

Chapter 21

PLANNING AND DEVELOPMENT*

- Art. I. In General, §§ 21-1—21-15
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ARTICLE I. IN GENERAL

Sec. 21-1. Official map.

The city, through the planning board, may adopt and amend an official map showing the location of public ways and other public property, ways used in common by more than two (2) owners of abutting property and approved subdivisions. The map may include all or part of the city, and the following provisions apply only to that area outlined on the adopted map:

- (1) When the official map has been approved by the city council, the map shall be filed in the office of the city clerk. All amendments to the map shall be approved by the city council, and all amendments so approved shall be recorded by the city clerk.
- (2) The lines of ways, public property and subdivisions established or modified after adoption of the official map shall be added to the map and become part of it. The planning board shall prepare the map and keep it current.
- (3) On the official map, the planning board may place lines of planned new and/or modified ways and public property which are in conformance with the city comprehensive plan.

*Cross references—Buildings, Ch. 7; subdivisions, Ch. 25; house number

§ 21-1

LEWISTON CODE

(4) The placing of a line
constitute

§ 21-3

LEWISTON CODE

Secs. 21-3—21-15. Reserved.

ARTICLE II. PLANNING BOARD*

Sec. 21-16. Purpose.

The purpose of this article is to establish the organization, authority and responsibilities of the Lewiston Planning Board. (Code 1970, as amended, § 2-650; Ord. No. 80-2, § 2-650, 2-14-80)

Sec. 21-17. Authority.

The Lewiston Planning Board is established under authority of Article VIII-A of the Maine Constitution, Title 30, Section 1917 of the Maine Revised Statutes Annotated, and Section 4.05 of the city charter. (Code 1970, as amended, § 2-651; Ord. No. 80-2, § 2-651, 2-14-80)

Sec. 21-18. Organization and rules.

(a) A quorum necessary to conduct an official meeting of the Lewiston Planning Board shall consist of at least four (4) members.

(b) The concurring vote of at least four (4) members is required to constitute an action on any matter requiring a public hearing.

(c) All seven (7) members enjoy the same rights and privileges regardless of any planning board office that they may hold.

(d) The mayor or chairman may call special meetings of the board.

... recommendation by the city council

(g) No member of the board shall participate in the hearing or disposition of any matter in which he or she has an interest. Any questions of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified. (Code 1970, as amended, § 2-652; Ord. No. 80-2, § 2-652, 2-14-80)

Cross references—Parliamentary procedure at board meetings, § 2-3; notice of meetings, § 2-11.

Sec. 21-19. Powers and duties.

(a) The Lewiston Planning Board shall prepare and maintain a comprehensive plan as defined in Title 30, Section 4961 of the Maine Revised Statutes Annotated and shall review and make recommendations on all investigations, reports and plans relating to the planning and development of the city or affecting the comprehensive plan.

(b) The board shall perform duties as prescribed by ordinance and state statute including, but not limited to, approving or disapproving subdivisions, making recommendations on amendments to the zoning ordinance, approving or disapproving site location of major development permits and implementing other land development control ordinances.

(c) The board shall perform duties as requested by the city council and may perform duties upon request of other public agencies.

(d) The board shall review the annual capital program and report to the city council prior to October fifteenth 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 shall be undertaken. The board shall hold at least one public hearing prior to making its recommendations to the city council.

(e) All capital expenditures costing one hundred thousand dollars (\$100,000.00) or more, not included in the annual capital program, shall be referred to the board for a review and recommendation.

(f) The board shall prepare and maintain the Official Map.

(g) The board may provide assistance and recommendations to any municipal department on matters affecting the comprehensive plan. Each officer and department of the city shall give all reasonable aid, cooperation and information to the board.

(h) The acquisition, except through tax mortgage lien foreclosure (36 M.R.S.A. § 942), and disposition of all public ways, lands, buildings and other municipal facilities shall be referred to the board for a review and recommendation.

(i) Such powers and duties as described in this section 21-19 above shall be subject to the powers and duties assigned to the Historic Preservation Review Board, in Article V, Chapter 21 of this Code. (Code 1970, as amended, § 2-653; Ord. No. 80-2, § 2-653, 2-14-80; Ord. No. 83-1, 3-1-83)

Sec. 21-20. Administration.

(a) The city planner shall provide for the administration of the affairs of the Lewiston Planning Board including preparing agendas and minutes, posting public hearings, handling correspondence and maintaining all official records.

