

APPENDIX A – ZONING AND LAND USE CODE
ARTICLE XII. PERFORMANCE STANDARDS

Sec. 1. Applicability.

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

Sec. 2. Shoreland area standards.

(a) *Statement of purpose.* The purpose of this section is to further maintain the safe and healthful conditions of the city and neighboring communities; to prevent and control water pollution, to protect aquatic life, bird and other habitat; to protect buildings and lands from accelerated erosion and flooding; to protect historic resources; to protect wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual, as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in the shoreland areas.

(b) *Applicability.* Unless otherwise specified, the standards of this section shall apply to:

- (1) All land areas within 250 feet, horizontal distance, of the normal high watermark of the Androscoggin River, No Name Pond, and to all areas included within the Resource Conservation District, as shown on the "Official Zoning Map of the City of Lewiston, Maine"; all land areas within 75 feet, horizontal distance, of the normal high-water line of No Name Brook, No Name Brook Tributary B, Stetson Brook and Salmon Brook (beginning at the confluence of Moody and Salmon Brook to the Androscoggin River).
- (2) All land areas within 250 feet, horizontal distance, of the defined upland edge of all ten acre or greater wetlands, located in the City of Lewiston, as shown on the City of Lewiston Fresh-Water Wetland Maps prepared by the Maine Department of Environmental Protection, dated 1989, and identified by the following wetland identification numbers: 56 through 62.
- (3) Any structure, existing or proposed, built on, over, or abutting a dock, wharf, or pier, or other structures extending beyond the normal high-water line of a water body or within a wetland.
- (4) All land areas within 25 feet, horizontal distance, of the normal high-water line of Salmon Brook, Moody Brook, No Name Brook Tributary A, Hart Brook and Jepson Brook.
- (5) The perimeters of the above referenced shoreland areas shall be superimposed over the underlying zoning districts. The provisions of the underlying zoning district shall be adhered to subject to compliance with the provisions of the shoreland area. Where uncertainty exists as to the exact location of shoreland area boundary lines, the Board of Appeals shall be the final authority as to location.

(c) *Land use standards.*

- (1) All land use activities within the Shoreland area shall conform with the space and bulk standards of the zoning district in which they are located, and the standards set forth in this section.
- (2) Nothing in this section shall permit uses in districts where such uses are not otherwise permitted.

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- (3) Whenever a provision of this section conflicts with or is inconsistent with another provision of this section, other sections, or any other ordinance, regulation or statute, the more restrictive provision shall be adhered to.
- (d) *Principal and accessory structures.*
- (1) All new principal and accessory structures shall be set back at least: 100 feet, horizontal distance, from the normal high-water line of No Name Pond; 75 feet, horizontal distance, from the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section; and 25 feet, horizontal distance, from the normal high-water line, from those "brooks" as listed under subsection (b)(4) of this section and in general development areas. This minimum setback distance for all new principal and accessory structures shall not be reduced by variance. These standards shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, or other functionally water-dependent uses.
- (2) The maximum impervious surface ratio for all land areas within the Shoreland area shall not exceed 20 percent. However, if the standard is more stringent for the zoning district in which the land area is located, then the stricter standard shall apply. For all subdivisions, where all or a portion of the subdivision is located within the Shoreland area, this maximum impervious surface ratio shall be based on the entire portion of the subdivision which is located within the Shoreland area and shall not be computed on an individual lot basis. However, no individual lot, whether totally or partially within the Shoreland area shall exceed the maximum impervious surface ratio for the zoning district in which the lot is located. In some cases, the maximum impervious surface ratio that is allowed in a zoning district may need to be reduced on a lot-by-lot basis for those lots located totally or partially within a Shoreland area in order to meet the 20 percent maximum impervious surface ratio for the entire portion of the subdivision located within the Shoreland area. Deed covenants for those impacted lots must be submitted to the planning board limiting the maximum impervious surface ratio in order to meet the required standard. These maximum impervious surface ratios shall not be reduced by modification or variance.
- (3) Notwithstanding the aforementioned requirements, stairways or similar structures may be allowed with a permit from the code enforcement director, to provide shoreline access in areas of steep slopes or unstable soils, provided that all of the following are met:
- a. The applicant demonstrates that no reasonable access alternative exists on the property.
 - b. The structure is limited to a maximum of four feet in width.
 - c. The structure does not extend below or over the normal high-water line of a water body, or beyond the defined upland edge of a wetland unless permitted by the Department of Environmental Protection pursuant to Natural Resources Protection Act, Title 38, Sec. 480-C.
- (4) Nonconforming structures shall adhere to the standards outlined under article VI, section 3 of this Code.
- (e) *Minimum lot size and shore frontage.*

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- (1) For the purposes of this subsection, shore frontage shall be defined as follows; the length of a lot bordering on a great pond, river or stream, measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation or the length of a lot bordering the upland edge of those wetlands as listed under subsection (b)(2) of this section.
- (2) The minimum lot size for all residential uses located in a shoreland area shall be 40,000 square feet per dwelling unit. If the lot abuts No Name Pond, the Androscoggin River, or those "brooks" as listed under subsection (b)(1) of this section, or abuts the upland edge of those wetlands as listed under subsection (b)(2) of this section, then the lot must also have 200 feet of shore frontage. This standard shall also apply to all public and private recreational facilities.
The minimum lot size for all governmental, institutional, commercial, or industrial uses located in a shoreland area shall be 60,000 square feet per principal structure. If the lot abuts No Name Pond, the Androscoggin River, or those "brooks" as listed under subsection (b)(1) of this section, or abuts the upland edge of those wetlands as listed under subsection (b)(2) of this section, then the lot must also have 300 feet of shore frontage.
- (3) Two or more existing lots of record which do not meet the minimum lot size and shore frontage requirements outlined in subsection (2) above shall adhere to the standards as outlined under article VI, subsection 2(g) of this Code.
- (4) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots shall not be included toward calculating minimum lot area.
- (5) The minimum width of any portion of any lot within 100 feet, horizontal distance, of the normal high water line if a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (f) *Parking areas.*
 - (1) Parking areas shall meet the setback requirements for new principal and accessory structures.
 - (2) Parking areas that service public boat launching facilities or other functionally dependent uses may be reduced to no less than 50 feet from the normal high-water line or upland edge of a wetland by the reviewing authority if it finds that no other reasonable alternative exists. If no review is required, the code enforcement director shall approve the reduction request.
- (g) *Agriculture.*
 - (1) Agricultural practices shall be conducted in such a manner as will minimize soil erosion and contamination of surface waters by sedimentation, nutrient enrichment and fecal bacteria.
 - (2) All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land," issued by the University of Maine and the Maine Soil and Water Conservation Commission in 1972, as amended.
 - (3) An untilled filter strip of no less than 25 feet in width, measured as horizontal distance, of natural vegetation shall be retained between existing tilled ground and/or the normal

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- high-water line of the surface waters or the upland edge of those wetlands protected by this section, in accordance with a plan approved by the Androscoggin Valley Soil and Water Conservation District for compliance with the standards of the district's technical guide for preventing erosion and sedimentation.
- (4) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of the high-water line of No Name Pond, nor within 75 feet, horizontal distance, of the high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, nor within 25 feet horizontal distance, of the high-water line of those "brooks" as listed under subsection (b)(4) of this section. Within five years of the effective date of this ordinance [October 21, 1999], all manure storage areas within the Shoreland area must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five-year period.
- (5) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland area shall require a soil and water conservation plan to be filed with the code enforcement director. Nonconformance with the provisions of said plan shall be considered to be a violation of this appendix.
- (6) There shall be no new tilling of soil within 100 feet, horizontal distance of the normal high-water line of No Name Pond, nor within 75 feet, horizontal distance, of the high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, nor within 25 feet horizontal distance, of the high-water line of those "brooks" as listed under subsection (b)(4) of this section. Operations in existence on the effective date of this ordinance [October 21, 1999] and not in conformance with this provision may be maintained.
- (7) After the effective date of this appendix, newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance of the normal high-water line of No Name Pond, nor within 75 feet, horizontal distance, of the high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, nor within 25 feet horizontal distance, of the high-water line of those "brooks" as listed under subsection (b)(4) of this section. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a soil and water conservation plan.
- (h) *Archaeological sites.* Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the commission prior to rendering a decision on the application.
- (i) *Erosion and sedimentation control.* The applicant shall implement erosion and sedimentation control measures in compliance with Maine Law, 38 M.R.S.A. § 420-C, and

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regulations promulgated thereunder, as amended. In addition, the applicant shall implement specific erosion and sedimentation measures consistent with those identified in the Maine Erosion and Sedimentation Control BMP's Pub. No. DEPLW0588, published by the Maine Department of Environmental Protection, Bureau of Land and Water Quality, (March 2003).

- (1) On slopes greater than 25 percent, there shall be no grading or filling within 100 feet, horizontal distance, from the normal high-water line of No Name Pond, nor within 75 feet, horizontal distance, of the high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, nor within 25 feet horizontal distance, of the high-water line of those "brooks" as listed under subsection (b)(4) of this section, other than for road construction or water crossings, except to protect the shoreline and prevent erosion.
 - (2) All activities which involve filling, grading, lagooning, dredging, earth-moving, excavation, or other similar land use activities which result in unstabilized soil conditions shall be conducted in such manner to prevent, to the maximum extent possible, erosion and sedimentation of surface waters. Activities which require a permit, whether or not in conjunction with development review, shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the review and/or permitting authority for approval and shall meet the requirements of Maine Law, 38 M.R.S.A. § 420-C, and regulations promulgated thereunder, as amended. In addition, the plan shall be consistent with the standards identified in the Maine Erosion and Water Quality, (March 2003).
- (j) *Soils, buffers and wetland alteration.*
- (1) All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist. Based on the results of the soils report, additional reports or studies may be required, such as wetland delineations and high-intensity soil surveys.
 - (2) No filling, dredging or other earth-moving shall be carried out within the limits of a wetland as identified by the Maine Department of Inland Fisheries and Wildlife or the Maine Department of Environmental Protection except in conjunction with road construction as set forth in subsection (1).
 - (3) Within 75 feet horizontal distance, from the normal high-water line of No Name Pond and 50 feet, horizontal distance, from the Androscoggin River and those "brooks" as listed under subsection (b)(1) of this section, on the upland edge of those wetlands as

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listed under subsection (b)(2) of this section; and 25 feet, horizontal distance, from other water bodies, tributary streams and wetlands within the Shoreland area, the land shall be maintained in a natural vegetative state.

