

**CITY OF LEWISTON  
PLANNING BOARD MEETING**  
Monday, February 11, 2013 – 5:30 P.M.  
City Council Chambers – First Floor  
Lewiston City Building  
27 Pine Street, Lewiston

## **AGENDA**

- I. **ROLL CALL**
- II. **ELECTION OF OFFICERS: Election of Chairman, Vice President and Secretary**
- III. **ADOPTION OF PLANNING BOARD RULES AND PROCEDURES**
- IV. **ADJUSTMENTS TO THE AGENDA**
- V. **CORRESPONDENCE**
- VI. **PUBLIC HEARINGS:**
  - a) Provide a recommendation to the City Council on the FY 2014 Lewiston Capital Improvement Program as per Article VII, Section 4(e) of the Zoning and Land Use Code of the City of Lewiston
- VII. **OTHER BUSINESS:**
  - a) Presentation and discussion of Complete Streets Policy drafted by Bike/Ped Committee.
  - b) Initiate an amendment to adopt the state's new floodplain management ordinance.
  - c) Any other business Planning Board Members may have relating to the duties of the Lewiston Planning Board.
- VIII. **READING OF THE MINUTES:** Motion to adopt the draft minutes from October 22, 2012, November 26, 2012 and December 10, 2012
- IX. **ADJOURNMENT**



## PLANNING BOARD HANDBOOK

Adopted: January 2013

# PLANNING BOARD HANDBOOK

## CONTENTS

- I. Article IV, City Charter
- II. Rules of Procedure
- III. Public Procedures and Freedom of Access Law (Maine Public Right to Know Law)
- IV. Ethical Principles in Planning

ALL ORDINANCE PROVISIONS GOVERNING AND REGULATING DEVELOPMENT ACTIVITY IN THE CITY OF LEWISTON, AS REVIEWED BY THE PLANNING AND CODE ENFORCEMENT DEPARTMENT, PLANNING BOARD AND BOARD OF APPEALS ARE CONTAINED IN APPENDIX A OF THE LEWISTON REVISED CODE OF ORDINANCES ENTITLED, "ZONING AND LAND USE CODE".

## I. Article IV, City Charter

### EXCERPTS FROM CHARTER OF THE CITY OF LEWISTON EFFECTIVE JANUARY 1, 2003

#### Article IV. Administrative Organization

#### 4.05 PLANNING BOARD

- (a) APPOINTMENTS. There shall be a Planning Board consisting of seven (7) members, each of whom shall be a qualified voter of the City of Lewiston and who shall be appointed by the Mayor. No more than two (2) members may reside in the same ward. The terms of office of members of the Board, appointed following the adoption of this Charter shall be established by the Mayor who shall appoint one (1) member to serve one (1) year; two (2) members to serve two (2) years; one (1) member to serve three (3) years; two (2) members to serve four (4) years; and one (1) member to serve five (5) years. Thereafter, all members shall be appointed for five (5) year terms.

There shall be, in addition to the seven (7) members of the Board, two (2) associate members of the Board, each of whom shall be a qualified voter of the City of Lewiston, appointed by the mayor. The associate members are subject to the same ward residency requirements as the regular members. They shall serve for five-year staggered terms, with initial terms being one (1) associate member serving for four (4) years and one (1) for five (5) years. An associate member shall serve in the place of a member who is absent, disqualified or otherwise unable to participate when designated by the chair person to do so.

- (b) COMPENSATION. Each member shall receive salary at the rate of six hundred (\$600.00) dollars per year, payable monthly.
- (c) DUTIES. The Planning Board shall carry out those duties assigned to it by general law and by ordinance.
- (d) RULES OF PROCEDURE. The Planning Board shall adopt appropriate rules of procedure consistent with the provisions of this Charter to enable it to carry out its functions.

- 4.07. COMPENSATION. Compensation paid to members of the Personnel Board, Planning Board and Board of Appeals may be changed by ordinance.
- 4.08 FORFEITURE OF OFFICE. A member of the Personnel Board, Planning Board, or Board of Appeals shall forfeit his office and a vacancy therein shall exist, if he (1) dies; (2) resigns; (3) moves from the City; (4) in the case of the Planning Board and Board of Appeals if he moves from his ward into a ward in which there are currently two (2) members of the same Board; (5) is convicted of a crime or offense involving moral turpitude while in office; (6) is found to be in violation of Section 8.04 of this Charter; or (7) exceeds the tenure authorized for the office. If any vacancy should occur, it shall be filled for the remainder of the unexpired term by appointment of the Mayor.
- 4.09 LIMITATION OF TERMS. No member of any Board established by this Article shall serve more than a full five (5) year term on the same Board within any ten (10) year period. Said period shall be deemed to commence at the time of their first appointment.

#### Article VI. Financial Procedures

##### 6.05 CAPITAL PROGRAM.

- (a) SUBMISSION TO COUNCIL. The administrator shall each year prepare and submit to the Council a five (5) year capital program, including the capital program proposed for the School Department, at least five and on-half (5½) months prior to the end of the fiscal year. The Administrator shall concurrently refer the Capital Program to the Planning Board for its review.
- (b) CONTENTS. The capital program shall include:
- (1) A clear general summary of its contents;
  - (2) A list of all capital improvements which are proposed to be undertaken during the five (5) years next ensuing, with appropriate supporting information as to the necessity for such improvements;
  - (3) Cost estimates, method of financing and recommended time schedules for each improvement; and;
  - (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

- (c) PLANNING BOARD REVIEW. The Planning Board shall review the proposed capital program each year, and following public hearing thereon, shall forward its

recommendations to the City Council at least four and one-half (4½) months prior to the end of the current fiscal year.

Article VIII. General Provisions

- 8.01 (b) APPOINTIVE OFFICERS AND EMPLOYEES: TERMS. Except as may otherwise be provided in this Charter, all City officers, employees and appointees shall serve at the pleasure of the appointing power.
- 8.03 SWEARING IN OFFICERS. All officers provided for in this Charter, whether elective or appointive, shall, before assuming their respective duties, qualify by being sworn to the faithful performance thereof before the City Clerk or some magistrate thereto qualified.
- 8.04 PERSONAL/ FINANCIAL INTEREST. If any elected or appointed official, officer or employee, or the spouse of any such person has financial interest, direct or indirect, in any contract with the City or in the purchase or sale of any land, material, supplies or services to the City or to a contractor supplying the City, he shall make known that interest and shall refrain from voting upon or otherwise participating in his capacity as an elected or appointed official, officer or employee, in the making of such purchase or sale or in the making or performance of such contract. Any such person who willfully conceals the financial interest of himself or his spouse, or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a purchase from or a sale to the City, shall render the contract, purchase or sale voidable by the City.
- 8.05 PROHIBITIONS.
- (a) ACTIVITIES PROHIBITED. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, sex, political or religious opinions or affiliations, or on any other basis prohibited by Statute of general application.
- (b) PENALTIES. Any person convicted of any crime involving falsification in official matters, bribery, corrupt practices, or obstructing governmental administration, as these crimes are defined in the Revised Statutes of Maine, as amended, shall be ineligible for a period of two (2) years following said conviction to hold any City office or employment, except as otherwise provided by law.

## **II. Rules of Procedure Lewiston Planning Board**

1. Officers.

The first regular meeting in January shall constitute an annual organizational meeting of the Board. A chairman, vice-chairman, and secretary shall then be elected by a majority vote of members present. The officers will serve for one (1) year until their successors are elected at the next organizational meeting.

Officers may be elected for a shorter term at the discretion of the Planning Board with new elections to be held upon that term's expiration. Should an officer cease to serve for whatever reason, the Planning Board may hold new elections.

2. Duties.

- A. The chairman shall call regular meetings of the Planning Board as required. The chairman shall also call meetings of the Planning Board when requested to do so by four (4) members of the Planning Board. The chairman shall preside at all meetings and hearings of the Board, decide all points of order and procedure, be the official spokesman for the Board, act as liaison between the Board and other agencies of the City of Lewiston, and perform any duties required by law, ordinance, charter or the Board.
- B. In the absence or disqualification of the chairman, the vice-chairman shall assume the duties of the chairman. In the absence and/or disqualification of both the chairman and vice-chairman, a member shall be chosen by a majority vote of all members present and will assume the duties of chairman for that meeting.
- C. The secretary, with the assistance of the Planning and Code Enforcement Staff, shall keep a permanent record of all Board Meetings or other official actions of the Board and shall keep all correspondence of the Board on file in the City Planning and Code Enforcement Department's office. The secretary, with the assistance of the Planning and Code Enforcement Department Staff, shall also be responsible for keeping the records of the various proceedings which may be brought before the Board. All records to be prepared or retained by the secretary are deemed public and may be

inspected at reasonable times. The secretary, with the direction of the Planning and Code Enforcement Department Staff, shall conduct, at the direction of the Planning Board, all official correspondence of the Board, send out all required notices, and perform all other duties required by law, ordinance, or the Board.

All correspondence from the City Staff as well as all recommendations presented and actions suggested as necessary shall be incorporated without need for a specific motion into the record and shall be part of the record of the hearing on the specific issue.

- D. The Planning Board shall request an advisory opinion from the Historic Preservation Review Board concerning development proposals that may potentially impact significant structures or districts as defined in Appendix A, Article XV, Sec. 3 of the Zoning and Land Use Code.

3. Meetings.

- A. Regular meetings of the Planning Board shall be held on the second and fourth Mondays of each month beginning at 5:30 p.m. in the City Building. No new agenda item shall be heard after 9:00 p.m., with meetings adjourning no later than 9:30 p.m. Whenever there are no business matters to be considered at any regular meeting, other than the organizational meeting, the chairman may dispense with such meetings by notifying each member of the Board and each other person who may have been given notice of the meeting at least 24 hours prior to the time set for the meeting, provided that when at least four (4) other members of the Board request that such regular meeting be held, the chairman shall not dispense with it.

Notification by use of electronic mail shall be considered an acceptable means of communication.

- B. Special meetings and executive sessions may be held upon call of the Mayor, the chairman, and at such other times as the Planning Board may determine, provided that at least 24 hours notice of the meeting be given to each member.
- C. A member who misses three (3) consecutive meetings without just cause, as determined by the chairman, shall be reported to the Mayor for an evaluation of his/her willingness to continue to serve on this Board.
- D. Material related to both development and non-development review agenda items which are not included in the Planning Board packet may only be considered if agreed to by a majority vote of the Board.

- E. The order of business at all regular meetings of the Planning Board shall be as follows:
1. Roll Call - Planning Board Members, City Staff, and identify other Staff or City representatives in attendance.
  2. Adjustments to the Agenda.
  3. Correspondence - The Chairman will request a motion to accept and place on file correspondence (to be identified), other submitted material not in the Planning Board packet, and -Staff memoranda (this will establish the record as Staff memoranda will reference all submittals the Planning Board has received.) Pursuant to 2.C. all correspondence from the City Staff is, without need for motion, incorporated into the record. All other correspondence may be adopted by motion at this point or later in the proceedings as decided by the Planning Board by four (4) affirmative votes.
  4. Public Hearings.
  5. Review of Development Proposals.
  6. Other Business - New and Old Business.
  7. Reading of Minutes of the previous meeting.
  8. Adjournment.
- F. Protocol - The Planning Board is comprised of seven (7) appointed members. A quorum necessary to conduct an official meeting of the Planning Board shall consist of at least four (4) members. There shall be, in addition to the seven (7) members of the Board, two (2) associate members. Associate members will sit with the rest of the members and may participate in all Board deliberations, but are not able to vote unless designated by the chair or acting chair to serve in the place of a member who is absent, substantially tardy, recuses themselves, is disqualified or otherwise unable to participate. Such designations should be on a rotating basis between associate members as the opportunity arises during the course of the meeting.

Agendas for meetings shall be made available at the entrance to the meeting room.

Regarding the agenda items before the Planning Board, the chair shall first identify the item, and Staff will make a brief presentation followed by Planning Board questions. The chair will then request a presentation by the applicant/ petitioner to explain their proposal followed by Board questions. The chair will then open the meeting for public comment with proponents speaking first followed by anyone in opposition or having questions regarding the proposal. The chair shall request that everyone who speaks for or against or has a question concerning the subject matter to identify themselves by name and address for our record. The applicant/petitioner shall be given the opportunity to make any responses

to public comments. The public portion will then be closed and the Planning Board will deliberate and vote on the matter before us. Once the public comment portion of the meeting is closed, unless there is a specific question from a Board Member to the public, the public portion will remain closed.

The Planning Board must decide on all matters in accordance with the Code of Ordinances of the City of Lewiston along with any other provisions of law within the Board's jurisdiction. Some decisions that this Board makes may also be contrary to public opinion and it is possible that some Board Members may have philosophical differences with some proposals. However, the Board must base its decisions on the law and ordinances rather than on individual sentiments. The concurring vote of at least four (4) members is required to constitute an action on any matter requiring a Public Hearing. All other matters require a simple majority vote.

- G. The Planning Board shall act in accordance with the provisions of Appendix A of the Lewiston Revised Code of Ordinances and shall follow as guidance, the standards of development review outlined in the Site Plan Review and Design Guidelines adopted by the Planning Board on October 22, 1987, and as amended.
- H. The secretary, with the assistance of the Planning and Code Enforcement Department staff, shall keep minutes of the proceedings of each meeting of the Planning Board, including workshops, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and the final disposition of matters shall be recorded by resolution indicating the reasons of the Board therefore.
- I. All meetings of the Planning Board shall be conducted in accordance with Maine's Public Right to Know Law. A copy of this statute, Title I, M.R.S.A., Sections 401—410 is enclosed in this handbook and deemed a part of these Rules.
- J. An applicant or petitioner or their agent must appear at the scheduled meeting at which the subject case is to be heard. Failure to appear may result in the dismissal of the case. The Planning Board may, upon majority vote, continue the matter to a date specific for the hearing. Reinstatement of the case shall be allowed upon the filing of a written request. Reinstatement shall be allowed only upon payment of any required fees incurred from re-advertising the case.
- K. A continuance may be granted to an applicant when good cause is shown that they are unable to present their case at the scheduled meeting.