(b) Public hearings shall be held as required by statute, code or ordinance. Notice of all public hearings shall be posted at least seven (7) days prior to said hearing in a newspaper of general circulation in the city. (Code 1970, as amended, § 2-654; Ord. No. 80-2, § 2-654, 2-14-80)

Sec. 21-21. Appeals.

An appeal from any final decision of the Lewiston Planning Board on any matter over which it has final

authority may be taken by any aggrieved party to superior court unless otherwise specified by statute, code or ordinance. (Code 1970, as amended, § 2-655; Ord. No. 80-2, § 2-655, 2-14-80)

Secs. 21-22—21-30. Reserved.

ARTICLE III. RESERVED*

Secs. 21-31—21-130. Reserved.

ARTICLE IV. DEVELOPMENT DISTRICTS

Sec. 21-131. Creation of district; description.

There is hereby created, in the City of Lewiston, a special development district to be known as the “downtown development district” and described as follows:

Starting at a point at the edge of the Androscoggin River and the rear property line of a parcel on the northerly side of Main Street adjacent to the James B. Longley Memorial Bridge.

Along the rear property lines of the parcels fronting on Main Street from the James B. Longley Memorial Bridge to Hammond Street.

Hammond Street, Main Street, Blake Street, along the rear property lines of the parcels fronting on Main Street to Bates Street, Bates Street, Ash Street, Middle Street, Pine Street, Park Street.

Spruce Street and an extention thereof from Park Street to Canal Street.

Canal Street, along the rear property lines of the parcels fronting to Main Street to the Androscoggin River, along the river to the point of beginning.

The term “rear property lines” shall be deemed in all instances to mean the rear lot line of a lot fronting on a stated street or the rear

***Editor’s note**—Ord. No. 87-7, effective March 17, 1987, deleted Art. III of Ch. 21 in its entirety. Formerly, Art. III, consisting of Divs. 1—3, pertained to condominiums generally, approval thereof, and other requirements, and was derived from Ord. No. 81-6, §§ 1(A), 2, 3(A), (C), 4(A)—(E), 5(A), (B), 6, 7(A), 8(D), (E), effective Feb. 19, 1981; Ord. No. 84-11, effective Sept. 21, 1984; and Ord. No. 84-16, effective Dec. 20, 1984.

line of the building facing the street and not more than ten feet distant therefrom, whichever rear line is the greater distance from Main Street.

Unless otherwise described, the district boundary lines are the center line of streets or such lines extended. (Ord. No. 81-25, 1-15-82)

Sec. 21-132. Administration.

The city council shall enter into a contractual arrangement with a private nonprofit corporation to administer activities authorized under this article. Such corporation shall meet the following minimum requirements:

- (1) Membership shall be open to any person (including corporations and partnerships) who pays or is responsible for a downtown development district assessment, or his designee.
- (2) The board of directors shall be composed of eleven (11) members. Each director shall have one vote. The directors shall be selected as follows:

Easement: An authorization, filed in the county registry of deeds, for a particular use or nonuse of land or structure for a specified purpose.

Executive board: The body, regardless of name, designated in the declaration to act on behalf of the association.

Final plan: The final drawings on which a developer's plan of subdivision is presented to the planning board for approval and which, if approved, must be recorded at the county registry of deeds office. This final plan shall include the plat, building plans and declaration and a public offering statement, if required under the Maine Condominium Act, MRSA 33, Chapter 31, as amended.

Limited common element: A portion of the common elements allocated by the declaration for the exclusive use of one or more but fewer than all of the units.

Open space: Land dedicated, by easement, covenant, or conveyance to being permanently free of buildings or permanent structures.

Performance guarantee: A cash or other bond satisfactory to the board to ensure the carrying out of every duty, act, requirement, or condition, the performance of which was the basis for condominium approval or the right to convey units. Failure to provide a performance guarantee when required revokes approval which may have previously been obtained.

Preliminary condominium plan: Preliminary drawings, indicating the proposed condominium development, to be submitted to the planning board for review and preliminary approval. The preliminary plan shall include the plat and building plans.

Purchaser: Any person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than:

- (1) A leasehold interest (including renewal options) of less than five (5) years; or

(2) As security for an obligation.

Real estate: Any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interest which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

Unit: A portion of the condominium designated for separate ownership.