All existing buildings and structures which do not meet this standard shall adhere to the nonconformance section of this appendix and subsection (d)(2) of this section, unless otherwise provided for under subsection (t). All other impervious surfaces shall meet the standard set forth in subsection (d)(2) of this section, unless otherwise provided for under subsection (t). If the current impervious surface ratio is in excess of this standard, the impervious surfaces shall not be expanded, unless other provided for under subsection (t).

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved by the planning board (for major projects), development review committee (for minor projects), or code enforcement director (if no review is required) before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of subsection (4) below.
- (2) Unless authorized pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A. Section 480-C, no part of any extraction operation, including drainage and runoff control features shall be permitted within 100 feet, horizontal distance, of the normal high-water line of No Name Pond, nor within 75 feet, horizontal distance, of the high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, nor within 25 feet horizontal distance, of the high-water line of those ""brooks" as listed under subsection (b)(4) of this section. Extraction operations shall not be permitted within 75 feet of any property line, without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along the Androscoggin River shall demonstrate that no reasonable mining site outside the Shoreland area exists. When gravel pits must be located within the Shoreland area, they shall be set back as far as practicable from the normal high-water line and no less than 100 feet, horizontal distance, and screened from the river by existing vegetation. This standard shall not be reduced by variance. Existing, legally established gravel pits that do not meet the 100-foot setback shall not expand their earth removal activities which are located within the 100-foot setback.
- (4) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12-month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

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Note: The State of Maine Solid Waste Laws, Title 38 M.R.S.A. section 1310 and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- b. The final graded slope shall be two to one slope or flatter.
 - c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this ordinance, the planning board (for major projects), development review committee (for minor projects), or code enforcement director (if no review is required), may impose such conditions as are deemed necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- (1) *Roads, driveways, and water crossings.* The following standards shall apply to the construction and maintenance of roads, driveways, water crossings, drainage systems, culverts and other related features. In addition to these standards, roads shall be constructed in accordance with the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks, adopted by the city council pursuant to chapter 66, article IV, section 66-96 of this Code.
- (1) Roads and driveways shall be set back at least 100 feet, horizontal distance, from the normal high-water line of No Name Pond, 75 feet from the horizontal distance, of the high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, unless no reasonable alternative exists as determined by the planning board (for major projects), staff review committee (for minor projects), or code enforcement director (if no review is required). If no other reasonable alternative exists, the planning board (for major projects), staff review committee (for minor projects), or director of planning and code enforcement (if no review is required) may reduce the road and/or driveway setback requirement to no less than 50 feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. All techniques used shall comply with Maine Law, 38 M.R.S.A. § 420-C, and regulations promulgated thereunder, as amended, and shall be consistent with measures identified in the Maine Erosion and Sedimentation Control BMPs Pub. No. DEPLW0588, published by the Maine Department of Environment Protection, Bureau of Land and Water Quality, (March 2003). Roads and driveways shall be set back at least 25 feet horizontal distance, from the high-water line of those "brooks" as listed under subsection (b)(4) of this section. On slopes of greater than 20 percent, the road and/or driveway setback shall be increased by ten feet, horizontal distance, for each five percent increase in slope above twenty percent. This subsection shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.
- (2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- (3) New roads and driveways are prohibited within the resource conservation district except:
- a. To provide access to structures or facilities within the zone; or

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- b. As by the planning board upon a finding that no reasonable alternative route or location is available out side the resource conservation district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream or up land edge of a wetland and screened from the river by existing vegetation.
- (4) Road banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection (i).
- (5) Road grades shall be no greater than ten percent except for short segments of less than 200 feet.
- (6) In order to prevent road surface drainage from directly entering water bodies, roads shall be designed and constructed using appropriate techniques used to prevent sedimentation of the water bodies. All techniques used shall comply with Maine Law, 38 M.R.S.A. § 420-C, and regulations promulgated thereunder, as amended, and shall be consistent with measurers identified in the Maine Erosion and Sedimentation Control BMPs Pub. No. DEPLW0588, published by the Maine Department of Environment Protection, Bureau of Lane and Water Quality, (March 2003).
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<i>Road Grade</i> (percent)	<i>Spacing</i> (feet)
0--2	250
3--5	200--135
6-10	100--80
11--15	80--60
16--20	60--45
21 +	40

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten percent or less.
- c. On road sections having slopes greater than ten percent, ditch relief culverts shall be placed across the road at approximately a 30-degree angle downslope from a line perpendicular to the centerline of the road.
- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.
- (m) *Subsurface sewage disposal.*

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- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (hereinafter referred to as "rules"), and the following:
 - (2) The minimum setback for new subsurface sewage disposal systems shall be no less than 100 feet, horizontal distance, from the normal high-water line of No Name Pond, the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section; or the upland edge of those wetlands as listed under subsection (b)(2) of this section; and 50 feet, horizontal distance, from other water bodies, tributary streams and wetlands within the Shoreland area. The minimum setback distances for new subsurface sewage disposal systems shall not be reduced by variance, and in no case, shall be any less than 50 feet.
 - (3) All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.
 - (4) The conversion of cottages or camps from seasonal to year-round use shall comply with the terms of the rules, including article XII, section 2(m), subsections (2) and (3) above, for such conversion.
 - (5) Replacement systems shall be allowed only in conformance with the provisions and procedures of the rules, including article XII, section 2(m), subsections (2), (3) and (4) above, for such systems.
- (n) *Stormwater runoff and water quality.*
- (1) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions and shall meet the requirements described in article XIII, section 4.
 - (2) All methods for erosion and sedimentation control shall comply with Maine Law, 38 M.R.S.A. § 420-C, and regulations promulgated thereunder, as amended. In addition, the applicant shall implement specific erosion and sedimentation measures consistent with those identified in the Maine Erosion and Sedimentation Control BMPs Pub. No. DEPLW0588, published by the Maine Department of Environmental Protection, Bureau of Land and Water Quality, (March 2003).
- (o) *Campgrounds and individual private campsites.*
- (1) Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:
 - a. Campgrounds shall contain a minimum of 5,000 square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetations, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
 - b. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 100 feet, horizontal distance, from the normal high-water line of No Name Pond, 75 feet horizontal distance, from the normal high-water line of the Androscoggin River and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, and 25 feet horizontal distance, of the high-water line of those "brooks" as listed under subsection (b)(4) of this section.

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- (2) Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:
- a. One campsite per lot existing on the effective date of this ordinance, or 30,000 square feet of lot area within the Shoreland area, whichever is less, may be permitted.
 - b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high-water line of No Name Pond, 75 feet, horizontal distance, from the normal high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section, and 25 feet horizontal distance, from the high-water line of those "brooks" as listed under subsection (b)(4) of this section.
 - c. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel road, and no structure(s) except canopies shall be attached to the recreational vehicle.
 - d. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a resource conservation district shall be limited to 1,000 square feet.
 - e. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the local plumbing inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
 - f. When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.
 - g. These standards shall not be reduced by variance.
- (p) *Structures related to water bodies.* In addition to state or other permits which may be required for piers, docks, floats, ramps and other structures lying in or projecting into water bodies, such structures shall meet the following standards:
- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to reasonably control erosion.
 - (2) The location shall not unreasonably interfere with other established uses.
 - (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (q) *Essential services.*
- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
 - (2) The installation of essential services is not permitted in a resource conservation (RC) district, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (r) *Timber harvesting.*

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- (1) Timber harvesting activities in Shoreland areas shall conform with the following provisions:
- a. Timber harvesting, other than for road building and water crossings or in conjunction with approved development activities, shall not remove, in any ten-year period, more than 40 percent of the volume on each acre involved of trees four inches in diameter and larger, measured at four and one-half feet above ground level, applied equally to all size classes (six-inch, eight-inch, ten-inch, etc.) within the area being harvested. Removal of trees less than four inches in diameter, measured as above, is permitted if otherwise in conformance with the standards of this section. For the purpose of these standards, volume may be determined as being equivalent to basal area. A stand means a contiguous group of trees, sufficiently uniform in species, arrangement of classes and condition to be identified as a homogeneous and distinguishable unit.
Timber harvesting operations proposing to exceed the 40 percent limitation must submit a forest management plan signed by a state licensed professional forester and approved by the code enforcement director. The management plan must clearly show that an exception for exceeding the 40 percent rule is necessary for good forest management and will be carried out in accordance with the purposes of this section. The code enforcement director shall notify the commissioner of the department of environmental protection within 14 days of the decision to allow an exception.
 - b. Within 75 feet, horizontal distance, from the normal high-water line of No Name Pond; and 50 feet, horizontal distance, from the Androscoggin River and those "brooks" as listed under subsection (b)(1) of this section or the upland edge of those wetlands as listed under subsection (b)(2) of this section; and 25 feet, horizontal distance from the high-water line of those "brooks" as listed under subsection (b)(4) of this section the land shall be maintained in a natural vegetative state and timber harvesting activities are prohibited.
 - c. Within the area between the required buffer referred to in subsection b., above and 100 feet, horizontal distance, of the normal high-water line of No Name Pond, and 75 feet, horizontal distance of the normal high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section; and 25 feet, horizontal distance from the high-water line of those "brooks" as listed under subsection (b)(4) of this section, no clear cutting shall be allowed, and timber harvesting activities shall be conducted in such a manner that a well-distributed stand of trees is retained so as to maintain the aesthetic and recreational value and water quality of the area, and to reasonably avoid sedimentation of surface waters.
 - d. At distances greater than 100 feet, horizontal distance, from the normal high-water line of No Name Pond, and 75 feet, horizontal distance, of the normal high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section; and 25 feet, horizontal distance from the high-water line of those "brooks" as listed under subsection (b)(4) of this section, timber harvesting activities shall not create single openings greater than 10,000 square feet in the forest canopy. In such areas single canopy openings of more than 5,000 square feet shall be no closer than 100 feet apart. Such clearcut

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openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.

