closest to the principal structure on the developed parcel.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Gasoline service stations* means buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail and where

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routine servicing and minor repairs may be made. Uses permissible at a gasoline service station do not include the operation of a commercial parking facility, major engine repairs or the sales, leasing or renting of vehicles or equipment.

*Grade* means with reference to a building or structure, it means the average elevation of the ground adjoining the building or structure on all sides.

*Gross floor area* means the sum of the gross horizontal areas of the floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, mechanical rooms, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six (6) feet.

*Groundwater* means all of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

*Group care facility* means a boarding care facility for more than eight (8) individuals wherein children under eighteen (18) years of age or adults over sixteen (16) years of age and not legally related to the operator are provided personal care, supervision and social or rehabilitative services. Uses within the meaning of this definition must be licensed by the State of Maine and may include, but are not limited to, group homes, half-way homes and congregate homes but do not include foster family homes.

*Hazardous material* means a product or waste, or combination of substances that, because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a substantial present or potential hazard to human health, safety, or welfare or the environment when improperly treated, stored, transported, used, disposed of or otherwise managed. This term includes petroleum and any materials or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

*Height of building* means vertical measurement from the lowest point of the finished grade on the foundation to the highest point of the building or structure, excluding incidental protrusions such as chimneys and antennae.

*Height equivalent* means a horizontal distance equal to the height of a building or structure.

*Historic structure* means any structure that is:

- (1) Designated as historic and on the local register as provided under article XV;
- (2) Listed individually in the National Register of Historic Places (a listing maintained by the department of interior) or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the national register;
- (3) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary of the interior to qualify as a registered historic district.
- (4) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;  
or

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- (5) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
  - 1. By an approved state program as determined by the Secretary of the Interior, or
  - 2. Directly by the secretary of the Interior in states without approved programs.

*Home occupation* means an occupation conducted in a dwelling unit or a structure accessory thereto, provided that all of the following criteria are met:

- (1) No person other than a member of the family residing on the premises shall be engaged in such occupation; and
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the total floor area of the dwelling unit and accessory structures used in the home occupation shall be used in the conduct of the home occupation; and
- (3) There shall be no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such home occupation other than one (1) sign, except as hereinafter permitted; and
- (4) No traffic shall be generated by such home occupations in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required yard; and
- (5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the home occupation is conducted in a detached one-family dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in a radio or television receiver off the premises, or causes fluctuations in line voltage off the premises; and
- (6) There shall be no stock in trade regularly maintained or any new commodity sold on the premises; and
- (7) The following are specifically excluded as home occupations: Convalescent or nursing home, tourist home, animal hospital, restaurants, doctors' offices, dentists' offices, real estate offices, registered primary caregivers, beauty shops and barber shops, except those that are owner-occupied, one (1) chair, appointment-only shops that meet all the other home occupation criteria.

*Hospital* means an institution providing health services primarily for in-patients and medical or surgical care of the sick or injured, including, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

*Hotel, inn or motel* means a commercial building or group of buildings built primarily to accommodate for a fee travelers and other transient guests, who are staying for a limited

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duration, with sleeping and associated rooms. A hotel, inn or motel may include suites or rooms, cooking and similar facilities within the rooms to accommodate guests, restaurant facilities where food is prepared and meals served to its guests and other customers, and associated facilities for the convenience and servicing of guests. A hotel, inn or motel room or suite of rooms, as distinguished from a dwelling unit, each shall contain less than a total of six hundred (600) square feet of living area, provided that the area may be larger if, in the sole opinion of the planning board, the facility will function or is functioning as a hotel or motel and not as a residential dwelling unit.

*Household pets* means animals for use by the residents of the premises only. Household pets shall not be construed to include farm animals such as: Horses, sheep, pigs, chickens, geese, pigeons. The term "household pets" is distinct from "kennel"; see the latter.