4. Notice.

- A. The secretary of the Planning Board, with the assistance of the Planning and Code Enforcement Department staff, will coordinate with the City Clerk of the City of Lewiston to ensure compliance with required legal notice for public meetings. In addition, it will be assumed by implication that notice of public hearings held by the Planning Board is mandatory and legal notice will consist of a notice conspicuously posted in the office of the City Clerk a reasonable time in advance of the meeting which under normal circumstance will be construed to mean at least seven (7) days before the date of each meeting. The Board at its discretion may determine that a given matter is of particular importance or interest to the community and in addition to posting as required above may insert a paid notice of the subject public hearing in the local newspaper.

On all proposals to amend the code, including rezoning proposals, notice shall be provided in accordance with Title 30-A, Chapter 187 §4352, section 8, 9, and 10 of the Maine Revised Statutes Annotated. In the case of a proposal for conditional or contract zoning, a copy of the proposed conditions and restrictions must be included. Mailed notices shall be sent first class to the addresses shown on the property tax records of the City of Lewiston and shall be deemed given when mailed.

- B. The secretary of the Planning Board, with the assistance of Planning and Code Enforcement Department Staff, will coordinate with the City Clerk of the City of Lewiston to serve notice of such public hearings detailing subject, time, and place of hearing a reasonable time in advance of the hearing, upon those individuals meriting personal notice because of their relationship to the subject matter at issue. By way of example, the following are parties who because of their relationship to the subject matter at issue shall be given official notice of such public hearing: developer of a proposed development, petitioners of a zoning amendment, all land owners whose property abuts the lot or lots involved, and other property owners potentially affected by the proposed development or zoning amendment as determined by the Planning and Code Enforcement Department Staff. Notice shall be by any method of personal service or substituted personal service authorized by the ordinances of the City of Lewiston and the laws of the State of Maine.

- C. Notice of Abutters.

Procedure for Notification of Development to Affected Property Owners.

For projects requiring Planning Board review and approval, the Planning and Code Enforcement Department Staff shall notify abutting and affected property owners, in writing, of the specific nature of the development plans.

The word, "abutting" shall be defined to mean any property which shares a common physical boundary with the area under review and properties located directly across any previously accepted city street.

The word, "affected" shall be defined to mean any property not sharing a common physical boundary but upon whom the proposed development would have impact, as determined by the Planning and Code Enforcement Department Director or designee.

Notification shall be by first-class mail and include a brief description of the project. Notice shall be mailed at least seven (7) days in advance of formal review by the Planning Board and shall include the date(s) and time(s) of review by the reviewing authority.

5. Ad Hoc Committees.

The chairman may from time to time appoint committees necessary to perform special functions of the Board.

6. Parliamentary Procedures.

- A. In all cases where parliamentary procedure questions arise in the conduct of the Board's affairs, the current edition of Robert's Rules of Order shall be taken as the source of authority to decide the orderly course of the proceedings except as otherwise provided herein.
- B. Reconsideration of Items - When an item is voted on by the Board, it shall be in order for any member who voted on the prevailing side to move a reconsideration thereof, during the same meeting or at the immediate next regularly scheduled Planning Board meeting, but not afterwards. No motion to reconsider a vote taken at a previous meeting shall be in order for consideration at the immediate next regularly scheduled Planning Board meeting unless an item to that effect is scheduled on the agenda for such meeting or unless five of the members consent to such reconsideration.

7. Hearing Procedures for all Planning Board Public Hearings.

- I. Staff presentation
- II. Applicant presentation
- III. Public Comment:
  - A. Proponents or their representatives
  - B. Opponents or their representatives.
  - C. Other interested parties.
  - D. When all parties or representatives have presented their position, other parties may ask questions through the chair.
  - E. Testimony or other evidence may be submitted or received in writing when the same shall benefit convenience. This shall not be construed to abridge the right of any person or party to be heard orally by the Board.

- IV. After determining all public representatives have been provided opportunity to be heard, the Chair shall close the review to public comment. (The Board shall reserve the right to question through the Chair, any person present).
- V. The Board shall deliberate on the evidence and take appropriate action which may include tabling the item to a future meeting.
- VI. Within five (5) working days of the meeting, written notification of Board action shall be sent to the applicant.

8. Guide to Ethical Conduct.

The Planning Board adopts for the Board and its staff as a guide to ethical conduct The American Planning Associations (APA) "Ethical Principles in Planning", as applicable, copies of which are enclosed in this handbook and deemed a part of these Rules.

9. Amendment.

These Rules may be suspended, amended, or repealed on an affirmative vote of a majority of all members present.

10. Review and Adoption.

These Rules of Procedure shall be reviewed and adopted annually at the Board's organizational meeting, or during the year should the need arise.

11. Student Members.

Student members are appointed by the Mayor. They will enjoy full honorary Board privileges and should be extended the same courtesy as full Board Members. The only exception is that they have no voting privileges. Student members will have full access to information as regular Board Members and receive meeting information packets as regular Board Members. Student Members will conduct themselves appropriately.

Student members serve at the pleasure of the Planning Board Chair and/or the Mayor.

### III. Public Procedures and Freedom of Access Law (Maine Public Right to Know Law)

#### Maine Revised Statute Title 1, Chapter 13: PUBLIC RECORDS AND PROCEEDINGS

A portion of which acquired from

<http://www.mainelegislature.org/legis/statutes/1/title1ch13.rtf> on January 29, 2013.

#### Subchapter 1: FREEDOM OF ACCESS

#### 1 §401. DECLARATION OF PUBLIC POLICY; RULES OF CONSTRUCTION

The Legislature finds and declares that public proceedings exist to aid in the conduct of the people's business. It is the intent of the Legislature that their actions be taken openly and that the records of their actions be open to public inspection and their deliberations be conducted openly. It is further the intent of the Legislature that clandestine meetings, conferences or meetings held on private property without proper notice and ample opportunity for attendance by the public not be used to defeat the purposes of this subchapter. [1975, c. 758, (RPR) .]

This subchapter does not prohibit communications outside of public proceedings between members of a public body unless those communications are used to defeat the purposes of this subchapter. [2011, c. 320, Pt. B, §1 (NEW) .]

This subchapter shall be liberally construed and applied to promote its underlying purposes and policies as contained in the declaration of legislative intent. [1975, c. 758, (RPR) .]

#### SECTION HISTORY

1975, c. 483, §1 (AMD) . 1975, c. 758, (RPR) . 2011, c. 320, Pt. B, §1 (AMD) .

#### 1 §402. DEFINITIONS

**1. Conditional approval.** Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

[ 1975, c. 758, (NEW) .]

**1-A. Legislative subcommittee.** "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

[ 1991, c. 773, §1 (NEW) .]

**2. Public proceedings.** The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees; [1975, c. 758, (NEW) .]

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees; [1989, c. 358, §1 (AMD); 1989, c. 443, §1 (AMD); 1989, c. 878, Pt. A, §1 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or

other political or administrative subdivision; [1991, c. 848, §1 (AMD) .]

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1995, c. 608, §1 (AMD) .]

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; [2009, c. 334, §1 (AMD) .]

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and [2009, c. 334, §2 (AMD) .]

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

- (1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and
- (2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach. [2009, c. 334, §3 (NEW) .]

[ 2009, c. 334, §§1-3 (AMD) .]

**3. Public records.** The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute; [1975, c. 758, (NEW) .]

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [1975, c. 758, (NEW) .]

C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [1991, c. 773, §2 (AMD) .]

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family;

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(e) An individual's social security number; or

(2) Would be confidential if it were in the possession of another public agency or official: [2011, c. 264, §1 (NEW) .]

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [1989, c. 358, §4 (AMD) .]

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [1989, c. 358, §4 (AMD); 1989, c. 443, §2 (AMD); 1989, c. 878, Pt. A, §2 (RPR); 2003, c. 20, Pt. OO, §2 (AMD); 2003, c. 20, Pt. OO, §4 (AFF) .]

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (AMD) .]

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [1991, c. 448, §1 (AMD) .]

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [1995, c. 608, §4 (AMD) .]

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [1999, c. 96, §1 (AMD) .]

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization; [2001, c. 675, §1 (AMD) .]

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [2003, c. 392, §1 (AMD) .]

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical

damage sufficient to disrupt the normal functioning of a critical infrastructure: [2003, c. 614, §1 (AMD) .]

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure and systems. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; [2005, c. 381, §1 (AMD) .]

N. Social security numbers ; [2011, c. 320, Pt. E, §1 (AMD) .]

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [2009, c. 1, §1 (COR) .]

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; [2011, c. 149, §1 (AMD) .]

*(Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)*

Q. (REALLOCATED FROM T. 1, §402, sub-§3, ¶P) Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials, the Department of Corrections or members of the State Board of Corrections under conditions that protect the information from further disclosure; and [2011, c. 149, §2 (AMD) .]

R. Social security numbers in the possession of the Secretary of State. [2011, c. 149, §3 (NEW) .]

[ 2011, c. 149, §§1-3 (AMD); 2011, c. 264, §1 (AMD); 2011, c. 320, Pt. E, §1 (AMD) .]

**3-A. Public records further defined.** "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, conviction data, address of furlough and dates of furlough: [1997, c. 714, §1 (NEW) .]

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, conviction data, address of residence and dates of supervision; and [2001, c. 477, §1 (AMD) .]

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, conviction data and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [2001, c. 477, §1 (AMD) .]

[ 2001, c. 477, §1 (AMD) .]

**4. Public records of interscholastic athletic organizations.** Any records or minutes of meetings under subsection 2, paragraph G are public records.

[ 2009, c. 334, §4 (NEW) .]

## SECTION HISTORY

1973, c. 433, §1 (AMD). 1975, c. 243, (RPR). 1975, c. 483, §2 (AMD). 1975, c. 758, (RPR). 1977, c. 164, §§1,2 (AMD). 1977, c. 696, §9 (AMD). 1985, c. 695, §§1,2 (AMD). 1985, c. 779, §§1,2 (AMD). 1987, c. 20, §1 (AMD). 1987, c. 402, §A1 (AMD). 1987, c. 477, §1 (AMD). 1989, c. 358, §§1-4 (AMD). 1989, c. 443, §§1,2 (AMD). 1989, c. 878, §§A1,2 (AMD). 1991, c. 448, §§1,2 (AMD). 1991, c. 773, §§1,2 (AMD). 1991, c. 848, §1 (AMD). 1995, c. 608, §§1-5 (AMD). 1997, c. 714, §1 (AMD). 1999, c. 96, §§1-3 (AMD). 2001, c. 477, §1 (AMD). 2001, c. 675, §§1-3 (AMD). 2003, c. 20, §002 (AMD). 2003, c. 20, §004 (AFF). 2003, c. 392, §§1-3 (AMD). 2003, c. 614, §§1-3 (AMD). 2005, c. 381, §§1-3 (AMD). 2007, c. 597, §1 (AMD). RR 2009, c. 1, §§1-3 (COR). 2009, c. 176, §§1-3 (AMD). 2009, c. 334, §§1-4 (AMD). 2009, c. 339, §§1-3 (AMD). 2011, c. 149, §§1-3 (AMD). 2011, c. 264, §1 (AMD). 2011, c. 320, Pt. E, §1 (AMD).

## 1 §402-A. PUBLIC RECORDS DEFINED

*(REPEALED)*

## SECTION HISTORY

1975, c. 483, §3 (NEW). 1975, c. 623, §1 (RPR). 1975, c. 758, (RP).

## 1 §403. MEETINGS TO BE OPEN TO PUBLIC; RECORD OF MEETINGS

**1. Proceedings open to public.** Except as otherwise provided by statute or by section 405, all public proceedings must be open to the public and any person must be permitted to attend a public proceeding.

[ 2011, c. 320, Pt. C, §1 (NEW) .]

**2. Record of public proceedings.** Unless otherwise provided by law, a record of each public proceeding for which notice is required under section 406 must be made within a reasonable period of time after the proceeding and must be open to public inspection. At a minimum, the record must include:

A. The date, time and place of the public proceeding: [2011, c. 320, Pt. C, §1 (NEW) .]

B. The members of the body holding the public proceeding recorded as either present or absent; and [2011, c. 320, Pt. C, §1 (NEW) .]

C. All motions and votes taken, by individual member, if there is a roll call. [2011, c. 320, Pt. C, §1 (NEW) .]

[ 2011, c. 320, Pt. C, §1 (NEW) .]

**3. Audio or video recording.** An audio, video or other electronic recording of a public proceeding satisfies the requirements of subsection 2.

[ 2011, c. 320, Pt. C, §1 (NEW) .]

**4. Maintenance of record.** Record management requirements and retention schedules adopted under Title 5, chapter 6 apply to records required under this section.

[ 2011, c. 320, Pt. C, §1 (NEW) .]

**5. Validity of action.** The validity of any action taken in a public proceeding is not affected by the failure to make or maintain a record as required by this section.

[ 2011, c. 320, Pt. C, §1 (NEW) .]

**6. Advisory bodies exempt from record requirements.** Subsection 2 does not apply to advisory bodies that make recommendations but have no decision-making authority.

[ 2011, c. 320, Pt. C, §1 (NEW) .]

SECTION HISTORY

1969, c. 293, (AMD). 1975, c. 422, §1 (AMD). 1975, c. 758, (RPR). 2009, c. 240, §1 (AMD). 2011, c. 320, Pt. C, §1 (RPR).

## 1 §404. RECORDED OR LIVE BROADCASTS AUTHORIZED

In order to facilitate the public policy so declared by the Legislature of opening the public's business to public scrutiny, all persons shall be entitled to attend public proceedings and to make written, taped or filmed records of the proceedings, or to live broadcast the same, provided the writing, taping, filming or broadcasting does not interfere with the orderly conduct of proceedings. The body or agency holding the public proceedings may make reasonable rules and regulations governing these activities, so long as these rules or regulations do not defeat the purpose of this subchapter. [1975, c. 758, (RPR).]