- e. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line of No Name Pond, the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section. At distances greater than 50 feet, horizontal distance, from the normal high-water line of such waters, and extending to the limits of the shoreland area, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris or slash that falls below the high-water line of a water body shall be removed.
- f. Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high-water line of No Name Pond, the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section; and from other water bodies, tributary streams and wetlands within the shoreland area. The width of this strip shall vary according to the average slope of the land as follows:

<i>Average Slope of Land Between Exposed Mineral Soil and Normal High-Water Mark (percent)</i>	<i>Width of Strip Between Exposed Mineral Soil and Normal High-Water Mark (feet along surface of the ground)</i>
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

This standard shall not apply to road building and water crossings.

- g. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - 1. Surface waters are frozen;
 - 2. The activity will not result in any ground disturbance.
- h. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- i. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- j. Timber harvesting activities conducted within the shoreland area must meet the notification requirements outlined in subsection 3(f) of this article.

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(2) Clearing of vegetation for development:

- a. Within the shoreland area zoned resource conservation abutting No Name Pond, there shall be no cutting of vegetation with the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere in the resource conservation district the clearing of vegetation shall be limited to that which is necessary for use expressly authorized in that district.

- b. Except in areas as described above in subsection a., within a strip of land extending 100 feet, horizontal distance, from the normal high-water line of No Name Pond, and 75 feet, horizontal distance, of the normal high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section and 25 feet, horizontal distance from the high-water line of those "brooks" as listed under subsection (b)(4) of this section a buffer strip of vegetation shall be preserved as follows:

- 1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- 2. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to No Name Pond shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

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

Within the buffer strip, adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of eight, per 25-foot square area.

- 3. In order to protect water quality and wildlife habitat, within the buffer strip, adjacent to No Name Pond and the portion of No Name Brook that flows to No Name Pond, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in subsections (3) and (3)a. of this subsection.
- 4. Pruning of tree branches, within the buffer strip, on the bottom one-third (1/3) of the tree is permitted.

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5. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replaced with native tree species unless existing new tree growth is present.
- c. At distances greater than 100 feet, horizontal distance, from the normal high-water line of No Name Pond, and 75 feet, horizontal distance, of the normal high-water line of the Androscoggin River, and those "brooks" as listed under subsection (b)(1) of this section, or the upland edge of those wetlands as listed under subsection (b)(2) of this section and 25 feet, horizontal distance from the high-water line of those "brooks" as listed under subsection (b)(4) of this section a buffer strip of vegetation shall be preserved as follows, selective tree cutting is permitted provided that not more than 40 percent of the volume of existing trees four inches or more in diameter, measured at four and one-half feet above ground level, applied equally to all size classes (six-inch, eight-inch, ten-inch, etc.) within the area being harvested, are removed from any contiguous stand or grouping of trees in any ten-year period. Tree removal in conjunction with the development of permitted uses shall be included in the 40 percent calculation. For the purpose of these standards, volume may be considered to be equivalent to basal area. In no case shall contiguous cleared openings for development including, but not limited to, principal and accessory structures, driveways, walkways, patios, swimming pools and sewage disposal areas, exceed in the aggregate, 25 percent of the lot area (or 10,000 square feet, whichever is greater), including land previously developed. Cleared openings legally in existence on the effective date of this Code may be maintained, but shall not be enlarged, except as permitted by this Code. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

(s) *Exemptions.* In areas where the "brooks" mentioned in subsection (b)(1) of this section have undergone channelization, the planning board (for major projects), development review committee (for minor projects), or code enforcement director (if no review is required) may exempt all, or portions of, the shoreland area standards deemed nonapplicable due to the existing conditions associated with said "brooks."

As each determination of nonapplicability will be done on a case-by-case basis, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence sufficient to warrant a finding that some or all of the standards are not applicable due to existing manmade straightening, deepening and surfacing of the "brook" (channelization).

(t) *General development areas.*

(1) For land areas located in the highway business, community business, centreville, riverfront, mill, urban enterprise, office service, office residential, and industrial districts, which are also located in the shoreland area, setbacks for new principle and accessory structures and parking areas, shall be no less than 25 feet. In addition, all land area between the high-water line and the setback line shall be maintained in a natural vegetative state.

The maximum impervious surface ratio for all land areas located in the aforementioned zoning districts shall not exceed 70 percent.

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These setback and impervious surface ratio standards shall not be reduced by modification or variance.

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

Sec. 3. Timber harvesting standards.

(a) *In Resource conservation districts.*

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

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

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

(d) *Within all districts.* Timber harvesting shall comply with the state department of conservation standards for forest regeneration, established pursuant to 12 M.R.S.A., ch. 805, subchapter III-A, as amended. Clear-cutting, except in resource conservation, shoreland areas, and lake conservation overlay districts, is permitted only if an accepted forest management plan is filed with the code enforcement official at least seven days prior to the commencement of clear-cutting activities. Except for approved construction and landscaping projects, for which all required city, state or federal permits have been obtained, timber harvesting operations shall maintain a continuous natural buffer of at least fifty feet from all property lines and streams, except for roads required to gain access to the land to be harvested.

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

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

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

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

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

(e) *Notification requirement.* Except for approved construction and landscaping projects for which all required city, state or federal permits have been obtained, written notification shall be made to the code enforcement official at least seven days prior to the commencement of timber harvesting operations. The notification shall indicate the proposed location, nature, number of acres to be harvested and time period of the operations, and shall contain the names, addresses and telephone numbers of both the land owner(s) and operator(s) and any licensed forester involved. The notification shall also include a map drawn to scale indicating the required buffers and extent of any clear cutting, and to what use, if any, the site will be converted to after completion of harvest activities. For all timber harvesting operations which require notification to the state, a properly completed "Notification of Intent to Harvest Forest Products" may be submitted to meet this requirement.

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

Sec. 4. Community garden standards.

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

1. A community garden may be located in any zoning district with the exception of the Resource Conservation district.
2. Unless located in the Rural Agricultural district, a community garden may be no larger than 20,000 square feet.
3. Unless permitted by the underlying zoning district, on-site sale of community garden products shall be prohibited.
4. The site shall be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining on to streets or adjacent properties.

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5. Accessory structures including buildings or signs shall comply with requirements of the underlying zoning district.
 6. Cultivated areas shall be prevented from encroaching onto adjacent properties.
 7. The property shall be maintained free of high grass, weeds, and debris. Dead garden plants shall be removed by no later than November 30th of each year. This is not intended to prohibit composting or soil enhancing cover crops.
 8. Use of mechanical equipment shall be limited to that customarily identified as household lawn and garden equipment. Use of said equipment shall be restricted to the hours 7:00 a.m. to 7:00 p.m.
 9. The community garden shall be subject to applicable odor provisions contained in article XII, section 19(4).
 10. It shall be the responsibility of the property owner that uses a lot or a portion thereof as a community garden meets the above referenced performance standards. If leased or used by other individuals or organizations, it shall be the responsibility of the property owner to ensure the above referenced performance standards are met.
 11. It shall be the responsibility of any person, including, but not limited to, the property owner, their agent, individuals, organizations, or other person having an interest in establishing a community garden on a lot(s) or a portion thereof for a community garden to obtain a Use Permit from the City prior to commencing said use of land.
- (Ord. No. 12-04, 04-05-12)

Sec. 5. Earth material removal standards.

- (a) *Applicability.* The standards and procedures of this section shall apply to the removal of topsoil, sod, loam, peat or other organic materials, clay, sand, gravel, stone or other earth products from a parcel of land for removal from the site except as otherwise provided for in this section. These standards shall apply to:
- (1) The commencement of a new earth material removal activity;
 - (2) The expansion of an existing earth removal activity onto a parcel of land not undergoing removal activities as of the date of adoption of this Code; and
 - (3) The creation of a new removal site on a parcel of land undergoing removal activities as of the date of adoption of this Code.

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

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

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

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

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

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

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

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

- (1) *Traffic.* Provisions for access to and into the site shall conform to the following standards:
 - a. Public roads providing access to the site shall be capable of accommodating the additional traffic without reducing traffic safety or the level of service of roads and intersections within one-quarter mile of the site. If streets functionally classified as

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local streets are used to provide access to the site, the applicant shall demonstrate by a traffic impact study that these streets can safely accommodate the increased use without a reduction in the level of service.

- b. Truck traffic to and from any removal site shall use the most direct travel route between the arterial road system and the site unless an alternative route is approved as part of the development approval process.
- c. The sight distance where the access road(s) to the site intersects with a public street shall meet the minimum sight distance requirements of the Maine Department of Transportation.
- d. All access roads shall have a maximum road slope of three percent for a distance of 100 feet from the intersection with a public street.
- e. The roads providing access to the site shall be capable of supporting the loadings imposed by trucks servicing the removal site. If the roads are not capable of supporting the loads, the planning board may require, as conditions of approval, that gross vehicle weights be limited and/or a financial guarantee posted to provide for the repair of any damage resulting from the site traffic.

(2) *Buffering.* The removal activity shall conform to the following standards:

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

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

- a. No excavation shall occur within 100 feet of any property line or street line.
 1. Overburden extraction. For excavation in excess of 50 feet in depth, this unexcavated area shall be increased one foot in width for each one foot in depth in excess of 50 feet.
 2. Bedrock quarries. Bedrock quarry operations will retain a minimum buffer strip of 150 feet from all property lines. The working edge of an extractive activity will be no closer than 150 feet to any public road or way.
- b. No excavation shall extend below the seasonal high-water table for the site unless provisions are made to lower the water table through manmade means.
- c. Except for bedrock quarries, no standing water shall be permitted to accumulate in any site either during or after extraction operations.
- d. Slopes.
 1. Overburden extraction. No slopes steeper than two feet horizontal to one foot vertical shall be permitted at any removal site during or after excavation operations except that during active operations, steeper working slopes shall be permitted provided that in any location where the slope exceeds two to one for a height of more than 15 feet, a fence shall be erected to limit access to the site.

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- 2. Bedrock quarry. The applicant shall submit a report by a qualified geotechnical engineer or certified geologist recommending appropriate rock slope and bench configurations. The report should be based on appropriate field and laboratory study and analysis to establish the stability of the cut slopes both during the extraction period and after use of the site has been terminated. Rock quarries must be enclosed by a fence.
- e. No portion of any ground area disturbed by extraction activity on a face sloping toward a body of water shall be closer to the normal high-water mark of the body of water than is indicated by the following table, provided, however, that no portion of such ground area on a back face shall be closer than 50 feet:

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

- f. Within 250 feet of any water body, the extraction area shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.
- (4) *Operations.* The operation of any earth removal activity shall conform to the following standards:
- a. The operation shall be conducted in a manner to minimize dust.
 - b. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the chief of police for minimizing the impact on traffic flow and safety.
 - c. All access roads leading from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud, unless the site is located in a groundwater conservation overlay district.
 - d. No equipment, debris, junk or other materials shall be permitted at an extraction site except those directly relating to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.