*Impacted property* means a lot which has frontage on the same street(s) as the lot in question and lies, in whole or in part, within five hundred (500) feet of any property line of the subject lot.

*Impervious surface ratio* means the ratio of the total area of a parcel covered by impervious surfaces including buildings, parking lots, roads, drives, accessways, sidewalks, and other paved surfaces, paved drainage ways and any other surfaces covered by materials which substantially impede the percolation of rainwater into the soil to the total lot area.

*Individual private campsite* means an area of land which is not associated with a campground, but which is developed for repeated camping by only one (1) group not to exceed ten (10) individuals and which involves site improvements which may include, but not be limited to gravel pads, parking areas, fire places, or tent platforms.

*Industrial use* means the use of real estate, buildings or structures, or any portion thereof, for assembling, fabricating, finishing, manufacturing, packaging or processing operations, including the processing of raw materials.

*In-law apartment* means an accessory apartment contained within or attached to a single-family dwelling which meets the standards of section 11 of Article XII.

*Intensification* means any construction, reconstruction, use of a building, structure or other land use activity, which results in an increase in the volume of traffic, the amount of required off-street parking, the hours of operation, the size of the use, noise, dust, odor, vibration, glare, smoke, litter, the need for municipal or other facilities serving the site, or the effect on the soils on the site.

*Junkyard* means a yard, field, or other area used as a place of storage for:

- (1) Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- (2) Discarded, scrap or junked lumber;
- (3) Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
- (4) Garbage dumps, waste dumps and sanitary fills.

*Kennels* means a business involving the raising or boarding of dogs.

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*Level of service* means a measure of the operational performance of a street or intersection as determined in accordance with the procedures of the Institute of Traffic Engineers (ITE).

*Light industrial uses* means industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including, by way of example only, the following: bakeries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Light industrial uses do not include the processing of raw materials or salvaging operations.

*Loading space* means an on-the-property space for the standing, loading or unloading of vehicles to avoid undue interference with the public use of streets and alleys.

*Locally established datum* means for purposes of this Code, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

*Lodging house* means a building or group of attached or detached buildings containing three (3) or more lodging units for occupancy for weekly or longer periods of time with or without board, for compensation, in which common kitchen or living facilities may or may not be provided, as distinguished from hotels and tourist homes in which rentals are generally for daily or weekly periods and occupancy is by transients. Lodging units shall not meet the definition of a dwelling unit and for the purposes of computing density and parking requirements; two (2) lodging units shall equal one (1) multi-family dwelling unit. A boarding house shall be considered a type of lodging house.

*Lot* means a contiguous parcel of land in single ownership comprised of one (1) or more parcels described in deeds, plats or other legal documents recorded in the Androscoggin County Registry of Deeds.

*Lot, corner* means a parcel of land at the junction of and fronting on two (2) or more intersecting streets.

*Lot coverage ratio* means the ratio of that area of the lot covered by buildings or structures divided by the total lot area.

*Lot, depth of* means the mean distance from the street line of the lot to its opposite line, measured in the general direction of the side lines of the lot. In a corner lot, the depth is the longer dimension thus measured.

*Lot, interior* means a lot other than a corner lot.

*Lot line* means a line dividing one (1) lot from another, or from a street or other public space.

*Lot of record* means a lot shown on or described in a subdivision plan or deed on file in the Androscoggin County Registry of Deeds on the date of adoption or subsequent amendment of this Code.

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*Lot or ground coverage* means the percentage of lot area covered or occupied by principal and accessory structures.

*Lot size* means the area of land enclosed within the boundary lines of a lot.

*Lot width* means the horizontal distance between the side lines of a lot measured along a straight line, either parallel to the front lot line if the front line is a straight line or tangent to the mid point of the curvilinear setback line if the front lot line is curvilinear, both measured at the minimum required front setback line.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of Article XII of this Code.