Unit owner: A declarant who owns a unit, person to whom ownership has been conveyed, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease, the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation. (If title to a unit is held in a land trust, "unit owner" means the beneficiary of the trust.) (Ord. No. 81-6, § 2, 2-19-81; Ord. No. 84-16, 12-20-84)

Sec. 21-33. Design and construction standards.

Design and construction standards as pertains to streets and lot lines to be used for improvements shall be those standards listed in section 25-41 of this Code, if applicable. Condominium development shall conform to the requirements of Chapter 31, as applicable. (Ord. No. 81-6, § 6, 2-19-81)

Sec. 21-34. Violations.

Any person who sells, leases, or conveys for consideration, offers or agrees to sell, lease or convey for consideration any units in a condominium development which have not been approved as required by this article shall be punished by a fine of not more than five thousand dollars (\$5,000.00) for each such sale, lease or conveyance for consideration, offering or agreement. The city attorney or

planning board may institute proceedings to enjoin the violation of this section and if a violation is found by the court, the city, its planning board or the appropriate municipal officers may be allowed attorney fees. (Ord. No. 81-6, § 3(A), 2-19-81; Ord. No. 84-16, 12-20-84)

Secs. 21-35—21-65. Reserved.

DIVISION 2. APPROVAL

Sec. 21-66. Required.

A condominium may be created only by approval of the final plan by the planning board, as described in section 21-70 and recording of the final plan in the county registry of deeds by all persons whose interest in the real estate will be conveyed to the unit owners. (Ord. No. 81-6, § 7(A), 2-19-81)

Sec. 21-67. General requirements for plats.

Each required plat must show:

- (1) The name, location, and dimensions of the condominium;
- (2) The location and dimensions of all existing improvements;
- (3) The intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";
- (4) The extent of any encroachments by or upon any portion of the condominium;
- (5) To the extent feasible, the location and dimensions of all easements serving or burdening any portion of the condominium;
- (6) The location and dimensions of any vertical unit boundaries not shown or projected on plans and that unit's identifying number;

- (7) The location with reference to established datum of any horizontal unit boundaries not shown or projected on plans and that unit's identifying number;
- (8) The distance between noncontiguous parcels of real estate comprising the condominium;
- (9) The location and dimensions of limited common elements including porches, balconies, and patios, other than parking spaces and the other limited common elements;
- (10) All other matters customarily shown on land surveys. (Ord. No. 81-6, § 8(D), 2-19-81)

Sec. 21-68. General requirements for plans.

Plans of every building that contains or comprises all or part of any unit and is located or must be built within any portion of the condominium must show:

- (1) The location and dimensions of the vertical boundaries of each unit, to the extent those boundaries lie within or coincide with the boundaries of the building in which the unit is located, and that unit's identifying number;
- (2) Any horizontal unit boundaries, with reference to established datum, not shown on plats and that unit's identifying number; and
- (3) Any units that may be converted by the declarant to create additional units or common elements. (Ord. No. 81-6, § 8(E), 2-19-81)

Sec. 21-69. Preliminary plan approval.

(a) The developer shall submit a preliminary plan at least ten (10) days prior to the scheduled board meeting at which the condominium proposal is to be reviewed. The preliminary plan shall consist of a plat and building plans.

(b) The developer, or his authorized representative, shall attend the board meeting at which the preliminary plan is to be reviewed.

(c) The board shall request the city engineer to report to the board with respect to street grades, street drainage, and sewerage of the condominium development, if applicable.

(d) The board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing if one is held, unless the developer agrees in writing to an extension of this period, issue an order denying or granting approval of the preliminary plan or granting approval upon such terms and conditions as it may deem necessary to ensure that the condominium development complies with the standards of this article. Approval of the preliminary plan does not constitute approval of the condominium development.

(e) The board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing, if one is held, state in writing any changes which it will require in the final plan. A copy of such statement shall be delivered to the developer.

(f) The plat shall be submitted in duplicate to the board. The plat shall be at a scale of forty (40) feet or less to the inch. In addition to the requirements of section 21-67 of this Code, the plat shall include:

- (1) The location and size of any existing or proposed sewers, water mains, culverts, drains and other underground structures, if applicable;
- (2) Existing and proposed streets and names, the profile of each proposed street with tentative grades indicated, if applicable;
- (3) Satisfactory evidence of a safe and dependable water supply, if no connection to the municipal system is proposed;
- (4) Areas to be reserved for open space; and
- (5) All condominium proposals shall include base flood elevation data.