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- e. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate both during operation of the pit and following its permanent closure.
- f. Storage of hazardous materials and petroleum products in the pit is prohibited.
- g. Any washing and crushing operations shall be conducted in a manner that will minimize runoff.
- h. Noise levels at the property line shall be limited to 75 decibels, as measured on a scale by a sound level meter and frequency weighting network manufactured in accordance with the standards of the American Standards Association.
- i. Any topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased.

(5) *Reclamation.* Within two years of the cessation of removal activities for the site or portions of the site for operations exceeding five acres in size, the following standards shall apply:

- a. Following the completion of extraction operations at any extraction site or at any one or more locations within an extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the planning board; all debris, stumps, boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two feet of soil.
- b. Retained topsoil and subsoil shall be respread over the disturbed area with any additional loam required to create a minimum seed bed depth of four inches, and the soil shall then be limed, fertilized and seeded with a grass or legume mixture which will meet the minimum standards of the technical guide, as amended from time to time, adopted by the Androscoggin Valley Soil and Water Conservation District; the foregoing restoration measures shall be completed within such period not exceeding eight months following completion of extraction operations as may be determined by the planning board, and the planted area shall be protected from erosion during the establishment period using good conservation practices.
- c. The proposal will adequately control erosion and stormwater runoff, and upon completion of active extraction operations, the land shall be left so that natural storm drainage and water courses leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not increased.
- d. A depleted bedrock quarry may be allowed to fill naturally with precipitation and groundwater provided the following conditions are met:
 - 1. Physical access for the general public is to be prevented by continuous fencing of the entire perimeter at least six feet high.
 - 2. Any gates shall be locked at all times when the site is not in operation.
 - 3. Earthen berms shall also be created along all public ways where the natural contours of the land do not impede vehicular traffic.

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

- a. Prior to the commencement of blasting activity at a permitted site, a preblast survey shall be conducted on all off-site buildings not owned by the applicant within 500 feet of the excavation boundaries to document the existing condition of these buildings.

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Alternative building locations may be chosen when the maximum effects from the blast are expected to occur at those locations. Any structural defects, cracks, displacement, etc. shall be described in written and pictorial form. A copy of the survey shall be provided to the property owner, the code enforcement officer, and kept on file by the applicant throughout the active life of the excavation activity.

- b. Blasting shall be prohibited between the hours of 7:00 p.m. and 7:00 a.m. and all day on Sunday.
- c. The storage, transport and use of explosives shall be conducted in compliance with all applicable state and federal regulations, including, but not limited to those promulgated by the U.S. Mine Safety and Health Administration and the Maine Fire Marshal's Office.
- d. Prior to each blast a blasting plan shall be made showing the drilling pattern and depth; the amount and placement of explosives and blasting agents; and the time delays used, if any, for detonation. Adherence to the plan shall be verified by the on-site person responsible for the safe use of explosives as shown by his or her signature on the plan. The plans shall be kept on file, for inspection by the code enforcement officer, for three years following the blast.
- e. Every blast shall be monitored for ground vibration and airblast overpressure (noise) at the nearest off-site building or at an on-site location along a straight line between the blast and the nearest off-site building. An alternate building may be chosen when the maximum effects from the blast are expected to occur at that location. Instrumentation used for blast monitoring shall be capable of measuring and recording peak particle velocity (in inches/second) and frequency (in cycles/second) along three axes, airblast overpressure (in dBL), and internal calibration checks. Monitoring records shall be kept on file, for inspection by the code enforcement officer, for three years following the blast.
- f. Blasting shall be designed and conducted in a manner to ensure compliance with the following standards:
 - 1. Ground vibrations shall not exceed the frequency dependent peak particle velocities indicated by Figure 1.
 - 2. Airblast overpressure (noise) shall not exceed the levels indicated in the table below depending on the specification of the microphone used:

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

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

Sec. 6. Swimming pool standards.

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- (a) *Placement requirements.* No swimming pool shall be constructed closer than ten feet from the side or rear lot line to the waterline of said swimming pool. If said swimming pool is located on the street side, it shall not be so located closer than 25 feet from the front lot line to the water's edge of said swimming pool.
- (b) *Enclosures.*
- (1) There shall be erected and maintained around every outdoor swimming pool, a good quality fence or wall, no less than four feet in height and of a character to exclude children. The exterior walls of an aboveground pool may serve as the required fence, if the following conditions are satisfied:
- a. The resulting enclosure shall be of sturdy construction and meet the intent of this section;
 - b. All stairs, ladders and ramps shall be secured, removed, fenced or otherwise made inaccessible when not in actual use; and
 - c. The pool wall shall be free of any construction feature or appurtenance which could be used to facilitate access to the pool.
- Required fencing shall be so constructed as not to have openings, holes or gaps larger than four square inches, except for fences constructed of vertical posts or louvers, in which case, the openings shall not be greater than four inches in width to a height of four feet, with no horizontal members between the top and bottom plates. Doors and gates are excluded from the minimum dimension requirements. A dwelling house or accessory building may be used as part of such enclosure.
- (2) All gates or doors opening through such enclosure shall be equipped with a self-latching device for keeping the gate or door securely locked at all times when not in actual use.
- (3) Any view-obstructing fence shall not be closer than 15 feet from any street lot line.
- (c) *Electrical connections and outlets.* All electrical connections to the swimming pool and to electrical fixtures or outlets within the enclosed area established in subsection (b) shall meet the requirements of the national electrical code, as amended, for use in swimming pools.
- (d) *Pools under construction.* No swimming pool under construction shall be left unattended without a fence or cover.
- (e) *Other pools.* Any other outdoor pool not covered by this section must be fenced, drained or covered when not in use.
- (f) *Construction permit and approval.*
- (1) Before work is commenced on the construction of swimming pools, or on any alteration, addition, remodeling or other improvement to a swimming pool, an application for a permit to construct and the plans and specifications and pertinent explanatory data shall be submitted to the code enforcement official for his approval, and no part of the work shall be commenced until the code enforcement official has granted such approval by a written permit to construct and has further evidenced his approval by a suitable endorsement upon such plans and specifications. No department of the city charged with the duty of issuing permits for plumbing or electrical work, for sewer connections or for other work in connection with the construction of a swimming pool or the construction or

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any alteration, addition, remodeling or other improvement to a swimming pool shall issue a permit for a swimming pool until the plans and specifications therefore have been thus endorsed and approved by the code enforcement official. The code enforcement official shall review such plans and specifications to determine whether they comply with the provisions of this Code and with reasonable standards of swimming pool construction for the protection of the public safety, health and morals.

- (2) The application to the code enforcement official for a permit to construct a swimming pool or to construct any alteration, addition, remodeling or other improvement to a swimming pool shall be submitted in such forms and be supported with such information and data, as well as plans, specifications and pertinent explanatory data, as the code enforcement official may require.

- (g) *Pool occupancy permit.* After construction of a pool, a pool occupancy permit must be obtained from the code enforcement official prior to the use of the pool, and said permit must be displayed near the swimming pool.

Sec. 7. Walls and fences.

- (a) *Maximum height of walls and fences:*
 - (1) Front yards. No wall or fence in a required front yard may exceed three and one-half feet in height, except as provided below.
 - (2) Side and rear yards. No wall or fence in a required side or rear yard may exceed eight feet in height, except as provided below.
 - (3) Corner cutbacks. No wall, fence, building, landscaping or other visual obstruction more than three feet in height is permitted within a corner cutback, except that part of a building more than eight feet in height, which is not otherwise prohibited, and except as provided below.
 - (4) Height measurement. For purposes of this section, the height of walls, fences, buildings, landscaping and other structures shall be measured from the top of the existing curb grade or the crown of the abutting street, whichever is lower.

- (b) *Retaining walls.* Retaining walls may be constructed, altered, added to or changed anywhere on a lot to the lot line provided the following conditions are met:
 - (1) Retaining wall exceeding six feet in height shall be designed by a registered professional engineer in accordance with the requirements of the BOCA code, as amended, and shall be approved by the code enforcement official prior to the start of construction.
 - (2) A wall or fence may be required by the code enforcement official in accordance with subsection (c) if a potential safety hazard will be created by a retaining wall.
 - (3) The retaining wall shall be located and constructed in a manner that will not create a barrier or undue impediment to public safety officers in performing their function in connection with the premises or adjacent properties.
 - (4) Retaining walls may be located in the corner cutback area of any lot provided the height of the wall does not exceed three feet.

- (c) *Hazardous areas.* The code enforcement official may require walls or fences not less than six feet in height along the perimeter of any area that, by reason of the existence on the property

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of physical hazards, such as frequent sudden inundation, erosion, excavation or grade differential, he determines to be dangerous.

(d) *Barbed wire.* No barbed wire fencing is permitted below a height of six feet, except in the rural-agricultural district in conjunction with an agricultural use.

(e) *Other requirements.*

(1) Corner cutbacks. Fences not more than three and one-half feet in height are permitted in a corner cutback, provided the vertical surface is not more than ten percent solid.

(2) Automobile graveyards and junkyards. Walls, fences or other screening surrounding an automobile graveyard or junkyard may exceed the maximum height permitted in front, side or rear yards, but not in corner cutbacks, if necessary to meet the requirements of applicable state law.

(3) Mobile home parks. Walls, fences or other screening surrounding a mobile home park may exceed the maximum height permitted in front, side or rear yards, but not in corner cutbacks, if necessary to meet the requirements of this Code.

(4) Tennis courts. A fence enclosing a tennis court located within the rear half of a lot may exceed the maximum height permitted in side or rear yards, provided the vertical surface of that part of such fence more than eight feet in height is not more than ten percent solid.

(5) Security fencing. Security fencing may exceed the maximum height permitted in front, side or rear yards if required by a governmental agency.

(f) *Modifications.* The code enforcement official may allow a modification in the requirements of this section if he finds, following an on-site inspection of the premises, that the modification will neither create, nor aggravate a safety hazard. The owner(s) of the property(ies) which is(are) directly impacted by the proposed modification and is(are) abutting to the subject property will be notified by the code enforcement official of said determination.