*Lumber and building material dealer* means a commercial business involving the retail or wholesale sales of lumber, construction materials, hardware, paint and similar materials in which a portion of the inventory is stored outside or in semi-enclosed structures.

*Manufactured home park or subdivision* means for the purposes of article XII, section 4, and article XIV, a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Manufactured housing unit/also known as a manufactured home* means structures, transportable in one (1) or two (2) sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein, including both mobile homes and modular homes, but excluding travel trailers. For the purposes of article XII, section 4, and article XIV, the term manufactured home also includes park mobile homes, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

*Marijuana* means the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

*Mean sea level* means, for the purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

*Microbrewery* means a limited-production brewery, typically producing specialty beers and often selling its products only locally or regionally.

*Mineral exploration* means 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* means 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,



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peat, or other like material from its natural location, and transports the removed material away from the extraction site.

*Minor development/improvement* means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article XIV, Section 6(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

*Mixed residential development* means a residential development involving a mixture of detached single-family dwellings, single-family attached dwellings with less than eight (8) common walls, two-family dwellings or multifamily dwellings with less than five (5) dwelling units per structure. Mixed residential developments may contain a mixture of the listed building types; but, multifamily dwellings shall not constitute more than sixty (60) percent of the total number of dwelling units in the development.

*Mixed single-family residential development* means a planned residential development involving a mixture of single-family detached dwellings and attached single-family dwellings.

*Mixed-use structure* means a building containing one (1) or more dwelling units and nonresidential space. Said nonresidential space must be permitted in the underlying zoning district.

*Mobile home* means a factory-fabricated structure meeting the standards of the U.S. Department of Housing and Urban Development which is built on a permanent chassis, is designed to be used as a dwelling unit and was constructed after June 15, 1976. Mobile homes built before June 15, 1976, are considered to be older mobile homes and are prohibited, unless they meet safety and design standards put forth by the state manufactured housing board and those contained in the Revised Code of Ordinances of the City of Lewiston.

*Mobile home lot* means a parcel of land within a mobile home park for the placement of a single manufactured housing unit and the exclusive use of its occupants.

*Mobile home park* means a contiguous parcel of under land unified ownership with a minimum area of five (5) acres designed and/or used to accommodate a minimum of three (3) manufactured housing units on mobile home lots which are to be rented or leased, but not sold. The management and maintenance of a mobile home park shall be deemed to be the responsibility of a single owner or operator, with improved lots and/or services being available under a leasing arrangement.

*Mobile home park cluster development* means a mobile home park where the lot area of the individual mobile home lots may be reduced to a minimum of four thousand (4,000) square feet in accordance with the provisions of this Code provided that the density of the park conforms with the minimum net lot area of six thousand five hundred (6,500) square feet per unit by providing permanent open space as part of the development.

*Mobile home park road* is a private road used for access of motor vehicles to homes located in a mobile home park and used solely for vehicular movement within the park.

*Modular home* means those units which the manufacturer certifies are constructed in  
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compliance with 10 M.R.S.A. Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings and must be placed on permanent foundations.

*Multi-family development* means a residential development that includes three (3) or more freestanding, multi-family dwellings on single or multiple contiguous lots in common ownership; or a single building containing twelve (12) or more dwelling units.

*Municipal buildings and facilities* means facilities owned and operated by the City of Lewiston for the conduct of the city's business including, but not limited to, municipal office buildings, schools, police and fire stations, public works garages and facilities, public safety facilities, solid waste disposal facilities, sewerage systems, sewage disposal facilities and similar uses.

*National Geodetic Vertical Datum (NGVD)* means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called (1929 Mean Sea Level (MSL)).

*Neighborhood stores* means a retail store that occupies less than five thousand (5,000) square feet of total floor space and within which no alcoholic beverages are consumed.

*Net lot area* means the total acreage of a lot less the area required for access and less the area which is not suitable for development because of sustained slopes in excess of twenty-five (25) percent, water bodies, one hundred (100) year flood plains, and wetlands. "Access" as used herein includes all land within street right-of-way boundaries, but does not include land used for individual driveways or for parking areas.