SECTION HISTORY

1975, c. 422, §2 (RPR). 1975, c. 483, §4 (AMD). 1975, c. 758, (RPR).

### 1 §404-A. DECISIONS

*(REPEALED)*

SECTION HISTORY

1973, c. 433, §2 (NEW). 1973, c. 704, §§1,2 (AMD). 1975, c. 758, (RP).

### 1 §405. EXECUTIVE SESSIONS

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions. [1975, c. 758, (NEW).]

**1. Not to defeat purposes of subchapter.** An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.

[ 2009, c. 240, §2 (AMD) .]

**2. Final approval of certain items prohibited.** An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.

[ 2009, c. 240, §2 (AMD) .]

**3. Procedure for calling of executive session.** An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.

[ 2009, c. 240, §2 (AMD) .]

**4. Motion contents.** A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an

executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.

[ 2003, c. 709, §1 (AMD) .]

**5. Matters not contained in motion prohibited.** Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.

[ 2009, c. 240, §2 (AMD) .]

**6. Permitted deliberation.** Deliberations on only the following matters may be conducted during an executive session:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

(1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;

(2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;

(3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and

(4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal: [2009, c. 240, §2 (AMD) .]

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

(1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire: [2009, c. 240, §2 (AMD) .]

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency; [1987, c. 477, §3 (AMD) .]

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions; [1999, c. 144, §1 (RPR) .]

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage: [2009, c. 240, §2 (AMD) .]

F. Discussions of information contained in records made, maintained or received by a body or agency when

access by the general public to those records is prohibited by statute: [1999, c. 180, §1 (AMD) .]

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and [1999, c. 180, §2 (AMD) .]

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection I, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter. [1999, c. 180, §3 (NEW) .]

[ 2009, c. 240, §2 (AMD) .]

#### SECTION HISTORY

1975, c. 758, (RPR). 1979, c. 541, §A3 (AMD). 1987, c. 477, §§2,3 (AMD). 1987, c. 769, §A1 (AMD). 1999, c. 40, §§1,2 (AMD). 1999, c. 144, §1 (AMD). 1999, c. 180, §§1-3 (AMD). 2003, c. 709, §1 (AMD). 2009, c. 240, §2 (AMD).

### **1 §405-A. RECORDED OR LIVE BROADCASTS AUTHORIZED**

*(REPEALED)*

#### SECTION HISTORY

1975, c. 483, §5 (NEW). 1975, c. 758, (RP) .

### **1 §405-B. APPEALS**

*(REPEALED)*

#### SECTION HISTORY

1975, c. 483, §5 (NEW). 1975, c. 758, (RP) .

### **1 §405-C. APPEALS FROM ACTIONS**

*(REPEALED)*

#### SECTION HISTORY

1975, c. 483, §5 (NEW). 1975, c. 758, (RP) .

### **1 §406. PUBLIC NOTICE**

Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding. [1987, c. 477, §4 (AMD) .]

#### SECTION HISTORY

1975, c. 483, §6 (AMD). 1975, c. 758, (RPR). 1987, c. 477, §4 (AMD) .

## 1 §407. DECISIONS

**1. Conditional approval or denial.** Every agency shall make a written record of every decision involving the conditional approval or denial of an application, license, certificate or any other type of permit. The agency shall set forth in the record the reason or reasons for its decision and make finding of the fact, in writing, sufficient to appraise the applicant and any interested member of the public of the basis for the decision. A written record or a copy thereof shall be kept by the agency and made available to any interested member of the public who may wish to review it.

[ 1975, c. 758, (NEW) .]

**2. Dismissal or refusal to renew contract.** Every agency shall make a written record of every decision involving the dismissal or the refusal to renew the contract of any public official, employee or appointee. The agency shall, except in case of probationary employees, set forth in the record the reason or reasons for its decision and make findings of fact, in writing, sufficient to apprise the individual concerned and any interested member of the public of the basis for the decision. A written record or a copy thereof must be kept by the agency and made available to any interested member of the public who may wish to review it.

[ 2009, c. 240, §3 (AMD) .]

### SECTION HISTORY

1975, c. 758, (NEW). 2009, c. 240, §3 (AMD).

## 1 §408. PUBLIC RECORDS AVAILABLE FOR PUBLIC INSPECTION AND COPYING

**1. Right to inspect and copy.** Except as otherwise provided by statute, every person has the right to inspect and copy any public record during the regular business hours of the agency or official having custody of the public record within a reasonable period of time after making a request to inspect or copy the public record. An agency or official may request clarification concerning which public record or public records are being requested, but in any case the agency or official shall acknowledge receipt of the request within a reasonable period of time.

[ 2007, c. 501, §1 (AMD) .]

**2. Inspection, translation and copying scheduled.** Inspection, translation and copying may be scheduled to occur at such time as will not delay or inconvenience the regular activities of the agency or official having custody of the public record sought.

[ 2003, c. 709, §2 (NEW) .]

**3. Payment of costs.** Except as otherwise specifically provided by law or court order, an agency or official having custody of a public record may charge fees as follows.

A. The agency or official may charge a reasonable fee to cover the cost of copying. [2003, c. 709, §2 (NEW) .]

B. The agency or official may charge a fee to cover the actual cost of searching for, retrieving and compiling the requested public record of not more than \$10 per hour after the first hour of staff time per request. Compiling the public record includes reviewing and redacting confidential information. [2003, c. 709, §2 (NEW) .]

C. If translation is necessary, the agency or official may charge a fee to cover the actual cost of translation. [2003, c. 709, §2 (NEW) .]

D. An agency or official may not charge for inspection. [2003, c. 709, §2 (NEW) .]

[ 2003, c. 709, §2 (NEW) .]

**4. Estimate.** The agency or official shall provide to the requester an estimate of the time necessary to complete the request and of the total cost. If the estimate of the total cost is greater than \$20, the agency or official shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection 5 applies.

[ 2003, c. 709, §2 (NEW) .]

**5. Payment in advance.** The agency or official may require a requester to pay all or a portion of the estimated costs to complete the request prior to the translation, search, retrieval, compiling and copying of the public record if:

A. The estimated total cost exceeds \$100; or [2003, c. 709, §2 (NEW) .]

B. The requester has previously failed to pay a properly assessed fee under this chapter in a timely manner. [2003, c. 709, §2 (NEW) .]

[ 2003, c. 709, §2 (NEW) .]

**6. Waivers.** The agency or official may waive part or all of the total fee if:

A. The requester is indigent; or [2003, c. 709, §2 (NEW) .]

B. Release of the public record requested is in the public interest because doing so is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester. [2009, c. 240, §4 (AMD) .]

[ 2009, c. 240, §4 (AMD) .]

#### SECTION HISTORY

1975, c. 758, (NEW) . 2003, c. 709, §2 (RPR) . 2007, c. 501, §1 (AMD) . 2009, c. 240, §4 (AMD) .

## 1 §409. APPEALS

**1. Records.** If any body or agency or official who has custody or control of any public record refuses permission to inspect or copy or abstract a public record, this denial must be made by the body or agency or official in writing, stating the reason for the denial, within 5 working days of the request for inspection by any person. Any person aggrieved by denial may appeal, within 5 working days of the receipt of the written notice of denial, to any Superior Court within the State. If a court, after a trial de novo, determines such denial was not for just and proper cause, it shall enter an order for disclosure. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus and actions brought by the State against individuals.

[ 2009, c. 240, §5 (AMD) .]

**2. Actions.** If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action is illegal and the officials responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals.

[ 2007, c. 695, Pt. C, §1 (AMD) .]

**3. Proceedings not exclusive.** The proceedings authorized by this section are not exclusive of any other civil remedy provided by law.

[ 2009, c. 240, §6 (AMD) .]

**4. Attorney's fees.** In an appeal under subsection 1 or 2, the court may award reasonable attorney's fees and litigation expenses to the substantially prevailing plaintiff who appealed the refusal under subsection 1 or the illegal action under subsection 2 if the court determines that the refusal or illegal action was committed in bad faith. Attorney's fees and litigation costs may not be awarded to or against a federally recognized Indian tribe.

This subsection applies to appeals under subsection 1 or 2 filed on or after January 1, 2010.

[ 2009, c. 423, §1 (NEW) .]

#### SECTION HISTORY

1975, c. 758, (NEW). 1987, c. 477, §5 (AMD). 2007, c. 695, Pt. C, §1 (AMD). 2009, c. 240, §§5, 6 (AMD). 2009, c. 423, §1 (AMD).

### **1 §410. VIOLATIONS**

For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged. [1987, c. 477, §6 (RPR) .]

#### SECTION HISTORY

1975, c. 758, (NEW). 1987, c. 477, §6 (RPR) .

## **IV. Ethical Principles in Planning**

**(Adopted May 1992 by the American Planning Association and acquired from <http://www.planning.org/ethics/ethicalprinciples.htm> on January 28, 2013)**

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.

The ethical principles derive both from the general values of society and from the planner's special responsibility to serve the public interest. As the basic values of society are often in competition with each other, so do these principles sometimes compete. For example, the need to provide full public information may compete with the need to respect confidences. Plans and programs often result from a balancing among divergent interests. An ethical judgment often also

requires a conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles.

This statement also aims to inform the public generally. It is also the basis for continuing systematic discussion of the application of its principles that is itself essential behavior to give them daily meaning.

**The planning process must continuously pursue and faithfully serve the public interest.**

Planning Process Participants should:

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
4. Assist in the clarification of community goals, objectives and policies in plan-making;
5. Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision;
6. Strive to protect the integrity of the natural environment and the heritage of the built environment;
7. Pay special attention to the interrelatedness of decisions and the long range consequences of present actions.

**Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.**

Planning Process Participants should:

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;

5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest.
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;
9. Not use confidential information acquired in the course of their duties to further a personal interest;
10. Not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation with other planning process participants to obtain their separate opinions;
11. Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
12. Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;
13. Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

# City of Lewiston Planning Board Meeting Protocol, 2013

(The purpose of this document is to provide guidance to Planning Board members when conducting a meeting)

A. *Call to Order (by chairman)*

I am, \_\_\_\_\_, Chairman of the Lewiston Planning Board. I welcome all here this evening and call this meeting to order (gavel). Roll Call please.

B. *Roll Call (by secretary)*

Planning Board Members:

Paul Robinson  
Eric Potvin  
Kevin Morrisette  
Trinh Burpee  
Bruce Damon  
Mark Marcotte  
Sandy Marquis  
Walter Hill

City Staff:

Gil Arsenault, Director of Planning and Code Enforcement  
David Hediger, City Planner  
Cathy Lekberg, Sr. Principle Clerk  
Identify any other Staff or City representative in attendance.

C. *Planning Board's Procedures (when appropriate, this section may want to be read aloud by the chairman)*

The Planning Board is comprised of seven (7) appointed members. A quorum necessary to conduct an official meeting of the Planning Board shall consist of at least four (4) members.

Agendas for this meeting are available in the wall container at the entrance to this room, should anyone in attendance not have a copy. The agenda for this evening consists of the following items. Is there anyone in attendance present for a matter not on tonight's agenda?

Regarding the agenda items before the Planning Board, I shall first identify the item, and Staff will make a brief presentation followed by Planning Board questions. I will then request a presentation by the applicant/petitioner to explain their proposal followed by board questions. I will then open the meeting for public comment with proponents speaking first followed by anyone in opposition or having questions regarding the proposal. I please ask that everyone who speaks for or against or has a question concerning the subject matter to use the microphone provided by Staff as this meeting is being recorded and to identify themselves by name and address for our record. The applicant/petitioner shall be given the opportunity to make any responses to public comments. The public portion will then be closed and the Planning Board will deliberate and vote on the matter before us. Once the public comment portion of the meeting is closed,

unless there is a specific question from a Board Member to the public, the public portion will remain closed.

The Planning Board must decide on all matters in accordance with the Code of Ordinances of the City of Lewiston along with any other provisions of law within our jurisdiction. Some decisions that this Board makes may also be contrary to public opinion and it is possible that some Board Members may have philosophical differences with some proposals; however, this Board must base its decisions on the law and ordinances rather than on individual sentiments. The concurring vote of at least four (4) members is required to constitute an action on any matter requiring a Public Hearing. All other matters require a simple majority vote.

*D. Correspondence*

The Chairman will request a motion to accept and place on file correspondence (to be identified) and to include Planning Staff memoranda (this will establish the record as Staff memoranda will reference all submittals the Planning Board has received).

*E. Hearings*

Any agenda items requiring a public hearing by ordinance or law (i.e. development review, zoning amendments).

*F. Other Business (these items are typically not public hearings, but rather public meetings. Public meetings are not required to be open to the public for comment.)*

1. New Business
2. Old Business

*G. Minutes*

I am proposing to review and accept Minutes at the end of a meeting as a means to address matters of greater public interest first and in addition the Board may take time for Minute modifications without feeling pressured for time.

*H. Adjournment*



# CITY OF LEWISTON



## Department of Planning & Code Enforcement

**TO:** Planning Board  
**FROM:** David Hediger, City Planner  
**DATE:** February 7, 2013  
**RE:** February 11, 2013 Planning Board Agenda Item VI(a)

### Recommendation to City Council regarding the Lewiston Capital Improvement Program for fiscal year 2014.

As the Board is aware, the Charter and the Zoning and Land Use Code require the Board to review and provide a recommendation on Lewiston's Capital Improvement Plan (LCIP).

Specifically, Section 6.05. of the City Charter states the following:

- (a) Submission to council. The administrator shall each year prepare and submit to the council a five-year capital program, including the capital program proposed for the school department, at least five and one-half (5 1/2) months prior to the end of the current fiscal year. The administrator shall concurrently refer the capital program to the planning board for its review.
- (c) Planning board review. The planning board shall review the proposed capital program each year, and following public hearing thereon, shall forward its recommendations to the city council at least four and one-half (4 1/2) months prior to the end of the current fiscal year.