If an abutter feels that the code enforcement official erred in his determination, he may request an administrative appeal in writing within ten days of the mailing date of the notification in accordance with article VIII, section 4(1) of the Revised Code of Ordinances of the City of Lewiston [appendix A].

(Ord. No. 93-15, 8-19-93)

Sec. 8. Wind energy conversion systems.

(a) *Purpose.* The regulation of wind energy conversion systems (WECS) is intended to permit the location of such devices within the community while ensuring that the public health, safety and welfare are not adversely affected.

(b) *Requirements.*

(1) WECS shall be set back from all lot lines a minimum distance equivalent to the distance between the ground level elevation and the highest point on the WECS plus ten feet.

(2) All WECS shall be protected against unauthorized access by one or more of the following:

a. Anti-climbing shroud;

b. Removal of tower climbing apparatus to a height of at least ten feet;

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- c. Fence of at least six feet in height; or
 - d. Other device approved by the code enforcement official to prevent unauthorized access.
- (3) All WECS shall utilize a clutch, feathering device, brake, overspeed control or similar device, either single, or in combination, to automatically shut down the WECS when wind speed exceeds 45 miles per hour.
 - (4) A WECS shall not be installed upon or attached to any building or structure, except a tower integral to the WECS, except when the board of appeals determines under the miscellaneous appeal provisions of this Code, that said building or structure is capable of safely supporting a WECS and that a WECS installed or attached in such a manner shall not present a safety hazard to the neighborhood.
 - (5) One WECS shall be permitted per lot.
 - (6) All plans for the design and installation of a WECS shall be certified by an engineer or architect registered in the State of Maine to perform such analyses as to the safety and integrity of design and installation and compliance with the requirements of this section.
 - (7) A WECS shall be installed only upon issuance of a building permit. The code enforcement official shall perform periodic inspections during the installation of a WECS, which shall include, but not be limited to, inspection of all tower anchorage prior to backfilling, inspection of the tower installation prior to attachment of the energy conversion device, and upon completion of the WECS installation. The applicant shall ensure that each required inspection is completed prior to proceeding with the next stage of installation.
 - (8) Noise created by the action of a WECS shall not exceed the levels set forth in article XII, section 19 of this article.
- (c) *Location.* WECS shall be permitted in all districts except the neighborhood conservation "B" district, centreville district and urban enterprise district.
(Ord. No. 00-19, 10-5-00)

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

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

- (1) The minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and/or drinking places in the same or adjoining zoning district shall be 300 feet for businesses located within the Centreville district as measured along the ordinary course of travel between the main entrance of each premises.
 - (a) Drinking places with 5,000 square feet or greater on the first floor are exempt from the above referenced standard. Drinking places of 5,000 square feet or greater shall not be included in the locational criteria determinations for drinking places of less than 5,000 square feet or adult business establishments.

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- (2) The minimum distance between an adult business establishment, tattoo establishments, and/or drinking place and any two other adult business establishments, tattoo establishments, and/or drinking places in the same or adjoining zoning district shall be 500 feet for businesses located in any other district as measured along the ordinary course of travel between the main entrance of each premises.
- (3) An adult business establishment, or drinking place may not be located within 300 feet, as measured along the ordinary course of travel between the main entrance of each premises, of a public or private school, school dormitory, church, chapel or parish house, or legally-established dwelling in a residential zoning district, in existence prior to the establishment of the business.

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

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

The required frontage for a lot whose sole principal use is a single-family detached dwelling may be the linear distance between the sidelines of the lot, measured along the line that borders upon a right-of-way (R.O.W.) a minimum of 40 feet in width, upon the following criteria being met:

- (1) The R.O.W. must be approved pursuant to the applicable provisions of article XIII;
- (2) The R.O.W. must utilize existing curb cuts to access the property, unless the applicant can demonstrate that doing so unduly impacts the existing or proposed lot;
- (3) No more than two lots gain frontage from the R.O.W.;
- (4) The R.O.W. is the principal means of access to the lot;
- (5) The area within the R.O.W. cannot be used to satisfy the required minimum lot size for the particular district or the required front setbacks and yards for existing buildings on the existing lot or those proposed on the new lot;
- (6) The R.O.W. does not create any nonconformance with respect to lot size or structures; neighboring lots will be required to meet front yard and front setbacks from the R.O.W.;
- (7) The travel surface within the R.O.W. must be twenty feet wide with surface thickness of at least 18 inches.
- (8) The R.O.W. shall include a cul-de-sac, T-shaped or hammerhead turnaround. A cul-de-sac shall have a radius of 50 feet measured from the center line of the travel surface. A t-shaped or hammerhead turnaround shall be 50 feet long measured from the center line of the travel surface.
- (9) Grades, intersections, access and sight distances shall be in accordance with the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks.
- (10) Only one R.O.W. may be created per lot.
- (11) The driveway within the R.O.W. must be unobstructed and permit vehicle access at all times.
- (12) No part of a proposed street(s) shall be used for the above referenced R.O.W. provisions.
- (13) A paved apron must be constructed a minimum length of 15 feet from the edge of the R.O.W.s intersection with the street.
- (14) Stormwater management standards must be met or waived in accordance with article XIII, Section 4(f) of this Code.
- (15) A note must be added to the plan stating it is the responsibility of the owners of those lots from which frontage is obtained off the R.O.W. to assure the long-term maintenance, repair, and replacement of and improvements within the R.O.W.

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- (16) The final approved plan must be recorded in the Androscoggin County Registry of Deeds.
 - (17) The R.O.W. width may be reduced to 30 feet in width, provided that any necessary easements are provided for stormwater, drainage, snow storage, etc.
- (Ord. No. 07-01, 3-8-07)

Sec. 11. In-law apartment standards.

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

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

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

Sec. 12. Campground standards.

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

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

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

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

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

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

- (5) The unit shall be connected to a public sewer or an approved private sewage disposal system meeting the requirements of the Maine State Plumbing Code, as amended.

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- (6) The mobile home shall be anchored in accordance with the standards of article XII, section 4 if it is located in an area of special flood hazard as identified by the flood insurance rate map of the city.

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

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

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

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- c. *Fuel tanks.* Any fuel tank shall be installed so that it is not visible from the road or an abutting lot. Tanks may be located beneath the steps to the unit if permitted by applicable fire and safety codes. If the tank is located adjacent to the unit, it shall be fenced and landscaped to screen it from view.

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

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

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

(Ord. No. 90-10, 10-4-90)

Sec. 15. Erosion and sedimentation control.

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

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

- (c) *Standards.* Any person, entity or property owner who conducts, causes or allows to be conducted, an activity which results in unstabilized soil conditions shall take measures to prevent unreasonable erosion of sediment or soil beyond the project site or into a protected natural

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resource as defined by M.R.S.A, Title 38 § 480-B. Erosion control measures must be in place before the activity begins and remain in place and be maintained until the site is permanently stabilized. All erosion control and stabilization measures required by this section shall be in accordance with the Maine Erosion and Sedimentation Control BMPs Pub. No. DEPLW0588, published by the Maine Department of Environmental Protection, Bureau of Land and Water Quality, (March 2003), or other measures determined to be appropriate by the Lewiston Director of Planning and Code Enforcement.
(Ord. No. 05-06, 3-17-05; Ord. No. 06-17, 2-8-07)

Sec. 16. Signs.

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

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hazard to public safety must be promptly removed from the premises if so ordered by the code enforcement official.

(b) *Signs permitted in all districts.*

(1) The following types of signs may be erected in all zoning districts without obtaining a permit from the code enforcement official:

- a. *Public safety signs.* Governmental bodies may erect and maintain signs necessary for the public safety and welfare, or as required by law, ordinance or government regulation.
- b. *Posting private property.* Signs permitted to post private property shall only be for the following or similar conditions: no hunting, no fishing, no snowmobiles, no trespassing. Posted signs shall not exceed two square feet per private property sign.
- c. *Temporary signs.* Temporary signs listed below shall not be placed in a position that will impair vision, obstruct traffic, or in any manner create a hazard or nuisance to the general public.
 1. *Organization signs.* Signs and banners advertising charitable functions, notices of meetings, and similar noncommercial signs. These may be placed for a period not exceeding ten days prior to the event and shall be removed within two days after the event or meeting.
 2. *Real estate signs.* Two temporary real estate signs including temporary open house directional signs and advertising the sale, lease or rental of a parcel or structure may be placed on any property. Within a farming or residential district the maximum sign size shall be six square feet. Within a commercial or industrial district the maximum sign size shall be 32 square feet. Such signs shall be removed by the owner or his agent within ten days of such sale, lease, or rental, or for the open house directional signs within 24 hours after the open house is over. The sign(s) may be attached to a building or be freestanding.
 3. *Construction.* A temporary construction sign, providing a general identification of a project and those responsible therefor, may be erected on the construction site provided it shall not exceed 32 square feet and shall be removed within ten days after project completion.
 4. *Home sales.* A sign advertising a temporary home, yard, garage, barn or basement sale on the premises may be placed for no more than three days prior to said sale and shall be removed within 24 hours of the end of the sale.
 5. *Political signs.* Signs of a temporary nature bearing political messages relating to an election, primary or referendum may be placed within the public right-of-way of any street or highway in accordance with the timelines established in M.R.S.A. Title 23, (1913-A, Section 1(H)). Political signs outside of the public right-of-way are not subject to time limits. Political signs located within or outside the public right-of-way of any street or highway are prohibited on or in front of City owned property including schools, parks, cemeteries and municipally owned buildings.

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Notwithstanding article V, section 7, the code enforcement official may remove any political signs erected contrary to this section.

6. *Temporary signs, banners, decorations.* Upon approval of the city council, temporary signs, banners, flags and other decorations may be erected in the public right-of-way when in relation to a special event.

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

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(3) The following types of signs shall be permitted for any legally existing business subject to issuance of a permit:

- a. *Advertising* and promotional signs. Signs, banners and similar specialty advertising devices used temporarily in conjunction with special events or sales provided they are used for 30 days or less and are located on or attached to the premises where the sale or event is occurring. Such signs shall not be permitted more than four times in any 12-month period.