*New construction* means structures for which the "start of construction" commenced on or after the effective date of flood plain management regulations adopted by a community and includes any subsequent improvements to such structures.

*Nonconforming lot* means a lot of record which is defined as a lot in a plan or deed filed in the Androscoggin County Registry of Deeds, which, at the effective date of the adoption or amendment of this Code, was in lawful existence, but which does not comply with one (1) or more of the space and bulk requirements of the zoning district in which it is located.

*Nonconforming structure* means a structure which, at the effective date of the adoption or amendment of this Code, was in lawful existence, but which does not comply with one (1) or more of the space and bulk requirements of the zoning district in which it is located.

*Nonconforming use* means a use of a premise, parcel of land or structure which, at the effective date of the adoption or amendment of this Code, was in lawful existence, but which does not comply with the applicable use regulations of the zoning district in which it is located.

*Nonintensive outdoor recreation* means outdoor recreational uses that involve minimal structural development or regrading of the terrain but which, if properly designed, neither cause nor are subject to serious damage from flooding or soil erosion. Examples of nonintensive recreational uses include, but are not limited to, golf courses, tennis courts, playing fields, ice skating rinks, and boat docks.

*Normal high water line* means 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

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distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

*North American Industry Classification System (NAICS)* is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. Reference is made to the NAICS throughout this Code to assist with defining permitted and conditional uses.

*North American Vertical Datum (NAVD)* means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps, NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

*Nursing or convalescent home* means a state licensed residential care facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require, on a twenty-four (24) hour basis, nursing care and related medical services. This definition shall include skilled nursing facilities, intermediate care facilities and nursing homes.

*Official map* means a map, prepared and adopted by the planning board and approved by the city council, which shows the lines of ways, public property and subdivisions.

*Official zoning map* means a map prepared by the City of Lewiston Planning Board and adopted by the city council outlining each district established or modified by the municipality. The map is filed in the office of the city clerk.

*Off-street parking space* means a paved or gravel surfaced area not in a street or alley which is permanently reserved for the temporary storage of one (1) automobile.

*One hundred-year flood.* See "base flood."

*Open space* means that portion of a lot which is characterized by natural scenic beauty or openness and which is dedicated to being preserved or kept open in order to enhance urban or rural areas as important physical, social, recreation, conservation, aesthetic or economic assets.

*Open space ratio* means the ratio of the total area of a parcel maintained in lawns, gardens, planters, or other natural vegetation to the total lot area.

*Owner* means the owner of record of a property and his duly authorized agent or attorney, a purchaser, devisee, fiduciary and a person having a vested or contingent interest in the property in question.

*Penthouse* means an enclosed structure, other than a roof structure, located on the roof, extending not more than twelve (12) feet above and used primarily for living or recreational accommodations.

*Performance guaranteed* means a cash, property or other bond satisfactory to the City of Lewiston to ensure the actual carrying out of every duty, act, requirement or condition, the performance of which was the basis for issuing the permit or approval.

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*Permanent foundation* means a foundation that includes all of the following:

- (1) A full, poured concrete or masonry foundation;
- (2) A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
- (3) A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility; and
- (4) Any foundation which, pursuant to Chapter 7 of the Revised Code of Ordinances of the City of Lewiston is permitted for other types of single-family dwellings.

*Permitted use* means a use or structure permitted in a given location as a matter of right under the provisions of this Code subject only to those general conditions which are to be met by all applicants seeking a required permit under this Code.

*Personal service* means a service exemplified by the types of services listed under NAICS 812, including but not limited to laundry and cleaning services, photography studios, shoe repair shops, funeral homes, mortuaries, beauty salons, barber shops, day spas, and similar services to the general public. This definition does not include tattoo parlors.