(g) The building plan shall be submitted in duplicate to the board. It shall be drawn at an appropriate scale and shall conform to the requirements of section 21-68 of this Code. (Ord. No. 81-6, § 5(A), 2-19-81)

Sec. 21-70. Final plan approval.

(a) Within twelve (12) months after approval of the preliminary plan, the developer shall submit a final plan at least ten (10) days prior to the scheduled planning board meeting at which the condominium development will be reviewed. The final plan shall consist of the plat, building plan, declaration, and public offering statement, if required under the Maine Condominium Act, MRSA Section 33, Chapter 31, as amended.

(b) The developer, or his authorized representative, shall attend the board meeting at which the final plan is reviewed.

(c) The board shall request the city engineer to report to the board with respect to street grades, street drainage, water service, underground street lighting facilities, and sewerage of the condominium development, if applicable.

(d) The board shall request the city engineer to report to the board as to the amount of coverage for the performance guarantee for public improvements, and subsequent to that report, the board shall inform, in writing, the developer of the required performance guarantee. Prior to approval, the board shall request the city attorney to report to the board as to form and manner of execution and surety of the performance guarantee.

(e) The board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing, if one is held, unless the developer agrees in writing to an extension of this period, issue an order denying or granting approval of the proposed condominium development or granting approval upon such terms and conditions as it may deem necessary to ensure that the condominium development complies with standards of this article.

(f) The final plat shall be drawn in ink on stable drafting medium at a scale of forty (40) feet or less to the inch. Topography, street cross sections, utilities, and existing structures, if applicable, may be shown on paper on accompanying sheets at an appropriate scale. Sheets shall not exceed twenty (20) inches by thirty (30) inches, and if more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire development. The original, a sepia, and three (3) prints shall be submitted to the board. Endorsement of the original by the board chairman shall constitute approval, whereupon the original shall be recorded in the county registry of deeds by the planning division. The final plan shall include the requirements as described in section 21-67 of this Code, and in addition:

- (1) All angles and curve data pertaining to streets, if applicable;
- (2) Cross sections at fifty-foot intervals of all proposed streets or proposed street extensions, if applicable; said cross sections shall extend to the limit of cut and fill slopes;
- (3) Center line stations for all proposed streets or proposed street extensions, if applicable, shall be established and shown. Points of curve, points of tangent, points of intersection as well as turnaround dimensions and information shall be shown and referenced to the street center line;
- (4) Plans and profiles showing location, size and grade of sewers and location and layout of both surface and subsurface drainage systems, if applicable;
- (5) A separate plan of the same scale as the survey sheet showing the system for water service, if other than private wells;
- (6) Soil condition reports for all lots proposed to have subsurface sewage disposal systems. Subsurface soil, bedrock and groundwater conditions to depths of at least four (4) feet or resistance shall be explored in the presence of the city-appointed plumbing inspector and evalu-

ated by a state-certified soil scientist, or geologist, or a registered professional engineer experienced in the field of soils engineering. Such reports shall conform to state plumbing code standards;

- (7) A letter from the police department regarding vehicular and pedestrian safety and traffic circulation;
- (8) Location and size of existing and proposed fire hydrants and a letter from the fire department regarding the hydrants' adequacy to serve the new condominium development;
- (9) Areas to be reserved for open space;
- (10) Copies of all covenants, deed restrictions, and easements affecting the condominium development;
- (11) A letter from the city treasurer confirming receipt of the performance guarantee, or letter from the applicant indicating intent to complete all public improvements prior to the conveyance of units and construction of buildings, whichever is appropriate;
- (12) The fee for condominium developments shall be fifty dollars (\$50.00) plus ten dollars (\$10.00) for each condominium unit to be created. Such fee shall be by check payable to the city and shall not include the cost of recording required documents at the county *registry of deeds*; and
- (13) All condominium proposals shall include base flood elevation data.

(g) The final building plan shall be drawn in ink on stable drafting medium at an appropriate scale. Sheets shall not exceed twenty (20) inches by thirty (30) inches, and if more than two (2) sheets are required, an index sheet of the same dimensions shall be filed. The original, a sepia, and three (3) prints shall be submitted to the board. The building plans shall conform to the requirements of section 21-68 of this Code.

(h) The declaration shall conform to the requirements of the Maine Condominium Act, MRSA Section 33, Chapter 31, as amended. Submission of the plat and building plan, as required in this section, shall satisfy the plat and plan requirements of the declaration.