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

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

(c) *Permitted signs*. The following standards shall govern the erection of signs throughout the City of Lewiston. Any permitted sign shall be erected, changed or relocated only after a permit is obtained from the code enforcement official in accordance with the provisions of the building code. Permitted signs shall be considered to be accessory to the principal use of the premises and shall pertain only to activities or products available on the premises.

Notwithstanding the above, permits are not required for the placement of temporary day and window signs as identified in article XII, subsection 16(c)(2)a.2. of this Code.

(1) Rural, residential and resource conservation districts.

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

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

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

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

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

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

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Static display with a five-second hold rate of change minimum between changes including the use of subtle transitions such as fade, dissolve, travel and scrolling or similar transitions and with frames that appear to move or change in size, or be revealed sequentially rather than at once including the movement of illumination or the scintillation or varying of light intensity. Time and temperature signs are allowed to change display with a two-second message hold rate.

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

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

- b. *Sign area.* The total area of all signs on a parcel shall conform to the following maximum aggregate sign area requirements. For multiple-faced signs, the area of each face shall be included in the computation of the aggregate sign area. Allocation of the maximum allowable sign area is to be determined by the property owner/agent.
 1. *Community business, institutional office, highway business, downtown, centreville, office service, industrial, urban enterprise, mill and riverfront districts.*
 - (i) Each business entity is permitted sign area not to exceed ten percent of the gross wall area of the principal facade of the building or structure or a minimum of 54 square feet, whichever is the greater, in the form of awning, projecting, wall, or window signs attached to the building or structure in which the business is located. Supplemental to the above building signage, a building or structure with frontage on two or more accepted city streets is permitted additional signage not to exceed a total of 54 square feet in area to be attached to a secondary facade of the building or structure.
 - (ii) In addition, each premises shall be permitted one freestanding ground sign up to 168 square feet. Single parcels developed with multiple uses are permitted an additional 32 square feet of sign area per business use, up to an additional maximum of 216 square feet of sign area. Movie theaters where allowed shall be permitted additional sign area up to 36 square feet per cinema screen not to exceed a maximum of 360 square feet in total freestanding ground sign area per premises, notwithstanding article XII, subsection 16(a)(6). All signage permitted under this subsection shall be located at or near the principal vehicular entrance on one freestanding ground sign.

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- (iii) For single parcels developed with multiple uses, an additional freestanding ground sign of up to 168 square feet identifying the development, and an additional 32 square feet of signage per business or use, up to an additional maximum of 216 square feet of sign area, all to be located on the same freestanding ground sign, is permitted at other major vehicular entry points located on arterial streets, provided such signs are not readily concurrently visible with any other freestanding ground signs located on the premises.
 - (iv) For single parcels developed with multiple uses, an additional freestanding ground sign area of a maximum of 168 square feet is permitted at other major vehicular entry points not located on arterial streets, provided such signs are not readily concurrently visible with any other freestanding ground signs located on the premises.
 - (v) Single parcels developed with multiple uses where there are separate principle vehicular entrances for the uses, concurrently visible ground signs not to exceed 40 square feet may be placed at such entrances to direct traffic to specific uses. No more than one freestanding ground sign is allowed at an entrance.
- 2. *Office residential, and downtown residential districts.* The aggregate sign area per premises may not exceed 72 square feet.
 - 3. *Properties with frontage on the interstate system.* One additional one-sided ground sign visible from any portion of the interstate system including ramps and interchange areas, not to exceed 20 feet in length, width, or height or 150 square feet in area, including borders and trim, but excluding supports, may be permitted more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on, provided such signs are not readily concurrently visible with any other freestanding ground signs located on the premises.
- c. *Special requirements.* For the purposes of this section, the following special requirement applies:
 - 1. Awnings with graphic displays exceeding ten percent of the awning area (measuring from the outer most points) shall meet the applicable sign standards.
 - 2. Roof signs are not permitted and no part of any wall or projecting sign may extend above the level of a flat roof or the eaves of any other type of roof, with the following exceptions:
 - (i) Wall signs may project no more than five feet above the level of a flat roof or the eaves of any other type of roof as long as that portion of the sign does not exceed 20 percent of that signs total area. Wall signs on mansard roofs, the lower portion of gambrel roofs, false fronts, facades, parapets or other significant architectural features may not exceed the height of the architectural feature.
 - (ii) Roof signs not exceeding 54 square feet and wall and projecting signs may be located on or above the roofs of vestibules, canopies, porticos, loading docks, and similar single-story, attached structures, provided that the proposed sign is in compliance with article XII, section 16 (c)(2)(c)(2)(i) of this ordinance with regard to the roof of the principal building.
 - d. *Development entrance signs.* Parcels of land subdivided for purposes of nonresidential development, are permitted one development entrance sign at the primary vehicular entry

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point, to identify the development and the business entities therein, provided the following requirements are met:

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

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- (i) Such signs shall not exceed 25 square feet in total sign area and exceed a height greater than eight feet above the immediately adjacent finished grade.
 - (ii) Such signs shall be sited within the private land boundaries of the campus and shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.
 - (iii) Quantities shall be based on an established overall message sequence and across campus preferred routes; displaying the required information only at the location of decision or identification.
4. *Campus directory.* Map directions graphically identifying the various destinations across the campus.
- (i) Such signs shall only be located along private vehicular or pedestrian access ways or parking areas to prevent unsafe conditions along public ways.
 - (ii) Such signs shall not be located within the right-of-way of any public street or highway.
 - (iii) Such signs shall not exceed 50 square feet in total sign area and exceed a height greater than seven feet above the immediately adjacent finished grade.
5. *Site identification signs.* A sign, located as close as practical to the vehicular entrance of a freestanding building within the campus (medical office, clinic, library, etc.). The sign shall display the name of the facility (XYZ Surgery Associates) and include the street address (1234 Main Street).
- (i) Such signs shall not exceed 50 square feet in total sign area and exceed a height greater than eight feet above the immediately adjacent finished grade.
 - (ii) Such signs shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.
6. *Exterior building signs.* Wall, projecting, awning, or window signs, installed upon the exterior portion of a building displaying the functional name of the facility.
- (i) Each building is permitted exterior building sign area not to exceed a total of 54 square feet or ten percent of the gross wall area of the principal facade of the building, whichever is greater.
 - (ii) Supplemental to the above exterior building signage, a building with frontage on two or more accepted city streets is permitted additional signage not to exceed a total of 54 square feet in area to be attached to a secondary facade of the building.
 - (iii) The placement of exterior building signs must comply with subsection (c)(2)a. of this section.
7. *Miscellaneous campus signs.* Signs displaying circulation, directional or regulatory information not exceeding a total sign area of six square feet, are exempt from the requirement of obtaining a sign permit. However, such signs shall be installed in accordance with all applicable requirements of article XII, section 16 and shall not be located within the right-of-way of any public street or highway, nor create or aggravate a traffic hazard.

(d) *Portable signs.*

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- (1) *Defined.* A portable sign is one which is designed for and intended to be moved from place to place and not be permanently affixed to land, buildings or other structures.
 - (2) *Portable signs permitted.* Any use located in a business or industrial district, other than the centre ville district, shall be permitted one portable sign of not more than 64 square feet in sign area for a maximum of 60 days in any 12-month period in addition to other signs permitted by this Code.
 - (3) *Permit required.* A sign permit shall be obtained from the code enforcement official prior to installing a portable sign. The application shall specify the location of the sign and time of use, and shall be accompanied by a fee as determined from time to time by the city council.
 - (4) *Location.* A portable sign shall be located outside of the street right-of-way in such a manner that it will not obstruct or impair vision or traffic or in any way create a hazard or nuisance to the public. The electrical service [is] to be approved by the inspector upon installation.
- (e) *Official business directional signs.*
- (1) *Authority.* The provisions of this section shall govern the installation and maintenance of official business directional signs authorized by the Maine Traveler Information Services Act, 23 M.R.S.A. sections 1901 through 1925, as amended.
 - (2) *Qualifying uses.*
 - a. Uses include public accommodations, facilities, commercial services for the traveling public, and points of scenic, historical, cultural, recreational, educational and religious interest.
 - b. Uses with existing, off-premises signs that have been, or will be, removed pursuant to 23 M.R.S.A. sections 1901 through 1925, as amended, provided that such signage is owned and maintained by the affected use for a continuous period of at least 12 months prior to said removal.
 - c. Qualifying uses must be located within the City of Lewiston.
 - (3) *Location.*
 - a. An official business directional sign may be installed in any district except the centre ville district (CV).
 - b. In the centre ville district (CV), signs located therein on December 31, 1982, may be replaced, but new directional signs shall not be erected.
 - c. Official business directional signs shall only be located in those vicinities where the traveler must change direction from one public way to another to reach the business, facility or point of interest.
 - d. Official business directional signs are not permitted within the right-of-way of the interstate highway or Alfred A Plourde Parkway from Webster Street to Challenger Drive.
 - (4) *Additional requirements.*
 - a. Official business directional signs shall be installed and maintained in accordance with the requirements of the Maine Traveler Information Act, 23 M.R.S.A. §§ 1901--1925, as amended, and any other regulations adopted pursuant to said statutes.
 - b. The following additional requirements shall apply:
 1. The minimum distance between official business directory sign posts shall be at least 300 feet as measured along the shortest straight line;

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2. No official business directory sign shall be placed closer than 200 feet from the property line of a commercial business offering directly competing goods or services;
 3. An official business directory sign shall be located no closer than 200 feet or further than 2,500 feet from an intersection where a change in direction as indicated on said sign is required;
 4. No more than three official business directional signs may be attached to an individual sign post assembly. No new sign post assembly shall be installed until existing sign post assemblies suitable for any newly proposed official business directional sign contain the maximum number of permitted signs.
- (5) *Number of signs.*
- a. Uses as identified in subsection (2)a. shall be limited to a maximum of six official business directional signs.
 - b. Uses as identified in subsection (2)b. shall be limited to the number of sign faces that have been or will be removed pursuant to 23 M.R.S.A., sections 1901 through 1925, as amended.
 - c. Uses as identified in subsection (2)b. shall be limited to the number of sign faces that have been or will be removed pursuant to 23 M.R.S.A. sections 1901 through 1925, as amended.
- (f) *Special intracommunity service signs.* Special service signs for local information within Lewiston may be erected on state or state aid highways provided the following conditions are met:
- (1) *Requests.* Requests for signs must be made by the Municipal Officers of Lewiston.
 - (2) *Eligible facilities.* Signs shall be limited to directing traffic to locations of special interest which include the following:
 - (a) Hospitals which provide emergency service 24 hours a day.
 - (b) Public transportation facilities including airports, railroad stations, bus terminals and ferries.
 - (c) Public recreational facilities such as beaches, parks, sport arenas, scenic areas and historical areas.
 - (d) Municipal subdivisions such as central business districts and villages within municipal boundaries.
 - (e) Governmental buildings or agencies such as city halls, county buildings, schools, armories and fire or police stations. Signs for specific commercial establishments shall not be permitted.
 - (3) *Designs of signs.* Signs shall be rectangular in shape with a white legend on a blue background. The maximum length shall be 48 inches and the maximum letter size shall be four inches. No more than three lines or copy shall be permitted on one sign.
 - (4) *Installation of signs.* Signs shall be provided and installed by the local municipal officials. The vertical and lateral clearances of such signs shall conform with Sections 1A-22 and 1A-23 of the "Manual on Uniform Traffic Control Devices for Streets and Highways". The signs shall not be erected in conjunction with, nor be in conflict with, nor interfere with official highway signs.
 - (5) *Restrictions.* Special intracommunity service signing shall not be permitted on interstate highways or on expressway systems.