Article VII, Section 4(e) of the Zoning and Land Use Code states:

The board shall review the annual capital program and report to the city council in accordance with Section 6.05 of the City Charter its findings regarding the needs of the city for the improvement, replacement and alteration of existing facilities and the acquisition or construction of additional facilities and the order in which such projects should be undertaken. The board shall hold at least one public hearing prior to making its recommendations to the city council.

It should be noted, there are two additions proposed to the LCIP that were not included in the bound versions distributed earlier: PW Storage & Improvements and District Classroom Door Lock Replacement.

At this time, the Board is being asked to provide a favorable recommendation for adoption of the FY 2014 Lewiston Capital Improvement Program.

#### **ACTIONS NECESSARY:**

1. Make a motion to consider the FY 2014 Lewiston Capital Improvement Program.
2. Obtain input on the proposed amendment.

3. Make a motion pursuant to Article VII, Section 4(e) of the Zoning and Land Use Code to send a favorable recommendation for the City Council's consideration the adoption of the FY 2014 Lewiston Capital Improvement Program, subject to any concerns raised by the Planning Board or staff.

**FY 2014 Lewiston Capital Improvement Program  
Project Description Form**

**Project Title:** PW Storage & Improvements

**Operational Funding Division:** Public Works - General      **Project Name:** PW Storage & Improvements

<b>Est. Total Cost FY 2014:</b>	310,000	<b>Est. Total Cost FY 2014-18:</b>	310,000
<b>City Share FY 2014:</b>		<b>City Share FY 2014-2018</b>	

**Project Description:**

(1) Construct an approximate 60' x 90' pre-engineered metal building with basic lighting for use as cold storage for off-season equipment. Location will be at the PW Operations Center. The building will have minimal lighting and power with two (2) garage doors (one on each end to allow drive-through access). Floor will have a 20' wide concrete center aisle with paving on either side. Est cost ~\$200,000. (2)  
 Construct an approximate 4,900 SF roof structure covering four (4) roll-off container bays at the drop-off area at the Solid Waste facility. The truss system will require a 70' clear span to allow equipment access. Est cost ~\$110,000.

**Consistency with the Comprehensive or Strategic Plans or other related planning documents:**

This project is consistent with the City Council's vote to lease the underutilized shredder building on River Rd.

**Justification for project implementation/construction and segments, if applicable:**

Two facility requirements were identified as part of the leasing of the shredder building on River Road. (1)  
 The shredder building had been used to store off-season equipment to protect it from the weather. For example, during harsh winters expensive street sweepers, paving and mowing equipment is stored inside to protect it from being damaged. During summer months, snow blowers, sidewalk plows and other equipment was stored in the shredder building. The lease will make the current space unavailable. (2)  
 The tipping floor in the shredder building was used to store sheet rock and the drop-off of solid waste from local customers. Both of these need to be protected from rain & snow to retain value (sheet rock) and improve handling (solid waste). The recommended method was to install a roof structure over 4 roll-off container bays in the drop-off area.

**Future maintenance costs if known, including contracts and special service requirements:**

**How were cost estimates obtained:**

Cost estimates were obtained by City staff, consultants and local contractors.

**FUNDING SOURCES**

Source	Amount	Agency:	Approval Received?	
City Operating Budget				
City Bond Issue	310,000			
Federal/State Funding				
Other Agency/Municipality				Yes   No
<b>Total Project Costs</b>	<b>310,000</b>			

**IMPLEMENTATION SCHEDULE (Fiscal Years)**

	2014	2015	2016	2017	2018	Future
<b>Total Project Cost</b>	310,000					
<b>Non-City Share</b>						
<b>City Share</b>	310,000	0	0	0	0	0

**FY 2014 Lewiston Capital Improvement Program  
Project Description Form**

1/15/2013

**Project Title:** District Classroom Door Lock Replacement

**Operational Funding Division:** School **Project Name:** \_\_\_\_\_

<b>Est. Total Cost FY 2014:</b>	104,000	<b>Est. Total Cost FY 2014-18:</b>	104,000
<b>City Share FY 2014:</b>	104,000	<b>City Share FY 2014-2018</b>	104,000

**Project Description:**

Materials and labor to install 325 new locking mechanisms that allow securing doors directly from the inside.

**Consistency with the Comprehensive or Strategic Plans or other related planning documents:**

Project will expand security in all school buildings for any room that may be occupied by K-12 students.

**Justification for project implementation/construction and segments, if applicable:**

Project is one measure of response to upgrading school lock down capability.

**Future maintenance costs if known, including contracts and special service requirements:**

**How were cost estimates obtained:**

Joe Perryman, Facilities Director, and vendors

**FUNDING SOURCES**

Source	Amount				
City Operating Budget					
City Bond Issue	104,000				
Federal/State Funding		<b>Agency:</b> _____	<b>Approval Received?</b>	<u>Yes</u>	<u>No</u>
Other Agency/Municipality		<b>Agency:</b> _____	<b>Approval Received?</b>	<u>Yes</u>	<u>No</u>
<b>Total Project Costs</b>	<b>104,000</b>				

**IMPLEMENTATION SCHEDULE (Fiscal Years)**

	2014	2015	2016	2017	2018	Future
<b>Total Project Cost</b>	104,000					
<b>Non-City Share</b>	_____					
<b>City Share</b>	104,000	0	0	0	0	0

Attach on separate page(s)/sheet additional information (if needed)

**FY 2014 Lewiston Capital Imp. Project Summary**  
by Department /Agency

1/28/2013 Revised

PROJECT	PAGE	FY2014		FY2015		FY2016		FY2017		FY2018	
<b>AIRPORT:</b>											
Equipment Replacement - Loader/Sweeper	17	180,000	F/S								
		10,000	Other								
		10,000	COB								
Equipment Replacement - 15 ft. Mower Attachment	18	15,000	Other								
		15,000	COB								
<b>EMERGENCY 9-1-1:</b>											
Server Upgrade/Virtualization Project - Phase III	19	49,500	Other								
		49,500	CBI								
Replacement/Expansion of Recording System	22			10,750	Other						
				10,750	COB						
Radio Replacement Project	24					1,025,000	Other				
						1,025,000	CBI				
<b>TRANSIT (AVCOG)</b>											
Purchase 2 Replacement Buses for the Fixed	26	320,000	F/S	320,000	F/S	320,000	F/S	360,000	F/S	360,000	F/S
Route Bus System		40,000	Other	40,000	Other	40,000	Other	45,000	Other	45,000	Other
		40,000	COB	40,000	CBI	40,000	CBI	45,000	CBI	45,000	CBI
<b>ECONOMIC &amp; COMMUNITY DEVELOPMENT:</b>											
Acquisition/Demolition Fund	27	350,000	CBI								
		50,000	CD								
Wayfinding Signage	28	50,000	CBI	50,000	CBI						
Acquisition of Lewiston Steam Substation (CMP)	29			253,000	CBI						
Demolition of Bates Mill #5	30	2,500,000	CBI								
Demolition of 411 College St. (former Pettingill School)	31	130,000	CBI								
Riverfront Island Master Plan Implementation	32	720,000	F/S	1,000,000	CBI	1,000,000	CBI	1,000,000	CBI	1,000,000	CBI
Comprehensive Plan: Zoning & Land Use Code Implementation	33	50,000	COB								
<b>City Clerk/ Voter Registration</b>											
Voting Booth Replacement	34	14,700	COB	14,700	COB						
<b>MIS DEPARTMENT:</b>											
Software Replacement	35	221,225	CBI	230,775	CBI						
Hardware Replacement	36	132,600	CBI	130,400	CBI						
Software Upgrades for Current Software	37	42,500	COB								
<b>FIRE DEPARTMENT:</b>											
Apparatus Replacement Engine # 4 (2002 E-One Pumper)	38			500,000	CBI						
<b>PUBLIC WORKS - (BLDG)</b>											
City Parking Garage Wayfinding Signs Improvements - BLDG 1	40	100,000	CBI								
PW Vehicle/Equipment Wash Facility - BLDG 2	41	450,000	CBI								
Main St. Fire Station Expansion - BLDG 3	42			350,000	CBI						
Armory Exterior Envelope Energy Project - BLDG 4	43	200,000	CBI								
City Hall Interior & Exterior Steps Rehab - BLDG 5	44			120,000	CBI	100,000	CBI				
City Buildings Security System - BLDG 6	45			50,000	CBI						
Police Department Building Expansion - BLDG 8	46					50,000	CBI	2,450,000	CBI		
City Hall Window Replacement Project - BLDG 9	47					500,000	CBI				
Sabattus St. Fire Station Relocation or Rehab. - BLDG 10	48							50,000	CBI	1,000,000	CBI
Recreation Dept. Office Renovation - BLDG 11	49							100,000	CBI		
Lisbon St. Fire Station Expansion - BLDG 12	50									50,000	CBI
Central Fire Station Roof Replacement - BLDG 13	51									140,000	CBI



PROJECT	PAGE	FY2014		FY2015		FY2016		FY2017		FY2018	
Kennedy Park Master Plan Improvements	80					152,000	CBI				
Marcotte Park Playground Improvements	81	150,000	Other	150,000	Other						
		75,000	CBI	75,000	CBI						
<b>PUBLIC WORKS - MUNICIPAL GARAGE (MG)</b>											
Equipment Replacement	82	1,348,750	CBI	1,058,000	CBI	981,500	CBI	1,288,000	CBI	1,070,000	CBI
Fleet Tracking System (GPS System)	88									58,000	CBI
<b>SCHOOL DEPARTMENT:</b>											
Martel School: Site Work for 2 Portable Classrooms	89	50,000	SCHBI								
Geiger School: Site Work for 4 Portable Classrooms	90	55,000	SCHBI								
LHS: Waterproof Exterior Walls	91	69,000	SCHBI								
District Classroom Door Lock Replacement		104,000	SCHBI								
Montello School: Restroom Renovations & Flooring Abatement	92			203,000	SCHBI						
Improvements at Lewiston High School	93			177,000	SCHBI						
Montello School Roof Replacement	94					600,000	SCHBI				
New School Project (Replace Martel School)	95							28,500,000	F/S		
								1,500,000	SCHBI		
<b>PUBLIC WORKS - WATER DIVISION (W)</b>											
LAWPC Land Acquisition Program	96	187,558	WOB	174,905	WOB	178,094	WOB	181,379	WOB	184,762	WOB
(Lake Auburn Watershed Protection Commission)		187,558	Other	174,905	Other	178,094	Other	181,379	Other	184,762	Other
Lewiston-Auburn Water Treatment Program	97	250,000	WBI								
		250,000	Other								
Distribution Water Main Replacement/Rehab	98	1,713,000	WBI	1,723,000	WBI	1,705,000	WBI	1,638,400	WBI	1,650,000	WBI
Water Meter Replacement/Testing Program	100	160,000	WBI								
Dual River Crossing	102							2,000,000	WBI		
Water Storage Tanks Mixing System	103	100,000	WBI								
Equipment Replacement Program - Water	104	155,000	WOB	103,000	WOB	43,000	WOB	75,000	WOB	89,000	WOB
<b>PUBLIC WORKS - SEWER DIVISION (S)</b>											
Rehab. of Old Sanitary Sewer Mains	107	556,000	SBI	350,000	SBI	1,000,000	SBI	1,000,000	SBI	1,000,000	SBI
Pump Station Upgrades	108	280,000	SOB	42,000	SOB	56,000	SOB	25,000	SOB	27,000	SOB
Interceptor Inspection & Rehabilitation	110	200,000	SBI								
Inflow/Infiltration Removal Program	112	450,000	SBI	450,000	SBI	50,000	SIF	50,000	SIF	50,000	SIF
Equipment Replacement Program - Sewer	113	47,000	SOB	47,000	SOB	35,000	SOB	35,000	SOB	28,000	SOB
Jepson Brook Drainage Area	114	1,000,000	SBI								
		1,000,000	SWBI								
Oak Street Sewer Separation	115	200,000	SBI								
		200,000	SWBI								
CSO 15 Year Master Plan Update	116	75,000	SBI								
		75,000	SWBI								
<b>PUBLIC WORKS - STORM DRAINAGE (SD)</b>											
Jepson Brook Drainage Area Channel Study Phase II	117	100,000	SWBI								
Hart Brook Water Quality Restoration	118	150,000	SWBI	250,000	SWBI	100,000	SWBI	100,000	SWBI	100,000	SWBI
Storm Drain for Road Rehabilitation Projects	119	282,000	SWBI	192,000	SWBI	217,000	SWBI	175,000	SWBI	200,000	SWBI
Belleview Avenue Drainage Improvements	120	75,000	SWBI								
Gould Road Storm Drain Repair	121	150,000	SWBI								
<b>TOTALS</b>		<b>34,465,891</b>		<b>23,014,185</b>		<b>23,146,688</b>		<b>50,307,158</b>		<b>14,813,524</b>	
<b>City Bond Issue</b>	<b>CBI</b>	<b>7,320,375</b>		<b>5,166,175</b>		<b>5,926,070</b>		<b>7,157,000</b>		<b>4,423,000</b>	
City Operating Budget	COB	1,241,600		999,450		965,765		918,000		902,000	
Community Dev. Block Grant	CD	50,000		50,000		50,000		50,000		50,000	
Federal/State Funding	F/S	13,910,300		11,851,000		10,085,165		34,316,000		5,020,000	
Other Agency/Municipality	Other	4,023,058		625,655		1,493,094		476,379		479,762	
School Operating Budget	SCHOB	-		-		-		-		-	
<b>School Bond Issue</b>	<b>SCHBI</b>	<b>515,000</b>		<b>380,000</b>		<b>632,500</b>		<b>1,500,000</b>		<b>-</b>	