(i) The public offering statement, if required, shall conform to the requirements of the Maine Condominium Act, MRSA Section 33, Chapter 31, as amended. (Ord. No. 81-6, § 5(B), 2-19-81; Ord. No. 84-11, 9-21-84; Ord. No. 84-16, 12-20-84)

Sec. 21-71. Hearing.

The planning board may determine to hold a public hearing on a proposed condominium. If the board determines to hold a hearing, it shall be held within thirty (30) days of the date of submission. The board shall cause notice of the date, time, and place of such hearing to be published in the local newspaper at least twice, the date of the first publication to be at least seven (7) days prior to the meeting. (Ord. No. 81-6, § 3(C), 2-19-81)

Sec. 21-72. Standards for approval.

In approving condominium developments, the planning board shall consider the following criteria and before granting approval shall determine that the proposed condominium development:

- (1) Will not result in undue water or air pollution. In making this determination, it shall at least consider: The elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resource regulations;
- (2) Has sufficient water available for the reasonably foreseeable needs of the development;

- (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- (6) Will provide for adequate sewage waste disposal;
- (7) Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
- (9) Is in conformance with this article and the comprehensive plan, development plan, or land use plan, if any;
- (10) The developer has adequate financial and technical capacity to meet the above-state standards;
- (11) Whenever situated, in whole or in part, within two hundred fifty (250) feet of any pond, lake, or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;
- (12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. (Ord. No. 81-6, § 1(A)(1), 2-19-81; Ord. No. 84-16, 12-20-84)

Secs. 21-73—21-80. Reserved.

DIVISION 3. OTHER REQUIREMENTS*

Sec. 21-81. Easements.

(a) Shoreland residential condominiums shall provide access to abutting navigable water bodies by easement for adequate shoreland area and access thereto to be used in common by all residents and owners within the condominium development.

(b) Where a condominium development is traversed by a natural watercourse, drainageway, channel or stream, the developer shall provide to the city a stormwater easement which may be utilized for both surface and subsurface drainage, municipal water, sewer and underground street lighting facilities, conforming substantially with the lines of such watercourse, and be of such width as will assure adequate storm runoff. Such easement shall not be less than thirty (30) feet wide. (Ord. No. 81-6, § 4(A), 2-19-81; Ord. No. 84-16, 12-20-84)

Sec. 21-82. Assurances for completion of public improvements.

(a) To ensure proper development of all condominium projects requiring public improvements, developers are required to either post a performance guarantee or complete the public improvements as described below:

- (1) Before the final plat is signed by the chairman of the planning board, applicants shall complete the street, sanitary sewer, storm drainage, and water improvements required by city ordinances, plat specifications, and special conditions of final plat approval. Conformance with this completion requirement shall be indicated by issuance of a certificate of completion by the city engineer. No building permits can be issued until the plat is signed and registered.
- (2) The planning board may waive the above completion requirement for a portion or portions of a condomini-

*Editor's note—See the editor's footnote to Art. III of this chapter.

um development for which the developer posts a performance guarantee. Only those portions of the condominium development covered by the performance guarantee can be developed. The plat shall clearly indicate those portions of the condominium development covered by the performance guarantee prior to being signed by the chairman.

The developer shall file said performance guarantee at the time of submission of final plans. This guarantee may be tendered in the form of a certified check payable to the city or a faithful performance bond running to the city and issued by a surety company acceptable to the city. A period of not more than three (3) years shall be set forth in the bond time within which the required improvements must be completed. The board may, however, extend the bond time when unusual circumstances warrant such action. Any such performance guarantee shall be satisfactory to the city engineer as to amount of coverage and to the city attorney as to form and manner of execution and surety. The conditions of the performance guarantee shall run or continue to apply to the developer's successors, heirs or assigns. The guarantee shall cover at least the total cost of required street construction, sanitary sewer, and storm drainage extensions. The board may permit a condominium development to be developed in phases and may accept a performance guarantee for one or more phases. Before a developer may be released from any obligation required by this performance guarantee, the board shall require the city engineer to issue a certificate of completion.

(b) Before a developer is released from any obligation to construct the required improvements according to either of the above processes, the board shall require the city engineer to issue a certificate of completion certifying that all conditions of approval relating to public improvements have been satisfactorily completed as required. (Ord. No. 81-6, § 4(B), 2-19-81; Ord. No. 84-16, 12-20-84)

Sec. 21-83. Amendment to approved plan.