*Petroleum* means oil, gasoline, petroleum products and by-products, and all other hydrocarbons which are liquid under normal atmospheric conditions.

*Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high water line or within a wetland* means

*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.

*Pitched, shingled roof* means a roof with a pitch of two (2) or more vertical units for every twelve (12) horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excluding corrugated metal roofing materials.

*Places of assembly, amusement, recreation, entertainment, or culture* means facilities designed to accommodate the public for amusement, entertainment, recreation or social activities including halls, auditoria, sports arenas, gymnasiums, skating and hockey rinks, stadia, golf courses, racetrack operations (excluding motorized vehicle racing), meeting rooms, theaters, and similar facilities but not including movie theaters.

*Premises* means one (1) or more parcels of land which are in the same ownership and contiguous.

*Principal building* means the building occupied by the chief or principal use on the premises. When a garage is attached to the principal dwelling in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal dwelling for the purpose of computing yard requirements.

*Private industrial/commercial developments* means industrial or commercial

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developments where lots within the development may gain their required frontage on private roads, as long as the development meets the standards under Article XIII, section 10.

*Private road* is any road, not maintained or accepted by the Lewiston City Council, that conforms to the applicable public street or public court standards of this policy.

*Public court* is a way providing direct access within identifiable neighborhoods and to abutting land accepted by the Lewiston City Council as a public street, used for the access of motor vehicles for up to ten (10) single family dwellings with frontage on said public court.

*Public indoor amenity space* means malls, courts, arcades or other spaces available for public use within a building.

*Public sewerage* means a sewer system operated by the City of Lewiston or other governmental authority.

*Public street* is a way providing direct access within identifiable neighborhoods and to abutting land, and where through traffic is usually discouraged, carrying less than 1,000 ADT and which has been accepted by the Lewiston City Council as a public street, or has been constructed or accepted by the state or federal government as a public street or road.

*Recharge area* means an area composed of permeable materials which allows precipitation and surface water to filter into the ground and replenish groundwater in aquifers.

*Recreational vehicle* means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. Designed to be self-propelled or permanently towable by a motor vehicle; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Recreational vehicle dealer* means a business or commercial enterprise involving the retail sales and service of new or used recreational vehicles including motor homes, camper trailers, boats, snowmobiles and similar vehicles.

*Recycling and reprocessing facility* means a commercial enterprise involving the handling, storing and processing of waste materials including but not limited to automobiles, scrap metal, paper, rags, chemicals, oils, solvents and similar materials but not involving the on-site disposal of these materials.

*Registered dispensary* or dispensary means a not-for-profit entity registered pursuant to State Law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients.

*Registered patient* means a patient who has a registry identification card issued by the State of Maine.

*Registered primary caregiver* or primary caregiver means a person, a hospice provider

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licensed under Title 22 M.R.S.A. chapter 1681 or a nursing facility licensed under Title 22 M.R.S.A. chapter 405 that provides care for a registered patient and that has been named by the registered patient as a primary caregiver to assist with a registered patient's medical use of marijuana. A person who is a primary caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense.

*Regulatory floodway* means (1) the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot, and (2) when not designated on the community's Flood Insurance Rate Map is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the flood plain as measured from the normal high water mark to the upland limit of the flood plain.

*Repair* means the replacement of existing work with equivalent materials for the purpose of its maintenance, but not including an addition, change or modification in construction, exit facilities or permanent fixtures or equipment.

*Residential zoning districts* means those zoning districts in which residential uses are predominate uses allowed. This shall include the following districts: Rural-Agricultural (RA), Low Density Residential (LDR), Suburban Residential (SR), Medium Density Residential (MDR), Neighborhood Conservation "A" (NCA), and Neighborhood Conservation "B" (NCB).