PROJECT	PAGE	FY2014	FY2015	FY2016	FY2017	FY2018
<b>Water Bond Issue</b>	WBI	2,223,000	2,133,000	2,115,000	4,048,400	2,060,000
Water Operating Budget	WOB	342,558	277,905	221,094	256,379	273,762
Sewer Operating Budget		327,000	89,000	91,000	60,000	55,000
<b>Sewer Bond Issue</b>	SBI	2,481,000	1,000,000	1,200,000	1,200,000	1,200,000
Sewer Impact Fees	SIF	-	-	50,000	50,000	50,000
Storm Water Operating Budget	SWOB	-	-	-	-	-
<b>Storm Water Bond Issue</b>	SWBI	2,032,000	442,000	317,000	275,000	300,000
<b>TOTALS</b>		<b>34,465,891</b>	<b>23,014,185</b>	<b>23,146,688</b>	<b>50,307,158</b>	<b>14,813,524</b>
<b>Bond Issues</b>		<b>14,571,375</b>	<b>9,121,175</b>	<b>10,190,570</b>	<b>14,180,400</b>	<b>7,983,000</b>
<b>20yr</b>						
CBI (City Bond Issue)		2,500,000	1,000,000	1,000,000	4,375,000	2,000,000
SCHBI (School Bond Issue)					1,500,000	
WBI (Water Bond Issue)		1,713,000	1,723,000	1,705,000	3,638,400	1,650,000
SBI (Sewer Bond Issue)		2,006,000	450,000	1,000,000	1,000,000	1,000,000
SWBI (Storm Water Bond Issue)		1,000,000				
sub-total		7,219,000	3,173,000	3,705,000	10,513,400	4,650,000
<b>15yr</b>						
CBI (City Bond Issue)		2,788,750	2,608,000	3,801,500	2,113,000	1,780,000
SCHBI (School Bond Issue)				600,000		
WBI (Water Bond Issue)						
SBI (Sewer Bond Issue)		400,000	550,000	200,000	200,000	200,000
SWBI (Storm Water Bond Issue)		482,000	192,000	217,000	175,000	200,000
sub-total		3,670,750	3,350,000	4,818,500	2,488,000	2,180,000
<b>10yr</b>						
CBI (City Bond Issue)		1,374,525	1,092,775	620,000	474,000	350,000
SCHBI (School Bond Issue)		187,000	380,000			
WBI (Water Bond Issue)		410,000	410,000	410,000	410,000	410,000
SBI (Sewer Bond Issue)						
SWBI (Storm Water Bond Issue)						200,000
sub-total		1,971,525	1,882,775	1,030,000	884,000	760,000
<b>5yr</b>						
CBI (City Bond Issue)		657,100	465,400	504,570	195,000	293,000
SCHBI (School Bond Issue)		328,000		32,500		
WBI (Water Bond Issue)		100,000				
SBI (Sewer Bond Issue)		75,000				
SWBI (Storm Water Bond Issue)		550,000	250,000	100,000	100,000	100,000
sub-total		1,710,100	715,400	637,070	295,000	393,000
<b>Total</b>		<b>14,571,375</b>	<b>9,121,175</b>	<b>10,190,570</b>	<b>14,180,400</b>	<b>7,983,000</b>

**FY 2014 Lewiston Capital Imp. Project Summary**  
by Fiscal Year

1/28/2013 Revised

PROJECT	PAGE	FY2014		FY2015		FY2016		FY2017		FY2018
Equipment Replacement - Loader/Sweeper	17	180,000	F/S							
		10,000	Other							
		10,000	COB							
Equipment Replacement - 15 ft. Mower Attachment	18	15,000	Other							
		15,000	COB							
Server Upgrade/Virtualization Project - Phase III	19	49,500	Other							
		49,500	CBI							
Purchase 2 Replacement Buses for the Fixed Route Bus System	26	320,000	F/S	320,000	F/S	320,000	F/S	360,000	F/S	360,000
		40,000	Other	40,000	Other	40,000	Other	45,000	Other	45,000
		40,000	COB	40,000	CBI	40,000	CBI	45,000	CBI	45,000
Acquisition/Demolition Fund	27	350,000	CBI	350,000	CBI	350,000	CBI	350,000	CBI	350,000
		50,000	CD	50,000	CD	50,000	CD	50,000	CD	50,000
Wayfinding Signage	28	50,000	CBI	50,000	CBI					
Acquisition of Lewiston Steam Substation (CMP)	29			253,000	CBI					
Demolition of Bates Mill #5	30	2,500,000	CBI							
Demolition of 411 College St. (former Pettingill School)	31	130,000	CBI							
Riverfront Island Master Plan Implementation	32	720,000	F/S	1,000,000	CBI	1,000,000	CBI	1,000,000	CBI	1,000,000
Comprehensive Plan: Zoning & Land Use Code Implementation	33	50,000	COB							
Voting Booth Replacement	34	14,700	COB	14,700	COB					
Software Replacement	35	221,225	CBI	230,775	CBI					
Hardware Replacement	36	132,600	CBI	130,400	CBI					
Software Upgrades for Current Software	37	42,500	COB							
City Parking Garage Wayfinding Signs Improvements - BLDG 1	40	100,000	CBI							
PW Vehicle/Equipment Wash Facility - BLDG 2	41	450,000	CBI							
Main St. Fire Station Expansion - BLDG 3	42			350,000	CBI					
Armory Exterior Envelope Energy Project - BLDG 4	43	200,000	CBI							
PW Storage & Improvements		310,000	CBI							
Road Rehabilitation Program	52	630,000	CBI	575,000	CBI	570,000	CBI	585,000	CBI	510,000
Street Maintenance Program	53	846,000	COB	874,000	COB	888,000	COB	868,000	COB	862,000
Walnut Street Project	54	360,000	CBI			325,000	CBI			
Lincoln Street Alley Bridge Removal	55	30,000	COB							
Exit 80 Turnpike Interchange Improvements	57	9,200,000	F/S	9,200,000	F/S	6,700,000	F/S	2,500,000	F/S	2,500,000
Main St. Traffic Management Improvements	61	2,251,700	F/S							
		176,300	CBI							
Lewiston Riverside Greenway	62	1,140,000	F/S							
Simard/Payne Bike Pedestrian Path	63	29,600	F/S			288,280	F/S			
		7,400	COB			72,070	CBI			
River Rd. Rehab from South Ave to MTA	65	45,000	F/S			1,080,000	F/S			
						120,000	CBI			
College Street Sidewalk from Montello St. to Geiger School	67	24,000	F/S			232,000	F/S			
		6,000	COB			58,000	CBI			
MTA Old Lisbon Bridge Rehab.	68	2,800,000	Other							
Replace Mercury Street Lighting	73	100,000	COB	100,000	COB	65,000	COB			
Street Light Wiring Replacement	74	70,000	COB							

PROJECT	PAGE	FY2014		FY2015		FY2016		FY2017		FY2018	
Don Roux Field - Artificial Turf	76	376,000	Other								
		187,000	CBI								
		187,000									
Franklin Pasture - Track Resurfacing	77	135,000	Other								
		50,000	CBI								
		50,000									
McMahon Park Improvements	79	10,000	Other								
		10,000	COB								
Marcotte Park Playground Improvements	81	150,000	Other	150,000	Other						
		75,000	CBI	75,000	CBI						
Equipment Replacement	82	1,348,750	CBI	1,058,000	CBI	981,500	CBI	1,288,000	CBI	1,070,000	CBI
Fleet Tracking System (GPS System)	88									58,000	CBI
Martel School: Site Work for 2 Portable Classrooms	89	50,000									
Geiger School: Site Work for 4 Portable Classrooms	90	55,000									
LHS: Waterproof Exterior Walls	91	69,000									
District Classroom Door Lock Replacement		104,000									
LAWPC Land Acquisition Program	96	187,558	WOB	174,905	WOB	178,094	WOB	181,379	WOB	184,762	WOB
(Lake Auburn Watershed Protection Commission)		187,558	Other	174,905	Other	178,094	Other	181,379	Other	184,762	Other
Lewiston-Auburn Water Treatment Program	97	250,000	WBI								
		250,000	Other								
Distribution Water Main Replacement/Rehab	98	1,713,000	WBI	1,723,000	WBI	1,705,000	WBI	1,638,400	WBI	1,650,000	WBI
Water Meter Replacement/Testing Program	100	160,000	WBI								
Dual River Crossing	102							2,000,000	WBI		
Water Storage Tanks Mixing System	103	100,000	WBI								
Equipment Replacement Program - Water	104	155,000	WOB	103,000	WOB	43,000	WOB	75,000	WOB	89,000	WOB
Rehab. of Old Sanitary Sewer Mains	107	556,000	SBI	350,000	SBI	1,000,000	SBI	1,000,000	SBI	1,000,000	SBI
Pump Station Upgrades	108	280,000	SOB	42,000	SOB	56,000	SOB	25,000	SOB	27,000	SOB
Interceptor Inspection & Rehabilitation	110	200,000	SBI								
Inflow/Infiltration Removal Program	112	450,000	SBI	450,000	SBI	50,000	SIF	50,000	SIF	50,000	SIF
Equipment Replacement Program - Sewer	113	47,000	SOB	47,000	SOB	35,000	SOB	35,000	SOB	28,000	SOB
Jepson Brook Drainage Area	114	1,000,000	SBI								
		1,000,000	SWBI								
Oak Street Sewer Separation	115	200,000	SBI								
		200,000	SWBI								
CSO 15 Year Master Plan Update	116	75,000	SBI								
		75,000	SWBI								
Jepson Brook Drainage Area Channel Study Phase II	117	100,000	SWBI								
Hart Brook Water Quality Restoration	118	150,000	SWBI	250,000	SWBI	100,000	SWBI	100,000	SWBI	100,000	SWBI
Storm Drain for Road Rehabilitation Projects	119	282,000	SWBI	192,000	SWBI	217,000	SWBI	175,000	SWBI	200,000	SWBI
Bellevue Avenue Drainage Improvements	120	75,000	SWBI								
Gould Road Storm Drain Repair	121	150,000	SWBI								
City Hall Interior & Exterior Steps Rehab - BLDG 5	44			120,000	CBI	100,000	CBI				
City Buildings Security System - BLDG 6	45			50,000	CBI						
Replacement/Expansion of Recording System	22			10,750	Other						
				10,750	COB						
Apparatus Replacement Engine # 4 (2002 E-One Pumper)	38			500,000	CBI						

PROJECT	PAGE	FY2014	FY2015	FY2016	FY2017	FY2018		
Sabattus St. from Main St. to Pond Rd. Signal Improvements	58		711,000	F/S				
			79,000	CBI				
Lisbon St. Rehab from Chestnut St. to Main St.	59		918,000	F/S				
			102,000	CBI				
Lisbon St., Chestnut St. and Bates St. Signals	60		702,000	F/S				
			78,000	CBI				
Hydro-Electric Generation Turbine Repairs	75		125,000	CBI	400,000	CBI		
Montello School: Restroom Renovations & Flooring Abatement	92		203,000					
Improvements at Lewiston High School	93		177,000					
Radio Replacement Project	24			1,025,000	Other			
				1,025,000	CBI			
Police Department Building Expansion - BLDG 8	46			50,000	CBI	2,450,000	CBI	
City Hall Window Replacement Project - BLDG 9	47			500,000	CBI			
Bartlett St. Rehab from East Ave. to College Street	64			1,350,000	F/S			
				150,000	CBI			
River Rd. Rehab from MTA to Alfred A Plourde Parkway	66			114,885	F/S	2,160,000	F/S	
				12,765	COB	240,000	CBI	
Upper Franklin Lights	78			32,500	CBI			
				32,500				
Kennedy Park Master Plan Improvements	80			152,000	CBI			
Montello School Roof Replacement	94			600,000				
Sabattus St. Fire Station Relocation or Rehab. - BLDG 10	48				50,000	CBI	1,000,000	CBI
Recreation Dept. Office Renovation - BLDG 11	49				100,000	CBI		
Lisbon St. Fire Station Expansion - BLDG 12	50						50,000	CBI
Central Fire Station Roof Replacement - BLDG 13	51						140,000	CBI
Birch Street Road and Sidewalk Rehabilitation	56				925,000	CBI		
Downtown/Riverfront Bicycle and Pedestrian Imp.	69				120,000	F/S		
					30,000	COB		
Bikeway/Pedestrian Path Gully Brook to Boat Ramp	70				496,000	F/S		
					124,000	CBI		
South Avenue from Lisbon Street to Lincoln Street	71				180,000	F/S	1,800,000	F/S
Rehabilitation Project					20,000	COB	200,000	CBI
Lisbon Street - Adams St. to Chestnut St. (pavement preservation)	72						360,000	F/S
New School Project (Replace Martel School)	95				28,500,000	F/S		
					1,500,000			
<b>TOTALS</b>		<b>34,465,891</b>	<b>23,014,185</b>	<b>23,146,688</b>	<b>50,307,158</b>		<b>14,773,524</b>	
<b>City Bond Issue</b>	<b>CBI</b>	7,320,375	5,166,175	5,926,070	7,157,000		4,423,000	
City Operating Budget	COB	1,241,600	999,450	965,765	918,000		862,000	
Community Dev. Block Grant	CD	50,000	50,000	50,000	50,000		50,000	
Federal/State Funding	F/S	13,910,300	11,851,000	10,085,165	34,316,000		5,020,000	
Other Agency/Municipality	Other	4,023,058	625,655	1,493,094	476,379		479,762	
School Operating Budget	SCHOB	-	-	-	-		-	
<b>School Bond Issue</b>	<b>SCHOB</b>	515,000	380,000	632,500	1,500,000		-	
<b>Water Bond Issue</b>	<b>WBI</b>	2,223,000	2,133,000	2,115,000	4,048,400		2,060,000	
Water Operating Budget	WOB	342,558	277,905	221,094	256,379		273,762	
Sewer Operating Budget	SOB	327,000	89,000	91,000	60,000		55,000	