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(g) *Prohibited signs.* The following signs are prohibited in all areas of the city, except as otherwise provided in these regulations:

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

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

Cross references: Advertising, ch. 6.

Sec. 17. Off-street parking and loading.

(a) *Applicability.* The following minimum off-street parking and loading requirements except as provided for in subsections (e)(3) and (e)(4) shall be met for:

- (1) The use of any parcel of land;
- (2) The construction of any building or structure;
- (3) The conversion of an existing building, structure or portion thereof to a new use;
- (4) The enlargement of an existing building or structure; or
- (5) The modification of an existing building or structure to create additional floor area, dwelling units, seats or similar measures of parking demand set out in the standards of subsection (d).

Modifications, enlargements or conversions of buildings or structures or the change in or intensification of use shall not be permitted unless off-street parking and loading is provided for

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an additional number of spaces representing the difference between what this Code requires for the existing building or structure and what this Code requires for the proposed building or structure.

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

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

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

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

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

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	special outdoor function guests based on the approved capacity; if such additional off-street parking is provided off the site, it shall comply with the requirements of article XII section 17.e except that, notwithstanding the provisions of subsection e, the planning board shall have the authority to approve such off-site parking.
Hospitals	one space per patient bed plus one space per three employees
Medical clinics	two spaces per treatment room or patient bed, whichever is greater
Nursing or convalescent homes	one parking space per five resident beds and one space per employee
Schools	
Elementary schools	one and a half spaces per classroom
Secondary schools	five spaces per classroom
Residential colleges, universities and institutions of higher education, including accessory facilities athletic and assembly facilities designed primarily for student use	one space per 7 seats in classroom facilities
Business colleges and schools	one space per 4 seats in classroom facilities
Retail and personal service establishments	one space per two hundred fifty square feet of gross floor area. For retail stores which are part of a gasoline service station complex, one-half of the service spaces at the pump islands may be applied to meet not more than one-half of the required parking demand
Eating and drinking establishments	one space per three seats
Drive-in restaurants	ten spaces plus one additional space per one hundred feet of gross floor area
Professional and business offices	one space per 300 square feet of gross floor area
Construction contractors, tradesman, offices, laboratories and similar uses	one space per 500 square feet of gross floor area
Adult business establishments, drinking place	one space per 3 seats or 200 square feet of gross floor area, whichever is greater
New and used car dealers	five spaces plus one space per 3,000 square feet of display area (indoor and outdoor)
Auto repair garages and gasoline service stations	two spaces per service bay plus one space per employee
Light industrial uses, industrial uses, wholesale, storage and distribution facilities	one space per 500 square feet of gross floor area up to 3,000 sq. ft. plus one space for each 1,000 sq. ft. of gross floor area in excess of 3,000 square feet
Community centers, libraries, museums, civic clubs, theatres, places of indoor assembly, amusement or culture, religious facilities, and	one space per 4 seats where fixed seating is provided plus 1 space per 200 square feet of area otherwise available for assembly

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similar uses

Auditoriums, stadiums, sport arenas, race tracks, skating rinks, gymnasiums, convention halls or similar uses

one space per each 4 seats; where individual seats are not provided, each 24 inches of bench or other similar seating, or eight sq. ft. of seating or standing space shall be considered as one seat for the purpose of determining requirements thereof

Self storage facilities

Uses not specifically listed or able to be placed into one of the above categories, or listed uses which can be clearly shown to have a differing parking need (either fewer or greater) than otherwise required

five spaces

Sufficient spaces to accommodate the normal parking demand of the use without requiring on-street parking. The number of required spaces shall be determined by the planning board for major project development review or by the staff review committee for minor project development review or by the planning director if no review is required in accordance with accepted standards.

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

- (1) In residential districts, required or provided off-street parking, serving permitted or conditional uses, may be located off the site, provided it is located within 1,320 feet of the principal building or use measured along lines of public access and cannot reasonably be provided on the same lot. Such off-street parking shall be held in fee simple by the owner of the principal use served, or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use, provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by the planning director before the request is considered by the appropriate deciding body. Evidence of fee simple ownership or approved tenure shall be required.
- (2) In all zones other than residential, required or provided off-street parking may be located off the site, provided it is located within 1,320 feet of the principle buildings or use measured along lines of public access and cannot be provided on the same lot. Such off-street parking shall be held in fee simple by the owner of the use served, or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use, provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by the planning director before the request is considered by the appropriate deciding body. Evidence of fee simple ownership or approved tenure shall be required, and such lots shall be located within nonresidential districts.
- (3) Required off-street parking in all districts may be substituted by parking facilities which, in the public's interest, may be provided by the municipality. Such substitution shall be shown to be representative of the off-street parking turnover or requirements of the particular use in question and shall take into consideration the needs of other uses with similar demands upon such public space. No such public off-street parking spaces shall be considered as a substitute unless located

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within 1,320 feet of the principal building or use measured along lines of public access.

- (4) No additional parking spaces shall be required for any structure that has been designated as significant for historic preservation under article XV, section 3 of this Code that is proposed for reuse. Any expansion to the building will need to provide the required additional parking. All modifications to the building must be done in accordance with the criteria established under article XV, section 5 of this Code.

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

(1) Parking space dimensions.

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

(2) *Parking aisle and driveway dimensions.*

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

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

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

(3) *Design requirements.*

- a. Unless no other practicable alternative is available, parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one- or two-family dwellings, although backing onto arterial streets is discouraged.
- b. Parking areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- c. Every parking area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation or other obstruction.

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- d. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
 - e. The standards of the City of Lewiston's Site Plan Review and Design Guidelines shall apply to design and layout of parking areas.
 - f. Parking space and aisle and driveway dimensions for nonresidential projects that are classified as minor developments under this Code may be modified in connection with development review pursuant to article XIII hereof if no practicable alternative is available and all other provisions of this subsection are met.
- (g) *Construction of off-street parking facilities.*
- (1) Parking areas that; (a) include lanes for drive-in windows; or (b) are required to have more than six parking spaces and that are used regularly at least five days per week shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion and dust. The base of parking areas and driveways shall consist of a minimum of 12 inches of gravel. If bituminous surfacing is used, it shall consist of one and one-half inches of B mix and one inch of C mix laid in two courses or equivalent as approved by the city engineer.
 - (2) Parking areas that are not provided with the type of surface specified in subsection (g)(1) shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a parking area abuts a paved street, the driveway leading from such street to such area shall be paved as provided in subsection (1) for a distance of 15 feet back from the edge of the paved street. This subsection shall not apply to single-family or two-family dwellings or other uses that are required to have only one or two parking spaces.
 - (3) Parking spaces in areas surfaced in accordance with subsection (g)(1) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (g)(2) shall be demarcated whenever practicable.
 - (4) Parking areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
 - (5) When it has been determined under article XII, section 17(d) that a specific use requires less parking spaces than otherwise required, the additional parking spaces based on the listed use may be just shown as reserved on the plans. In addition, a developer may implement transportation demand management programs to reduce the need for off-street parking. The programs could involve strategies to involve more interurban transit use, car and van pooling, employee pick-up plans, flexible workhour schedules, subscription bus service and other similar incentives. These programs must be approved by the reviewing body prior to implementation and may not reduce the number of required spaces by more than 25 percent.

For projects classified as major under this Code utilizing the transportation demand management program provisions, or projects classified as minor under this Code that are

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

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

(h) *Joint use of parking facilities.*

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

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

(j) *Off-street loading.*

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

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

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

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

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

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

Sec. 18. Improvement standards.

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

- (1) *Public streets.* Any street, governed by this Code, which is proposed to be dedicated to the city as a public street shall be designed and constructed in accordance with the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks, adopted by the city council pursuant to chapter 66, article IV, section 66-96 of this Code.
- (2) *Private/mobile home park roads.* Private roads may be constructed as part of a residential, commercial, or industrial development, and mobile home park roads may be constructed as part of a mobile home park upon approval of the planning board. The planning board shall approve a private/mobile home park road only if it finds that all of the following have been met:
 - a. The development served by the private/mobile home park road has direct access onto a public street;
 - b. The private/mobile home park road will not serve property outside of the development and it is unnecessary to provide for the extension of the street system to provide access to unsubdivided or undeveloped property;

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- c. The developer demonstrates to the satisfaction of the planning board that satisfactory legal arrangements exist to assure the long-term maintenance, repair and replacement of the private infrastructure, including roads, sanitary and storm sewer systems, and water supply systems;
 - d. The private/mobile home park road is constructed in accordance with the standards of the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks and;
 - e. All approved plans contain a note that reads "the roads shown on this plan as private/mobile home park roads shall not be maintained by the City of Lewiston".
- (3) *Sanitary sewers.* Any sanitary sewer constructed as part of a project requiring development approval shall conform to the following standards:
- a. The design and construction shall conform to the City of Lewiston's Department of Public Services Policy for the Design and Construction of Streets and Sidewalks.
- (4) *Water supply system.* Any water supply system constructed as part of a project requiring development approval shall conform to the following standards:
- a. The design and construction shall conform to the City of Lewiston's Department of Public Services Policy for the Design and Construction of Streets and Sidewalks.
- (5) *Stormwater system.* Each stormwater system constructed as part of a project requiring development approval shall conform to the City of Lewiston's Department of Public Services Policy for the Design and Construction of Streets and Sidewalks.
- (Ord. No. 89-3, 4-7-89; Ord. No. 92-12, 6-4-92; Ord. No. 01-23, 2-7-02; Ord. No. 07-02, 3-22-07)

Sec. 19. Environmental performance standards.