*Restaurant* means a business or commercial establishment which serves food to the public for consumption on the premises and may include the sale of food for consumption off premises. Restaurants serving alcoholic beverages, also referred to as food service establishments FSE-Class A, B, C, and E, must offer full course meals at all times while open, shall not exclude persons under the age of twenty-one (21) from full use of the establishment at all times, and shall not possess a special amusement permit for dancing as defined pursuant to Chapter 10, Article III, of the Code of Ordinances of the City of Lewiston. Restaurants serving alcoholic beverages that do not satisfy the above provisions shall be deemed to be and regulated as drinking places.

*Retail* means sale to the ultimate consumer for direct consumption and not for trade.

*Right-of-way* means a strip of land acquired by deed, reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, cross-walk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer and other similar uses.

*Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*Roof* means the roof slab or deck with its supporting members.

*Roof structure* means a structure above the roof of any part of a building enclosing a stairway, tank, elevator machinery or service equipment, or such part of a shaft as extends above the roof, and not housing, living or recreational accommodations.

*Rural areas* means rural areas include both open agricultural fields and woodlands. The land is either undeveloped or developed at very low intensity with scattered farms or homes. Although some parcels may abut a highway, they are generally of such a depth that most development will occur off the highway frontage in the form of residential enclaves, large scale retail centers, and/or campus style office industrial parks.

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*Scroll* means a mode of message transition on a changeable message sign where the message appears to move vertically across the display surface.

*Self-storage facilities* means a business or commercial establishment consisting of small, individually lockable storage units which are rented, leased or sold to the general public for the storage of personal property. A self-storage facility may contain an accessory dwelling unit for the exclusive use of a resident manager.

*Setback, front* means the distance between the front line of the property or the side line of the street, whichever is closer to any part of any principal or accessory structure, and the nearest part of any principal or accessory structure.

*Setback, normal high water mark* means the distance from the normal high water mark of any perennial stream or pond to the nearest part of a structure.

*Setback, rear* means the distance between the rear line of the lot, extending the full width of the lot, and the nearest part of any principal or accessory structure. Back and rear setback are synonymous terms.

*Setback, side* means the distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line.

*Shelter* means a charitable facility operated by a not-for-profit corporation or a religious organization providing free temporary overnight housing in a dormitory-style, barrack-style, or per-bed arrangement to homeless individuals.

*Shore frontage* means the length of a lot's shoreline as measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

*Sight distance* means the length of unobstructed sight line of motor vehicle drivers in normal daylight conditions. Sight distance shall be measured from the perspective of a hypothetical person seated in a vehicle from three vantage points: (1) sitting in the access viewing vehicles traveling on the highway (both left and right), (2) traveling on the highway viewing a vehicle sitting in an access and (3) traveling on the roadway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement shall be used to determine whether the sight distance standard is met. Sight distance shall be measured to and from the point on the centerline of the proposed access that is located ten (10) feet from the edge of traveled way. The height of the hypothetical person's view shall be three and one-half (3 1/2) feet above the pavement and the height of the object being viewed shall be four and one-fourth (4 1/4) feet above the pavement.

*Sign* means a 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 or painted on the exterior of a building or structure and which is visible from a public way. For purposes of this Code, "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.

*Sign area* means 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

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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.

*Sign, awning* means a sign mounted on a temporary overhanging shelter to the face of a building.

*Sign, directory* means a sign listing the names and locations of principal businesses, services, activities, or individuals.

*Sign, ground* means an outdoor sign that is directly and permanently supported on the ground and is physically separated from any other structure.

*Sign, marquee* means a sign mounted on or suspended from a permanent overhanging shelter perpendicular to the face of a building.

*Sign, projecting* means an outdoor sign which is attached to a wall and extends at a ninety (90) degree angle from the wall for more than eighteen (18) inches.

*Sign, roof* means an outdoor sign that is displayed above the eaves of a building.

*Sign, wall* means an outdoor sign that is attached flat to or pinned away from the wall of a structure and does not project more than eighteen (18) inches from the wall.

*Sign, window* means a sign mounted on a window or located inside a window and not part of a show window display.