PROJECT	PAGE	FY2014	FY2015	FY2016	FY2017	FY2018
Sewer Bond Issue	SBI	2,481,000	1,000,000	1,200,000	1,200,000	1,200,000
Sewer Impact Fees	SIF	-	-	50,000	50,000	50,000
Storm Water Operating Budget	SWOB	-	-	-	-	-
Storm Water Bond Issue	SWBI	2,032,000	442,000	317,000	275,000	300,000
<b>TOTALS</b>		<b>34,465,891</b>	<b>23,014,185</b>	<b>23,146,688</b>	<b>50,307,158</b>	<b>14,773,524</b>
<b>Bond Issues</b>		<b>14,571,375</b>	<b>9,121,175</b>	<b>10,190,570</b>	<b>14,180,400</b>	<b>7,983,000</b>
<b>20yr</b>						
CBI (City Bond Issue)		2,500,000	1,000,000	1,000,000	4,375,000	2,000,000
SCBI (School Bond Issue)					1,500,000	
WBI (Water Bond Issue)		1,713,000	1,723,000	1,705,000	3,638,400	1,650,000
SBI (Sewer Bond Issue)		2,006,000	450,000	1,000,000	1,000,000	1,000,000
SWBI (Storm Water Bond Issue)		1,000,000				
sub-total		7,219,000	3,173,000	3,705,000	10,513,400	4,650,000
<b>15yr</b>						
CBI (City Bond Issue)		2,788,750	2,608,000	3,801,500	2,113,000	1,780,000
SCBI (School Bond Issue)				600,000		
WBI (Water Bond Issue)						
SBI (Sewer Bond Issue)		400,000	550,000	200,000	200,000	200,000
SWBI (Storm Water Bond Issue)		482,000	192,000	217,000	175,000	200,000
sub-total		3,670,750	3,350,000	4,818,500	2,488,000	2,180,000
<b>10yr</b>						
CBI (City Bond Issue)		1,374,525	1,092,775	620,000	474,000	350,000
SCBI (School Bond Issue)		187,000	380,000			
WBI (Water Bond Issue)		410,000	410,000	410,000	410,000	410,000
SBI (Sewer Bond Issue)						
SWBI (Storm Water Bond Issue)						200,000
sub-total		1,971,525	1,882,775	1,030,000	884,000	760,000
<b>5yr</b>						
CBI (City Bond Issue)		657,100	465,400	504,570	195,000	293,000
SCBI (School Bond Issue)		328,000		32,500		
WBI (Water Bond Issue)		100,000				
SBI (Sewer Bond Issue)		75,000				
SWBI (Storm Water Bond Issue)		550,000	250,000	100,000	100,000	100,000
sub-total		1,710,100	715,400	637,070	295,000	393,000
<b>Total</b>		<b>14,571,375</b>	<b>9,121,175</b>	<b>10,190,570</b>	<b>14,180,400</b>	<b>7,983,000</b>



# CITY OF LEWISTON



## Department of Planning & Code Enforcement

**TO:** Planning Board  
**FROM:** David Hediger, City Planner  
**DATE:** February 7, 2013  
**RE:** February 11, 2013 Planning Board Agenda Item VII(a)

### Review of proposed Lewiston/Auburn Complete Street policy

The Lewiston-Auburn Bicycle Pedestrian Committee has drafted a Complete Streets policy and has requested the Planning Board to review and provide comments. The concept of complete streets includes, but is not limited to, amenities such as pavement markings and signs; street and sidewalk lighting; sidewalk and pedestrian safety improvements; Americans with Disabilities Act and Title VI compliance; transit accommodations; bicycle accommodations including intersection detection and appropriate signage and markings; and streetscapes that appeal to and promote pedestrian use. This policy will be used, in part by the Bicycle Pedestrian Committee to ensure transportation improvements include opportunities to create safer, more accessible streets for all users.

Planning Board involvement is specifically referenced in the policy:

- 9. Performance Measures: where the City Administrator/Manager and/or designee shall report to the Planning Boards and City Councils on an annual basis on the transportation projects undertaken within the prior year and planned within the coming year and the extent to which each of these projects has met the objectives of this policy.
- 10. Implementation: directing the Planning Boards to evaluate changes to the Cities' respective land development codes that will extend the complete streets concept into private developments through appropriate subdivision and site plan regulations.

No specific action is required of the Planning Board. However, the Board may find it appropriate to send a favorable recommendation to the Lewiston-Auburn Bicycle Pedestrian Committee and Lewiston City Council to adopt said policy.

COMPLETE STREETS POLICY

1. Vision

Promoting pedestrian, bicycle, and public transportation travel reduces negative environmental impacts, promotes healthy living, advances the well being of travelers, supports the goal of compact development, and meets the needs of the diverse populations that comprise our communities. The vision of the Cities of Lewiston Auburn (Cities) is of a community in which all residents and visitors, regardless of their age, abilities, or financial resources, can safely and efficiently use the public right-of-way to meet their transportation needs regardless of their preferred mode of travel.

2. Policy

The Cities will plan for, design, construct, operate, and maintain an appropriate and integrated transportation system that will meet the needs of motorists, pedestrians, bicyclists, wheelchair users, transit vehicles and riders, freight haulers, emergency responders, and residents of all ages and abilities.

Transportation facilities that support the concept of complete streets include, but are not limited to, amenities such as pavement markings and signs; street and sidewalk lighting; sidewalk and pedestrian safety improvements; Americans with Disabilities Act and Title VI compliance; transit accommodations; bicycle accommodations including intersection detection and appropriate signage and markings; and streetscapes that appeal to and promote pedestrian use.

The system's design will be consistent with and supportive of local neighborhoods, recognizing that transportation needs vary and must be balanced in a flexible, safe, and cost effective manner.

3. Projects

Those involved in the planning and design of projects within the public right-of-way will give consideration to all users and modes of travel from the start of planning and design work. Transportation improvements shall be viewed as opportunities to create safer, more accessible streets for all users. This shall apply to new construction, reconstruction, and rehabilitation. The L-A Bicycle Pedestrian Committee shall be briefed on potential future projects of this nature during or immediately following the annual development of the city's capital improvement program. This will allow the Committee to provide its views regarding complete streets policy early in the planning and design process.

4. Exceptions

Exceptions to this policy may be made under the circumstances listed below:

- a. Street projects may exclude those elements of this policy that would require the accommodation of street uses prohibited by law;

- b. Ordinary maintenance activities such as mowing, snowplowing, sweeping, spot repair, joint or crack sealing, or pothole filling do not require that elements of this policy be applied beyond the scope of that maintenance activity;
- c. Ordinary maintenance paving projects may only exclude the elements of this policy that would require increasing pavement width. However, when such projects do occur, the condition of existing facilities supporting alternate transportation modes should be evaluated as well as the appropriateness of modifying existing pavement markings and signage that supports such alternate modes. This exception does not apply to street reconstruction projects;
- d. Street reconstruction projects and maintenance paving projects which involve widening pavement may exclude elements of this policy when the accommodation of a specific use is expected to:
  - require more space than is physically available, or
  - be located where both current and future demand is proven absent, or
  - drastically increase project costs and equivalent alternatives exist within close proximity, or
  - have adverse impacts on environmental resources such as streams, wetlands, floodplains, or on historic structures or sites above and beyond the impacts of currently existing infrastructure.

In order for an exception to be granted under the conditions stated above and prior to finalizing the design and budget for the intended project, the City Engineer and Director of Public Works must first consult with the City Planner and City Administrator. If the City Administrator concludes that an exception to the policy is warranted, the Administrator or the staff representative to the L-A Bicycle Pedestrian Committee shall consult with the Committee regarding the project and the requested exception. If, after this consultation, a difference of opinion exists between the Committee and staff regarding an exception that has been granted, the Committee may forward its concerns to the City Council for its consideration.

- e. Street projects may exclude the development of sidewalks in areas falling outside those identified as appropriate for sidewalks on the basis of an adopted sidewalk policy.

## 5. Intergovernmental Cooperation

The Cities will cooperate together and with other transportation agencies including the Maine Department of Transportation (MDOT) and Androscoggin Transportation Resource Center (ATRC) to ensure the principles and practices of complete streets are embedded within their planning, design, construction, and maintenance activities. The two cities will specifically cooperate to ensure the transportation network flows seamlessly between the two communities in accordance with local and regional road, transit, bicycle, and pedestrian plans and mutually agreed upon design criteria.

## 6. Design Criteria

The Cities, through their Public Works and Planning Departments, shall develop and adopt design criteria, standards, and guidelines based upon recognized best practices in street

design, construction, and operation. To the greatest extent possible, the Cities shall adopt the same standards with particular emphasis on pedestrian and bicycle markings and wayfinding signage. Resources to be referenced in developing these standards shall include, but not necessarily be limited to, the latest editions of: American Association of State Highway Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets, Guide for Planning, Designing, and Operating Pedestrian Facilities, and Guide for the Development of Bicycle Facilities; Institute of Transportation Engineers (ITE) Designing Walkable Urban Thoroughfares: A Context Sensitive Approach; National Association of City Transportation Officials (NACTO) Urban Bikeway Design Guide; U.S. Access Board Public Right-of-Way Accessibility Guidelines; Highway Capacity Manual and Highway Safety Manual; and the Manual on Uniform Traffic Control Devices.

The Cities will be permitted to consider innovative or non-traditional design options that provide a comparable level of safety and utility for users as those listed above.

#### 7. Community Context

Implementation of this Policy shall take into account the goal of enhancing the context and character of the surrounding built and natural environments. Transportation facilities, including roads, should be adapted to fit and enhance the character of the surrounding neighborhood.

#### 8. Network

Special attention should be given to projects which enhance the overall transportation system and its connectivity. Specifically, high priority should be given to:

- a. Corridors providing primary access to one or more significant destination such as a parks or recreation areas, schools, shopping/commercial areas, public transportation, or employment centers;
- b. Corridors serving a relatively high number of users of non-motorized transportation modes;
- c. Corridors providing important continuity or connectivity links to existing pedestrian or bicycle networks;
- d. Projects identified in regional or local bicycle pedestrian plans prepared by organizations such as the ATRC, Androscoggin Land Trust (ALT), and other associated groups.

#### 9. Performance Measures

The City Administrator/Manager and/or designee shall report to the Planning Boards and City Councils on an annual basis on the transportation projects undertaken within the prior year and planned within the coming year and the extent to which each of these projects has met the objectives of this policy.

#### 10. Implementation

This policy will be primarily implemented through developing bike and pedestrian network plans on a regional basis through ATRC and within the Cities through the Joint Bicycle Pedestrian Committee. These plans shall specify the type and location of improvements and shall be implemented as funding becomes available or routine work is completed. Special emphasis shall be placed on those elements of these plans that can be accomplished with

little or no additional expense, such as providing bike lanes where existing pavement is adequate or where road shoulders are sufficient to allow for safe bicycle use.

Additional implementation activities will include, but not be limited to: developing project checklists that incorporate complete streets elements in the Cities' overall design processes; establishing design manuals that clearly set forth the standards to be followed for bike and pedestrian installations including signs and markings; and directing the Planning Boards to evaluate changes to the Cities' respective land development codes that will extend the complete streets concept into private developments through appropriate subdivision and site plan regulations.

Right-of-Way projects included within the Cities' annual or multi-year capital improvement plans shall specifically reference how the project addresses complete streets issues.



# CITY OF LEWISTON

## Department of Planning & Code Enforcement



**TO:** Planning Board  
**FROM:** David Hediger, City Planner  
**DATE:** February 7, 2013  
**RE:** February 11, 2013 Planning Board Agenda Item VII(b)

### **Initiate an amendment to adopt the state's new flood plain management ordinance.**

Staff requesting the Planning Board make a motion pursuant to Article XVII, Section 5(b)(1)(c) of the Zoning and Land Use Code for staff to schedule a public hearing to consider a proposed amendment to update Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code.

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation of flood hazards in Lewiston. Said re-evaluation has resulted in revised Flood Insurance Rate Maps (FIRM), Base Flood Elevations (BFE), and a new Flood Insurance Study (FIS). Because the FIS establishing revised BFE's for Lewiston has been completed, the National Flood Insurance Act of 1968 requires Lewiston to update their Flood Management Ordinances prior to July 8, 2013 to reference the newest FIRM's and FIS. Communities that fail to revise their ordinances will be suspended from participating in the National Flood Insurance Program (NFIP). Participation in the NFIP provides Lewiston a number of benefits including eligibility for disaster funding when the community is declared a disaster area and the availability of flood insurance to those who have federally backed mortgages in the floodplain. In addition, since 1993 Lewiston has participated in the NFIP's Community Rating System (CRS) providing flood insurance holders a 10% discount on flood insurance policies.

Updating the Floodplain Ordinance will ensure Lewiston remains in good standing with FEMA as a community participating in the NFIP and the CRS.

### **ACTIONS NECESSARY**

- Make a motion pursuant to Article XVII, Section 5(b)(1)(c) of the Zoning and Land Use Code for staff to schedule a public hearing to consider a proposed amendment to update Article XIV, Floodplain Administration and Management, of the Zoning and Land Use Code.

AN ORDINANCE PERTAINING TO ZONING AND LAND USE:  
FLOODPLAIN ADMINISTRATION AND  
MANAGEMENT

THE CITY OF LEWISTON HEREBY ORDAINS:

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

**Sec. 2. Definitions.**

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

~~Area of shallow flooding means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.~~

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

Elevated building means a nonbasement building (a) built, in the case of a building in Zones ~~A1-30~~ or A or AE, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one (1) foot above the magnitude of the base flood. In the case of Zones ~~A1-30~~ or A or AE, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls ~~less than three (3) feet in height~~ with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article XIV, Section 6(l).

Elevation certificate means an official form (FEMA Form 81-31, ~~07/00, as amended~~) that (a) is used to verify compliance with the flood plain management regulations of the national flood insurance program; and, (b) is required as a condition for purchasing flood insurance.

~~Flood boundary and floodway map means the official map delineating floodway and flood hazard boundaries as determined by the Federal Insurance Administration.~~

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

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

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

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

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

## APPENDIX A – ZONING AND LAND USE CODE

### ARTICLE IX. APPEALS

#### **Sec. 3. Standards for the granting of appeals.**

The Board of appeals shall grant an appeal only when it finds that the following standards have been met:

- (1) Administrative appeals. That the code enforcement official erred in either his interpretation of the Code or in the application of the Code to the particular circumstances of the application. If the board of appeals finds that the code enforcement official correctly interpreted and applied the provisions of this Code, the board shall affirm his decision. If the board finds that the code enforcement official erred in the interpretation or application of the Code, the decision of the code enforcement official shall be reversed and the board shall make an

official interpretation of the Code to be used by the code enforcement official.

