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.
(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 permit s 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, 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 permit s 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 A1-30 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 A1-30 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) Zone A1-30 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, 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 A1-30 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," 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 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 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 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 A 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 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, 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 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)