*Single-family cluster development* means a residential subdivision consisting of detached single-family homes with each dwelling located on an individual lot. The lot area of the individual lots may be reduced in accordance with provisions of this Code provided that the overall density of the development conforms to the zoning district regulations by providing permanent open space as part of the development.

*Sludge* means residual materials produced by industrial processes, water or sewage treatment processes, or domestic septic tanks.

*Small day care facility* means child care for three (3) to twelve (12) children under thirteen (13) years of age who, are unattended by parents or guardians for any part of the day, in a non-home setting. Small day care facilities shall not be operated within a private family residence (i. e. dwelling unit).

*Special flood hazard area.* See "area of special flood hazard."

*Start of construction* means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the principal structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor,



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or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Stream* means a channel between defined banks. A channel is created by the action of surface water and has two or more of the following characteristics:

- (1) It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- (2) It contains or is known to contain flowing water continuously for a period of at least three months of the year in most years.
- (3) The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- (4) The channel contains aquatic animals such as fish, aquatic insects, or mollusks in the water or, if no surface water is present, within the stream bed.
- (5) The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"Stream" does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining stormwater or a grassy swale.

*Structure* means anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, excluding light poles, awnings and canopies, transformer pads, driveways, walkways, patios, and other paved surfaces, fences, and underground utilities and their related appurtenances (not including buildings) whether or not underground. Additionally, for floodplain management purposes, a structure is a walled and roofed building or a gas or liquid storage tank that is principally above ground.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial development* means improvements to a site for which development approval has been granted pursuant to the standards set forth in article XIII which constitutes one or more of the following: The complete construction of at least 50 percent of all proposed principal buildings; the installation of all proposed principal building foundations; the construction of all road bases for proposed streets in subdivisions unless the project is phased, in which case only those road bases in an active phase need be constructed; filling and grading to near finish contours for earth material activities in excess of 5,000 cubic yards for major projects, or 1,000 cubic yards for minor projects; and the construction of all proposed additions or accessory uses or structures to a level of completion where a temporary certificate of occupancy has been issued by the code enforcement officer.

*Substantial improvement* means any reconstruction, repair, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. For purposes of this definition "substantial improvement" is considered to occur at

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the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the board of appeals.

*Subsurface sewage disposal system* means a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 M.R.S.A. section 414, any surface wastewater disposal system licensed under 38 M.R.S.A. section 413, Subsection 1-a, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

*Suburban strip* means the organizing principle of the Suburban Strip is the highway, and development is largely geared for automobile convenience. Buildings are spatially separated, and have a relatively low density due mostly to the high parking ratios. Existing land uses are mixed and include residential, commercial retail and office. Some parcels are not yet developed. Historically, buildings have been of relatively inexpensive construction, and lack widely recognized architectural or historical significance.

*Swimming pool* means a body of water in an artificial receptacle or other container, whether in the ground or above the ground, used or intended to be used for swimming or bathing and designed for a water depth of thirty-six (36) inches or more.

*Tattoo Establishment* means a permanent, nondwelling premise where a tattoo practitioner/operator, being the person who places a tattoo on a human being, and is at least 18 years of age, performs tattooing.

*Tattoo parlor* is a business or commercial establishment at which an individual performs or practices the art of tattooing on the person of another. This involves inserting pigment under the skin of a human being by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin.

*Timber harvesting* means the cutting or removal of at least ten (10) cords, or equivalent, of timber on a lot or lots in contiguous ownership during a calendar year for the primary purpose of selling or processing forest products.

*Time and temperature sign* means a special type of changeable message sign that is capable of displaying only public service information such as time, date and temperature, but not words, symbols or other advertising messages.

*Tourist home* means a commercial building which accommodates, for a fee, travelers or other transient guests who are staying for a limited duration, and having eight (8) or fewer

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sleeping rooms. A tourist home may include associated rooms for meals or the use of guests.