(2) Variances.

c. Variance from the floodplain management standards of article XIV.

1. The board of appeals shall grant a variance from the floodplain management standards of article XIV only when it finds that the granting of the variance:

a. Within any designated regulatory floodway will not result in an increase in flood levels during the base flood discharge;

b. Is supported by good and sufficient cause;

c. Will not result, should a flood comparable to the base flood occur, in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances;

d. Will not cause a conflict with other state, federal or local laws or ordinances; ~~and~~

e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the board of appeals may impose such conditions to a variance as it deems necessary; ~~and.~~

f. Would result in "undue hardship," which in this subsection means:

i. a. that the land in question cannot yield a reasonable return unless a variance is granted; and.

ii. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and.

iii. that the granting of a variance will not alter the essential character of the locality; and.

iv. that the hardship is not the result of action taken by the applicant or a prior owner.

2. The board of appeals shall grant a variance for new construction, substantial improvements, or other development for the conduct of a functionally dependent use only when it finds that:

a. Other criteria of article IX and article XIV, subsection 6(k) are met; and

b. The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

3. The board of appeals may grant a variance for the

reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places. upon the determination that:

- a. The development meets the criteria of subsections 3(2)(a) through(d) above; and
  - b. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
4. Any applicant who meets the criteria of article IX, subsections (a) through (e) shall be notified by the board of appeals in writing over the signature of the chairman of the board of appeals that:
  - a. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25.00 per \$100.00 of insurance coverage;
  - b. Such construction below the base flood level increases risks to life and property; and,
  - c. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain; and,
5. The board of appeals shall submit to the code enforcement official a report of all variance actions, including justification for the granting of the variance and an authorization for the code enforcement official to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

**APPENDIX A – ZONING AND LAND USE CODE**  
**ARTICLE XIV. FLOODPLAIN ADMINISTRATION AND MANAGEMENT\***

\*Editor's note: Retitled

**Sec. 1. Applicability.**

Certain areas of the City of Lewiston, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

The City of Lewiston, Maine is a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance. It is the intent of the City of Lewiston, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The City of Lewiston has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., §§ 3001--3007, 4352 and 4401--4407. The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the City of Lewiston having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the City of Lewiston, Maine.

~~The areas of special flood hazard, Zones A and A1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study—City of Lewiston, Maine, Androscoggin County," dated March 1979 with accompanying "Flood Insurance Rate Map" dated September 28, 1979 and "Flood Boundary and Floodway Map" dated September 28, 1979, which are hereby adopted by reference and declared to be a part of this Article.~~

The areas of special flood hazard, Zones A and AE for the City of Lewiston, Androscoggin County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Androscoggin County" dated July 8, 2013 with accompanying "Flood Insurance Rate Map" dated July 8, 2013 with panels: 212D, 214D, 216D, 218D, 219D, 238D, 326D, 327D, 328D, 329D, 331D, 332D, 333D, 334D, 337D, 341D, 342D, 343D, 344D, 351D, 353D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Androscoggin County," are hereby adopted by reference and declared to be a part of this Ordinance.

(Ord. No. 06-05, 4-20-06)

## **Sec. 2. Permit required.**

Before any construction or other development, including the placement of manufactured homes, begins within any areas of special flood hazard established in Article XIV, Section 1, a flood hazard development permit shall be obtained from the code enforcement official. This permit shall be in addition to any other permits which may be required pursuant to the Code of Ordinances of the City of Lewiston, Maine.  
(Ord. No. 06-05, 4-20-06)

## **Sec. 3. Application for permit.**

The application for a flood hazard development permit shall be submitted to the planning and code enforcement office and shall include:

- (1) The name, address and phone number of the applicant, owner, and contractor;
- (2) An address and a map indicating the location of the construction site;
- (3) A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- (4) A statement of the intended use of the structure and/or development;
- (5) A statement of the cost of the development including all materials and labor;
- (6) A statement as to the type of sewage system proposed;
- (7) Specification of dimensions of the proposed structure and/or development; [Items (8)--(11)b. apply only to new construction and substantial improvements.]
- (8) The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
  - a. Base flood at the proposed site of all new or substantially improved structures, which is determined:
    1. In ~~Zones A1-30~~ Zone AE, from data contained in the "Flood Insurance Study--City of Lewiston, Maine," as identified in Section 1; or
    2. In Zone A:
      - (a) From any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 6(k). and Section 8(d);
      - (b) From the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS quadrangle map or other topographic map prepared by a professional land surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
      - (c) To be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
  - b. Highest and lowest grades at the site adjacent to the walls of the proposed building;
  - c. Lowest floor, including basement; and whether or not such structures contain a basement; and
  - d. Level, in the case of non-residential structures only, to which the structure will be floodproofed;
- (9) A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6;
- (10) A written certification by a professional land surveyor, registered professional

engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

- (11) The following certifications as required in Section 6 by a registered professional engineer or architect:
    - a. A floodproofing certificate (FEMA Form 81-65, ~~08/99, as amended~~), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3(8)d; Section 6(g); and other applicable standards in Section 6;
    - b. A hydraulic openings certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6(l)2;
    - c. A certified statement that bridges will meet the standards of Section 6(m);
    - d. A certified statement that containment walls will meet the standards of Section 6(n);
  - (12) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
  - (13) A statement of construction plans describing in detail how each applicable development standard in Section 6 will be met.
- (Ord. No. 06-05, 4-20-06)

#### **Sec. 4. Application fee and experts fees.**

A fee may be charged if the code enforcement official and/or reviewing board needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten (10) days after the City of Lewiston submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the city at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the board of appeals.

(Ord. No. 06-05, 4-20-06)

#### **Sec. 5. Review standards for flood hazard development permit applications.**

The code enforcement official shall:

- (1) Review all applications for the flood hazard development permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article XIV, Section 6, have been, or will be met;
- (2) Utilize, in the review of all flood hazard development permit applications:
  - a. The base flood data contained in the "Flood Insurance Study--City of Lewiston, Maine," as described in Article XIV, Section 1;
  - b. In special flood hazard areas where base flood elevation data are not provided, the code enforcement official shall obtain, review and

reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3(8)a.2.; Section 6(k); and Section 8(d), in order to administer Section 6 of this Article; and

- c. When the community establishes a base flood elevation in a Zone A by methods outlined in Section 3(8)a.2, the community shall submit that data to the Maine Floodplain Management Program in the state planning office.
- (3) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 1 of this Article;
  - (4) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - (5) Notify adjacent municipalities, the department of environmental protection, and the Maine Floodplain Management Program ~~in the state planning office~~ prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - (6) If the application satisfies the requirements of this Article, approve the issuance of one (1) of the following flood hazard development permits based on the type of development:
    - a. A two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the code enforcement official with an elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Section 6(f), (g), or (h). Following review of the elevation certificate data, which shall take place within seven (7) days of receipt of the application, the code enforcement official shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; or
    - b. A flood hazard development permit for floodproofing of non-residential structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6(g)1.a., b. and c. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or
    - c. A flood hazard development permit for minor improvement for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. Minor improvement also includes, but is not limited to: accessory structures as provided for in Section 6(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not

involve structures; and non- structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

- (7) Maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the board of appeals on variances granted under the provisions of Article IX, Section 3 of this Article, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of Section 3, 6 and 7 of this Article.

(Ord. No. 06-05, 4-20-06)

## **Sec. 6. Development standards.**

All developments in areas of special flood hazard shall meet the following applicable standards:

- (a) All development--All development shall:
  - (1) Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - (2) Use construction materials that are resistant to flood damage;
  - (3) Use construction methods and practices that will minimize flood damage; and
  - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (b) Water supply. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (c) Sanitary sewage systems. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) On-site waste disposal systems. On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- (e) Watercourse carrying capacity. All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- (f) Residential. New construction or substantial improvement of any residential structure located within:
  - (1) Zone ~~AE1-30~~ shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation.
  - (2) Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(8)a.2; Section 5.2; or Section 8(d).
- (g) Non-residential. New construction or substantial improvement of any non-residential structure located within:

- (1) Zone ~~AE1-30~~ shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. Be floodproofed to at least one (1) foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - c. Be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Section 3(11) and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
  - (2) Zone A shall have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(8)a.2; Section 5.2; or Section 8(d)., or
    - a. Together with attendant utility and sanitary facilities meet the floodproofing standards of Section 6(g)1.
- (h) Manufactured homes. New or substantially improved manufactured homes located within:
- (1) ~~Zone A1-30~~ shall:
    - a. Be elevated such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation;
    - b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and
    - c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
      1. Over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require one (1) additional tie per side); or by
      2. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four (4) additional ties per side.
      3. All components of the anchoring system described in Section 6(h)1.c.(1) and (2) shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.

- (2) Zone A shall:
  - a. Be elevated on a permanent foundation, as described in Section 6(h).1.b., such that the lowest floor (including basement) of the manufactured home is at least one (1) foot above the base flood elevation utilizing information obtained pursuant to Section 3(h).1.b; Section 5-2; or Section 8.d; and
  - b. Meet the anchoring requirements of Section 6(h)1.c.
  
- (i) Recreational vehicles. Recreational vehicles located within:
  - (1) Zones ~~A1-30~~ A and AE shall either:
    - a. Be on the site for fewer than one hundred eighty (180) consecutive days,
    - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
    - c. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6(h)1.
  
- (j) Accessory structures. Accessory structures, as defined in Article II, Section 2 of this Article, located within ~~Zones A1-30 and A~~ A and AE, shall be exempt from the elevation criteria required in Section 6(f) and (g). above, if all other requirements of Section 6 and all the following requirements are met. Accessory structures shall:
  - (1) Be five hundred (500) square feet or less and have a value less than three thousand dollars (\$3,000.00);
  - (2) Have unfinished interiors and not be used for human habitation;
  - (3) Have hydraulic openings, as specified in Section 6(l)2., in at least two (2) different walls of the accessory structure;
  - (4) Be located outside the floodway;
  - (5) When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and
  - (6) Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.
  
- (k) Floodways.
  - (1) In Zones ~~AE1-30~~ riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "~~Flood Boundary and Floodway Map;~~" Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - (2) In Zones ~~A1-30 and A~~ A and AE riverine areas for which no regulatory floodway is designated, encroachments, including fill, new

construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6(k)3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. Will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community; and
  - b. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study-- Guidelines and Specifications for Study Contractors, (FEMA 37, January 1995, as amended).
- (3) In Zones ~~A1-30~~ and A and AE riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half ( 1/2) the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- (l) Enclosed areas below the lowest floor. New construction or substantial improvement of any structure in Zones ~~A1-30~~ and A and AE that meets the development standards of Section 6, including the elevation requirements of Section 6(f), (g), or (h) and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
- (1) Enclosed areas are not "basements" as defined in Section 8;
  - (2) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
    - a. Be engineered and certified by a registered professional engineer or architect; or
    - b. Meet or exceed the following minimum criteria:
      1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area;
      2. The bottom of all openings shall be below the base flood elevation and no higher than one (1) foot above the lowest grade; and
      3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
  - (3) The enclosed area shall not be used for human habitation; and
  - (4) The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- (m) Bridges. New construction or substantial improvement of any bridge in Zones ~~A1-30~~ and AE shall be designed such that:
- (1) When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one (1) foot above the base flood elevation; and

- (2) A registered professional engineer shall certify that:
  - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6(k); and
  - b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- (n) Containment walls. New construction or substantial improvement of any containment wall located within:
  - (1) Zones ~~A1-30 and A~~ and AE shall:
    - a. Have the containment wall elevated to at least one (1) foot above the base flood elevation;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by Section 3(8).
- (o) Wharves, piers and docks. New construction or substantial improvement of wharves, piers, and docks are permitted in zones ~~A1-30 and A~~ and AE, in and over water and seaward of the mean high tide if the following requirements are met:
  - (1) Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  - (2) For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

(Ord. No. 06-05, 4-20-06)

### **Sec. 7. Certificate of compliance.**

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a certificate of compliance is issued by the code enforcement official subject to the following provisions:

- a. For New construction or substantial improvement of any elevated structure the applicant shall submit to the code enforcement official, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with Section 6(f), (g), or (h).
- b. The applicant shall submit written notification to the code enforcement official that the development is complete and complies with the provisions of this ordinance.
- c. Within ten (10) working days, the code enforcement official shall:
  - 1. Review the elevation certificate and the applicant's written notification;

- and
2. Upon determination that the development conforms with the provisions of this ordinance, shall issue a certificate of compliance.
- (Ord. No. 06-05, 4-20-06)

### **Sec. 8. Review of subdivisions and development proposals**

The planning board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five (5) or more disturbed acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:

- (a) All such proposals are consistent with the need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- (e) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a special flood hazard area, are to be constructed in accordance with Section 6 of this Article. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the planning board or local reviewing authority as part of the approval process.

(Ord. No. 06-05, 4-20-06)

### **Sec. 9. Enforcement and penalties**

- (a) It shall be the duty of the code enforcement official to enforce the provisions of this Article pursuant to Title 30-A M.R.S.A. § 4452.
- (b) The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this Article.
- (c) In addition to any other actions, the code enforcement official, upon determination that a violation exists, ~~shall~~ may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  - (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

- (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
  - (5) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.
- (Ord. No. 06-05, 4-20-06)

**Sec. 10. Validity and severability.**

If any section or provision of this Article is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Article.

(Ord. No. 06-05, 4-20-06)

**Sec. 11. Conflict with other ordinances.**

This Article shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Article shall control.