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

- (1) *Smoke.*
- a. For the purposes of determining the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringlemann number referred to in this section refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringlemann No. 1 indicates a 20 percent density of the smoke observed.
 - b. All measurements shall be taken at the point of emission of the smoke.
 - c. In all residential districts and the OR district, no nonresidential use may emit from a vent, stack, chimney, or combustion process any smoke that is visible to the naked eye.
 - d. In the IO, CB, HB, D, OS and UE districts, no nonresidential use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 1, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 2 is permissible for a duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of a residential district.
 - e. In the I District, no nonresidential use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringlemann No. 2, except that an emission that does not exceed a density or equivalent capacity of Ringlemann No. 3 is permissible for a duration not more

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than four minutes during any eight-hour period if the source of emission is not located within 500 feet of a residential district.

(2) *Noise.*

- a. A decibel is a measure of a unit of sound pressure. Since sound waves having the same decibel level "sound" louder or softer to the human ear depending upon the frequency of the sound wave in cycles-per-second (i.e., whether the pitch of the sound is high or low) an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute, which automatically takes account of the varying effect on the human ear of different pitches, shall be used on any sound level meter taking measurements required by this section. And accordingly, all measurements are expressed in dB(A) to reflect the use of this A-weighted filter.
- b. The standards established in the table set forth below are expressed in terms of the Equivalent Sound Level (Leq), which must be calculated by taking 100 instantaneous A-weighted sound levels at ten-second intervals and computing the Leq.
- c. Except as provided in subsections d. and e., the following table establishes the maximum permissible noise levels for nonresidential uses. Measurements shall be taken at the boundary line of the lot where the nonresidential use is located, and, as indicated, the maximum permissible noise levels vary according to the zoning of the lot adjacent to the lot on which the use is located.

Table of Maximum Permitted
Sound Levels, dB(A)

Zoning of Adjacent Lot

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

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

(3) *Vibration.*

- a. No nonresidential use in any residential, business, OR or IO district may generate any ground-transmitted vibration that is perceptible to the human sense of touch measured at; (a) the outside boundary of the immediate space occupied by the

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enterprise generating the vibration if the enterprise is one of several located on a lot; or (b) the lot line if the enterprise generating the vibration is the only enterprise located on a lot.

- b. No nonresidential use in an OS, UE or I district may generate any ground-transmitted vibration in excess of the limits set forth in subsection (3)e. Vibration shall be measured at any adjacent lot line or residential district line as indicated in the table set forth in subsection (3)e.
- c. The instrument used to measure vibrations shall be a three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.
- d. The vibration maximums set forth in subsection (3)e. are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

- PV = Particle velocity, inches-per-second
- F = Vibration frequency, cycles-per-second
- D = Single amplitude displacement of the vibration, inches.

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

- e. Table of maximum ground-transmitted vibration.

<i>Particle Velocity,</i>	
<i>Inches-Per-Second</i>	
<i>Adjacent Lot</i>	
<i>Line</i>	<i>Residential District</i>
0.20	0.02

- f. The values stated in subsection e. may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second in duration and having a pause of at least one second between pulses.
 - g. Vibrations resulting from temporary construction activity that occurs between 7 a.m. and 7 p.m. shall be exempt from the requirements of this section.
- (4) *Odors.*
- a. For purposes of this section, the "odor threshold" is defined as the minimum concentration in air of a gas, vapor, or particulate matter than can be detected by the olfactory systems of a panel of healthy observers.
 - b. No nonresidential use in any district may generate any odor that reaches the odor threshold, measured at the lot line of the enterprise generating the odor.
- (5) *Air pollution.*
- a. Any nonresidential use that emits any "air contaminant" as defined by the Maine Department of Environmental Protection shall comply with applicable state standards concerning air pollution.
 - b. No zoning or conditional use permit may be issued with respect to any development covered by subsection a. until the Maine Department of

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Environmental Protection has certified to the city that the appropriate state permits have been received by the developer, or that the developer will be eligible to receive such permits and that the development is otherwise in compliance with applicable air pollution laws.

- (6) *Electrical disturbance or interference.* No use may:
- a. Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
 - b. Otherwise cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

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

Sec. 20. Child care facility standards.

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

- (a) *Statement of purpose.* The purpose of this section is to ensure that all child care facilities operate in a safe and convenient manner; to maintain adequate care and protection for those children who attend these facilities; to minimize the potential impact of these facilities upon the value and quiet possession of surrounding properties; and to maintain the general health, safety and welfare of the city. For the purposes of this section, a child care facility shall be defined as a house, dwelling unit, building, structure or other place in which a person, or combination of persons provides child care for three or more children under 13 years of age.
- (b) *Standards for establishing a child care facility.* The code enforcement official shall grant all necessary permits for the establishment of a child care facility provided that the following standards for operating a child care facility have been met:
- (1) *Buffering.* All day care centers that abut a residential zoning district or a property in residential use shall provide buffering in accordance with the site plan review and design guidelines, as amended.
 - (2) *Vehicular and pedestrian access.* All proposed child care facilities shall provide safe and convenient access to, into and within the site. Existing driveways shall be enlarged and/or relocated when the code enforcement official determines that the existing driveway does not provide safe and convenient access into the site. Pedestrian walkways and child drop-off and pick-up areas shall be separated from vehicular access ways whenever possible to minimize potential conflicts. Vehicles backing into a city street shall be discouraged whenever possible. In those instances where additional maneuvering room is not available on site, and vehicles must back into a city street, the code enforcement official may grant a waiver to this requirement provided that there is adequate sight distance available for exiting the site. However, for all proposed child care facilities located along the following streets, vehicles shall be prohibited from backing into these streets:

Central Avenue (from Sabattus Street to Montello Street);
College Street;
East Avenue;

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Lisbon Street;
Main Street;
Montello Street;
Old Greene Road;
Pleasant Street;
Pond Road;
Russel Street;
Sabattus Street;
Webster Street.

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

- (3) *Off-street parking/drop-off and pick-up areas.* All proposed child care facilities shall provide adequate off-street parking for all full and/or part time employees.
- i. For family day care homes, parking spaces may be arranged in a stacked manner, no more than two vehicles deep, where one vehicle is parked behind the other as long as the maneuvering on-site is safe and convenient. For small day care facilities and day care centers, only staff parking may be arranged in a stacked manner where one vehicle is parked behind the other as long as the maneuvering on-site is safe and convenient. The required front, side and rear yards for the zoning district in which the child care facility is proposed must be maintained, unless modified pursuant to article IX. If the child care facility will operate with more than one shift, the number of parking stalls shall reflect the greatest number of employees in any one shift.
 - ii. The parking requirements for all child care facilities shall be as follows:
Family day care homes: In addition to the existing on-site parking required for the residential use, one additional on-site parking stall shall be required for each staff person.
Small day care facilities: One on-site parking stall for each staff person.
Day care centers: One on-site parking stall for each staff person.
 - iii. All proposed child care facilities shall also provide adequate drop-off and pick-up areas. These areas shall be safe and convenient, and shall not conflict with on-site pedestrian and vehicular movements. All drop-off and pick-up shall occur on-site unless otherwise permitted pursuant to article XII, section 17 (e). One parking space shall be provided for drop-off and pick-up purposes based on a ratio of one space per six children. These spaces shall not be arranged in a stacked manner.
 - iv. In the event that the code enforcement official determines that a proposed child care facility has less demand for drop-off, pick-up and parking due to interurban transit use, car and van pooling, bus service, foot traffic, etc. the above requirements may be reduced to reflect the anticipated demand. The code enforcement official may also reduce the above referenced parking requirements upon the applicant submitting a report from a licensed traffic engineer demonstrating the parking demand based on a comparison to at least three other comparable sized child care facilities, including, but not limited to the number of children attending the facility; the number of children licensed for the facility;

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location of the facility, etc. This report may be subject to a peer review conducted by the City at the applicant's cost.

- v. Notwithstanding the above, there are no parking requirements for drop-off, pick-up and staff parking for family day care homes located on streets other than those identified in the above subsection.
 - vi. Off-street parking for child care facilities must meet the *off-street parking and loading* provisions contained in article XII, section 17 (e), (f), and (g) (1-4) of the Zoning and Land Use Code.
- (4) *Licensing requirements.* All child care facilities shall be licensed by the department of human services.
 - (5) *Outdoor play area requirements.* Child care facilities shall meet satisfy the requirements for outdoor play area as prescribed by the department of human services.
- (Ord. No. 97-7, 9-11-97; Ord. No. 03-18, 1-1-04; Ord. No. 06-12, 8-24-06; Ord. No. 15-09, 9-10-15)

Sec. 21. Reserved.

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

Sec. 22. Residential design standards for the downtown residential and riverfront districts.

- (a) New residential development in the downtown residential (DR) and riverfront (RF) districts shall be reviewed for compliance with the following development standards. The general intent of these standards is to achieve an attractive city neighborhood environment, fostering a sense of community and place. Varied and human-scaled building facades are key to making a place "pedestrian-oriented", as well as friendlier and safer. Building designs should provide a high level of visual interest and include design elements that enhance the streetscape.
- (1) Porches and bays should face the street;
 - (2) Primary ground floor residential entries to multifamily building must orient to streets, not to interior blocks or parking lots. Secondary and upper-floor entries from the interior of a block are acceptable. The front door to single-family homes, duplexes and townhouses must be visible from the street;
 - (3) The design approach shall provide an architecture that will be a visible and permanent expression of the character of the neighborhood through appropriately scaled entries, porches, fenestration, landscaping and architectural details;
 - (4) The facade shall be varied and articulated to provide visual interest to pedestrians;
 - (5) Each project must provide visual and acoustical privacy between units and shall maximize natural light and ventilation within units.
- (Ord. No. 00-19, 10-5-00; Ord. No. 09-08, 12-31-09)