*Transit and ground transportation facilities* means urban transit systems, chartered bus, school bus, interurban bus and rail transportation, and taxis with either scheduled or nonscheduled service, as defined in NAICS subsection 485.

*Travel* means a mode of message transition on a changeable message sign where the text appears to move horizontally across the display surface.

*Urban neighborhoods* means urban neighborhoods are characterized by established housing and commercial development, and may include historically or architecturally significant buildings. Densities are relatively high and buildings are in close proximity to one (1) another. Buildings relate strongly to the street, and the streetscape is well defined by street trees, building facades, and pedestrian activity. Automobile travel speeds are relatively slow, and pedestrian traffic is high.

*Upland edge of a wetland* means 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)foot) tall or taller.

*Utility structures* means buildings which house or service utility services, including structures such as radio towers, transmitting stations, and satellite dishes serving more than a residential use on a single lot. Satellite dishes serving a residential use on a single lot shall be considered accessory to such use.

*Variance* means a relaxation of the terms of this Code where such variance will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship. As used in this Code, a variance is authorized only for the space and bulk requirements of Article XI and the performance standards of Article XII, and the floodplain management ordinance of Article XIV.

*Violation* means the failure to comply with applicable provisions of the Zoning and Land Use Code.

*Warehousing* means the storage of goods, wares and merchandise in a warehouse.

*Wetland* means land which is associated with or linked to the drainage systems of streams, ponds, and lakes, and the soils of which are saturated, with the water table at or above surface level for most of the year.

*Wholesale* means sale for resale, not for direct consumption.

*Yard* means an open, landscaped area adjacent to the property line which is not and may not be occupied by buildings, structures, parking lots, storage or similar uses. Access roads or drives and sidewalks may be located to allow vehicular and pedestrian traffic to cross yard areas.

(Ord. No. 89-3, 4-7-89; Ord. No. 89-11, 9-15-89; Ord. No. 90-4, 5-17-90; Ord. No. 90-10, 10-4-90; Ord. No. 90-12, 11-16-90; Ord. No. 90-15, 1-11-91; Ord. No. 91-1, 3-19-91; Ord. No. 91-6A, 7-4-91; Ord. No. 92-5, 3-5-92; Ord. No. 92-18, 9-10-92; Ord. No. 92-20, 9-10-92; Ord. No. 93-9, 6-17-93; Ord. No. 95-1, 2-2-95; Ord. No. 95-8, 7-20-95; Ord. No. 96-7, 7-18-96; Ord. No. 96-11, 9-12-96; Ord. No. 97-7, 9-11-

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97; Ord. No. 97-9, 10-16-97; Ord. No. 00-16, 8-17-00; Ord. No. 00-17, 8-17-00; Ord. No. 00-19, 10-5-00; Ord. No. 00-27, 1-11-01; Ord. No. 01-23, 2-7-02; Ord. No. 02-21, 1-9-03; Ord. No. 03-18, 1-1-04; Ord. No. 04-02, 2-19-04; Ord. No. 04-06, 4-15-04; Ord. No. 04-21, 9-9-04; Ord. No. 04-25, 2-3-05; Ord. No. 04-26, 2-3-05; Ord. No. 05-07, 3-17-05; Ord. No. 05-20, 1-19-06; Ord. No. 06-04, 4-20-06; Ord. No. 06-05, 4-20-06; Ord. No. 07-01, 3-8-07; Ord. No. 07-02, 3-22-07; Ord. 10-13, 12-23-10; Ord. No. 10-14, 1-6-11; Ord. No. 11-15, 01-19-12; Ord. No. 12-03, 04-05-12; Ord. No. 12-04, 04-05-12; Ord. No. 12-15, 02-07-13; Ord. No. 13-04, 06-20-13; Ord. No. 13-10, 10-17-13; Ord. No. 14-12, 01-15-15; Ord. No. 15-08, 08-13-2015)