(Ord. No. 06-05, 4-20-06)

**Sec. 12. Abrogation.**

This Article repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

(Ord. No. 06-05, 4-20-06)

**Reason For Proposed Amendment**

The Federal Emergency Management Agency (FEMA) has completed a re-evaluation of flood hazards in Lewiston. Said re-evaluation has resulted in revised Flood Insurance Rate Maps (FIRM), Base Flood Elevations (BFE), and a new Flood Insurance Study (FIS). Because the FIS establishing revised BFE's for Lewiston has been completed, the National Flood Insurance Act of 1968 requires Lewiston to update their Flood Management Ordinances prior to July 8, 2013 to reference the newest FIRM's and FIS. Communities that fail to revise their ordinances will be suspended from participating in the National Flood Insurance Program (NFIP). Participation in the NFIP provides Lewiston a number of benefits including eligibility for disaster funding when the community is declared a disaster area and the availability of flood insurance to those who have federally backed mortgages in the floodplain. In addition, since 1993 Lewiston has participated in the NFIP's Community Rating System (CRS) providing flood insurance holders a 10% discount on flood insurance policies. Updating the Floodplain Ordinance will ensure Lewiston remains in good standing with FEMA as a community participating in the NFIP and the CRS.

**Conformance with the Comprehensive Plan**

- Review permitting and licensing policies and practices to see where they can be streamlined in order to better service the development community. . . (see

Economy, Policy 1, Strategy C, p 39).

- Avoid the problems associated with floodplain development and use by continuing to regulate land use through provision of the City's floodplain management standards including restrictive rezoning and continuing to work with FEMA's CRS program.



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY

93 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0093

DAVID H.  
WALTER E. WHITCOMB  
COMMISSIONER

January 10, 2013

Mr. Edward Barrett, City Administrator  
City of Lewiston  
27 Pine Street  
Lewiston, Maine 04240-7298

[Certified Mail]

RE: Updated ordinance requirement for compliance with the National Flood Insurance Program (NFIP)

Dear Mr. Barrett:

Your community should have recently received a Letter of Final Determination (LFD) from the Federal Emergency Management Agency (FEMA) which sets the effective date of the new digital flood maps for all of Androscoggin County for July 8, 2013. This letter marks the beginning of a six month time period for communities to update their Floodplain Management Ordinances to reflect any changes since the last ordinance was adopted and to incorporate the new map date. **Your community must adopt an updated Floodplain Management Ordinance which references the new map date on or before July 8, 2013 in order to avoid being immediately suspended from the NFIP.**

Enclosed is a copy of the most current state model Floodplain Management Ordinance that has been customized specifically for your community. Participation in the NFIP provides protection to those members of your community who may be affected by flooding. One of the most important benefits is your town's eligibility for disaster funding to repair roads damaged by flooding when your county is in a declared disaster area. In addition, flood insurance is available to those who have federally backed mortgages in the floodplain. This is all possible by way of your community's commitment to adopt, administer and enforce its floodplain ordinance and your commitment to regulate development within flood prone areas.

Adoption of the new maps prior to the final map date will assure uninterrupted and continued participation in the NFIP. The enclosed ordinance contains all the changes that have occurred at the federal and state level since your ordinance was last adopted. Also enclosed is an instruction sheet that explains the ordinance adoption process. Since FEMA has very specific requirements regarding ordinance language we encourage communities to adopt the ordinance without changes. However, if you would like to make any changes, you should discuss them with this office prior to local consideration. This is to ensure that the ordinance remains compliant.

**Please make sure your community does not adopt any prior versions of the ordinance that we may have previously sent to your community.**

We filled in the application fee (in Article III) using the ordinance that is in effect now for your community. The application fee is set by the municipality so if you would like to review other fee options or change it, just let us know.

PHONE: (207) 287-2801

17 ELKINS LANE, WILLIAMS PAVILION  
www.maine.gov/acf

FAX: (207) 287-2353

Some communities have expressed concern about adopting maps that do not become effective until several months after they are adopted. Please note that is acceptable for the community to set the effective date of the ordinance to coincide with the day the new maps become effective.

Once your ordinance has been adopted, and certified by the Town Clerk, please send this office an electronic copy (if possible) and two (2) certified printed copies. We will forward one copy each to the FEMA regional office and the regional planning commission. An electronic copy will be filed here at the Maine Floodplain Management Program.

**Please provide us with contact information for the person who will be responsible locally for coordinating the ordinance update process. We would also like to know the scheduled dates for your public hearing and town meeting as we must track this information for all of Androscoggin County.** Please contact Janet Parker at 287-9981 or [janet.parker@maine.gov](mailto:janet.parker@maine.gov) as soon as this information is available.

Over the next few months we expect to host at least two outreach meetings in Androscoggin County. Usually one is scheduled for the afternoon and one in the early evening. These will be public informational sessions so that we can answer questions as to how folks will be affected by the new maps, particularly with regard to flood insurance. We hope you will have at least one local official in attendance and that you'll spread the word so that property owners have the opportunity to get their individual questions answered. Please feel free to contact me (287-8063 or [sue.baker@maine.gov](mailto:sue.baker@maine.gov)), Joe (287-8051 or [joseph.young@maine.gov](mailto:joseph.young@maine.gov)), or Janet (298-9981 or [janet.parker@maine.gov](mailto:janet.parker@maine.gov)) at any time throughout this process if you have questions or need additional assistance.

Best Regards,



Sue Baker, CFM  
State NFIP Coordinator

Enclosures: Customized 2013 Model Ordinance  
Adoption Instructions

Cc: Gil Arsenault, Code Enforcement Officer  
David Hediger, City Planner



David H

Federal Emergency Management Agency  
Washington, D.C. 20472

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:  
19P

January 8, 2013

The Honorable Robert E. Macdonald  
Mayor, City of Lewiston  
City Hall  
27 Pine Street  
Lewiston, Maine 04240

Community: City of Lewiston,  
Androscoggin County, Maine  
Community No.: 230004  
Map Panels Affected: See FIRM Index

Dear Mayor Macdonald:

This is to formally notify you of the final flood elevation determination for the City of Lewiston, Androscoggin County, Maine (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood elevations shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

On September 28, 1979, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas subject to inundation by the base (1-percent-annual-chance) flood, in your community. Recently, FEMA completed a re-evaluation of flood hazards in your community. On May 2, 2011, FEMA provided you with Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community, including Base Flood Elevations (BFEs). The proposed BFEs for your community were published in the *Sun Journal* on May 31, 2012, and June 7, 2012 and in the *Federal Register*, at Part 67, Volume 75, Pages 25495 and 25496, on April 30, 2012.

The statutory 90-day appeal period, which was initiated on the second newspaper publication date cited above, has ended. FEMA did not receive any appeals of the proposed BFEs during that time. Accordingly, the BFEs for your community are considered final. The final rule for BFEs will be published in the *Federal Register* as soon as possible. The FIRM for your community will become effective on July 8, 2013. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS report establishing the BFEs for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to July 8, 2013, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d) of the NFIP regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d);
2. Adopting all the standards of Paragraph 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

In addition to your community using the FIS report and FIRM to manage development in the floodplain, FEMA will use the FIS report and FIRM to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified SFHAs. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the BFEs established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based are being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIS report and FIRM for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions has been combined into one FIS report and FIRM. When the FIS report and FIRM are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your community.

The FIRM panels have been computer-generated. Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our FEMA Map Information eXchange (FMIX), toll free, at 1-877-FEMA MAP (1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures required to continue participation in the NFIP, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA Region I, in Boston, Massachusetts, at (617) 956-7506 for assistance. If you have any questions concerning mapping issues in general, or the enclosed Summary of Map Actions, please call FMIX at the telephone number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the NFIP*, *Frequently Asked Questions Regarding the Effect that Revised Flood Hazards have on Existing Structures*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling FMIX.

Sincerely,



Luis Rodriguez, P.E., Chief  
Engineering Management Branch  
Federal Insurance and Mitigation Administration

Enclosure:

Final Summary of Map Actions

cc: Community Map Repository

Gildace J. Arsenault, Planning and Code Enforcement Director, City of Lewiston

## FINAL SUMMARY OF MAP ACTIONS

Community: LEWISTON, CITY OF

Community No: 230004

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 8, 2013.

## 1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

## 2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	02-01-1048A	06/12/2002	332 RUSSELL STREET EXT.	2300040010B	23001C0331E
LOMA	04-01-0446A	02/26/2004	1222 SABATTUS STREET	2300040010B	23001C0332E
LOMA	08-01-1025A	07/24/2008	COLLEGE GREEN, LOT 4 -- 9 BOWDOIN DRIVE	2300040005B	23001C0218E
LOMA	10-01-0806A	03/04/2010	10 Tall Pines Road	2300040005B	23001C0214E

## 3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

## FINAL SUMMARY OF MAP ACTIONS

Community: LEWISTON, CITY OF

Community No: 230004

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
LOMA	199500243R01	03/29/1995	UNAVAIABLE	1
LMMP-L	95-01-075P	08/30/1995	JEPSON BROOK	4
LOMA	00-01-0406A	03/03/2000	10 FALCON ROAD	2
LOMA	12-01-1159A	03/15/2012	TAX MAP 190, LOT 5 -- 20 TALL PINES DRIVE	2

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

#### 4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

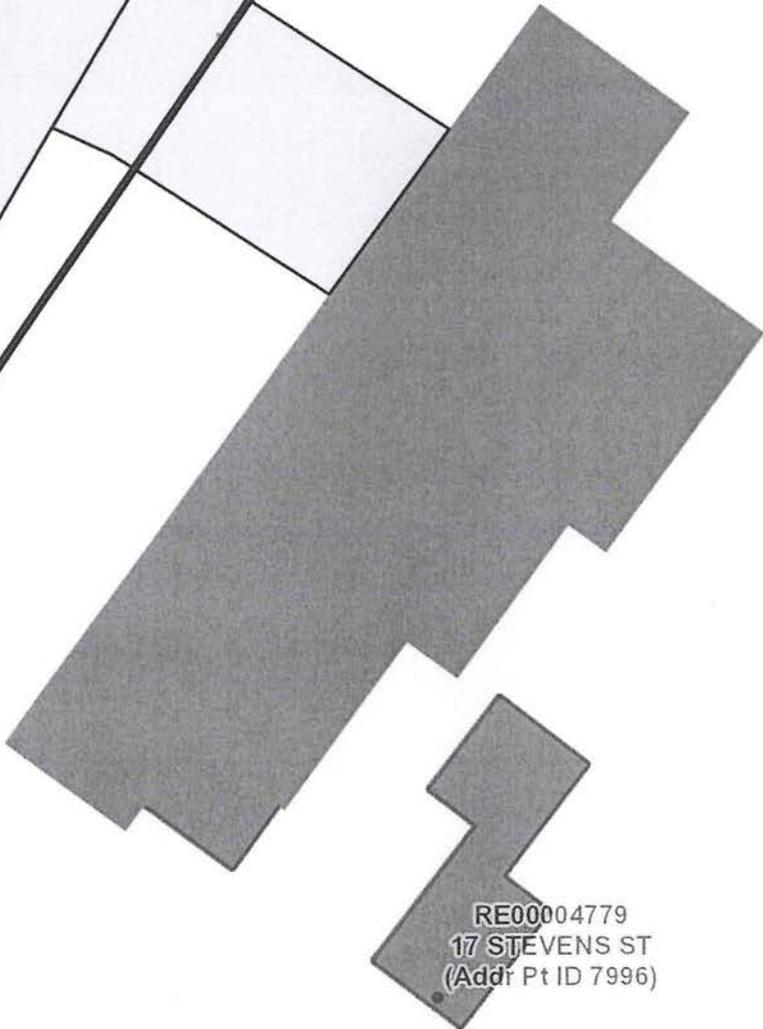
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MARION ST.

STEVENS ST.

JANELLE ST.

STEVENS ST.  
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(Addr Pt ID 7996)



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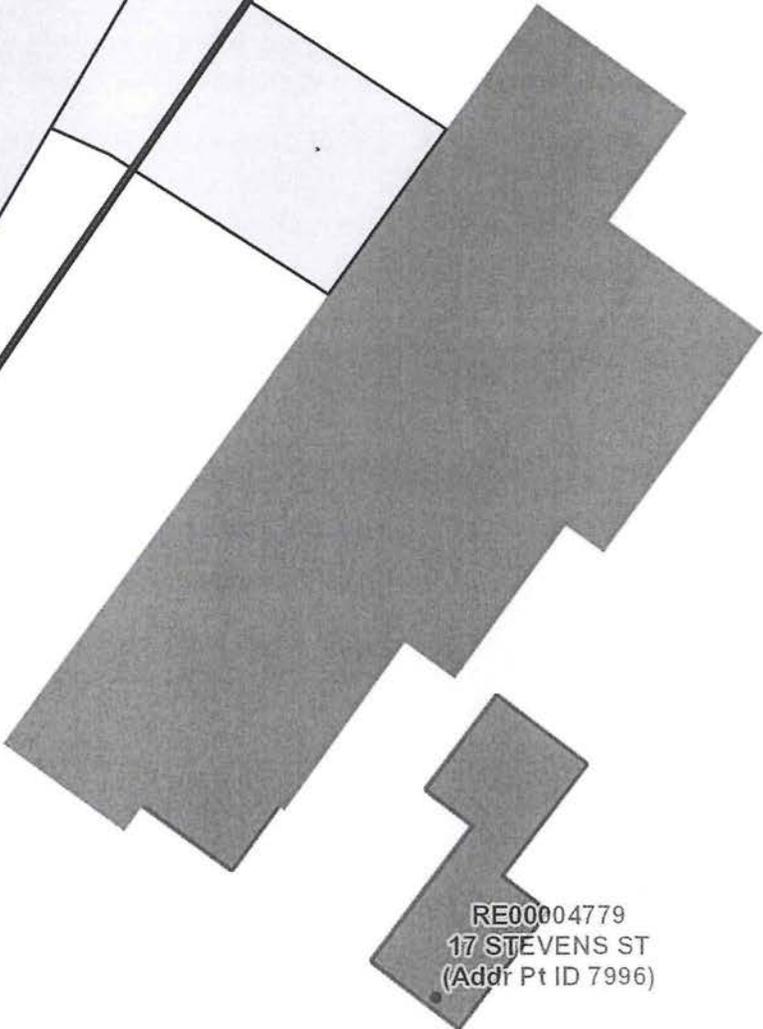
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