Any amendment to an approved plan which relocates a street and/or, in the opinion of the planning office, significantly alters the plat or plan must be approved by the planning board. (Ord. No. 81-6, § 4(C), 2-19-81; Ord. No. 84-16, 12-20-84)

Sec. 21-84. Post-development plans.

The developer shall provide the city engineer with all finish-grading plans and all as-built utility plans prior to the developer's release from any obligation required by his performance guarantee. (Ord. No. 81-6, § 4(D), 2-19-81; Ord. No. 84-16, 12-20-84)

Sec. 21-85. Relationship to floodplains.

(a) All condominium developments shall be evaluated to determine whether development will be reasonably safe from flooding. All lots shall have, at a minimum, sufficient building area above the base flood elevation to permit construction with the lowest floor, including basement to be elevated to or above the base flood level.

(b) Condominium developments shall be designed and developed to preserve the flood-carrying capacity of affected watercourses to the maximum extent feasible and to ensure that adequate drainage is provided to reduce the exposure to flood hazards. All public utilities and facilities such as sewer, gas, electrical, and water systems shall be located, elevated, and constructed to minimize or eliminate flood damages. (Ord. No. 81-6, § 4(E), 2-19-81; Ord. No. 84-16, 12-20-84)

Secs. 21-86—21-130. Reserved.

ARTICLE IV. DEVELOPMENT DISTRICTS**Sec. 21-131. Creation of district; description.**

There is hereby created, in the City of Lewiston, a special development district to be known as the "downtown development district" and described as follows:

Starting at a point at the edge of the Androscoggin River and the rear property line of a parcel on the northerly side of Main Street adjacent to the James B. Longley Memorial Bridge.

Along the rear property lines of the parcels fronting on Main Street from the James B. Longley Memorial Bridge to Hammond Street.

Hammond Street, Main Street, Blake Street, along the rear property lines of the parcels fronting on Main Street to Bates Street, Bates Street, Ash Street, Middle Street, Pine Street, Park Street.

Spruce Street and an extension thereof from Park Street to Canal Street.

Canal Street, along the rear property lines of the parcels fronting to Main Street to the Androscoggin River, along the river to the point of beginning.

The term "rear property lines" shall be deemed in all instances to mean the rear lot line of a lot fronting on a stated street or the rear line of the building facing the street and not more than ten feet distant therefrom, whichever rear line is the greater distance from Main Street.

Unless otherwise described, the district boundary lines are the center line of streets or such lines extended. (Ord. No. 81-25, 1-15-82)

Sec. 21-132. Administration.

The city council shall enter into a contractual arrangement with a private nonprofit corporation to administer activities authorized under this article. Such corporation shall meet the following minimum requirements:

- (1) Membership shall be open to any person (including corporations and partnerships) who pays or is responsible for a downtown development district assessment, or his designee.
- (2) The board of directors shall be composed of eleven (11) members. Each director shall have one vote. The directors shall be selected as follows:

- (a) Nine of the directors shall be elected in the following manner (quota director):
 1. Members are divided into three (3) categories (I, II, III).
 2. The total assessment of all of the members of each category must as nearly as mathematically possible equal the total assessment of all of the members of each other category.
 3. Category I shall consist of the greatest number of members possible. (Those paying the smallest assessments.)
 4. Category II shall consist of the fewest number of members possible. (Those paying the largest assessments.)
 5. Category III shall consist of the remaining members.
 6. Category I shall elect three (3) of the nine (9) directors; Category II shall elect three (3) of the nine (9) directors; Category III shall elect three (3) of the nine (9) directors.
- (b) One director shall be nominated by the Lewiston city administrator and approved by the Lewiston City Council (city director).
- (c) One director shall be elected by the other ten (10) members of the board (director-at-large). (Ord. No. 81-25, 1-15-82)

Sec. 21-133. Program.

The private, nonprofit corporation designated in accordance with section 21-132 shall have the responsibility of maintenance and operation (as set forth in 30 MRSA Section 4862(6), promotion, management and development within the district, with the following restrictions.

- (1) Promotional and advertising expenditures shall be restricted to those that promote the downtown as a whole.
- (2) Expenditures may only be in the form of a fee for a service, product, or a legally required payment.
- (3) The organization shall not conduct any major construction or development project using funds generated from the as-

assessment as set forth in section 21-137, *infra.* (Ord. No. 81-25, 1-15-82)

Sec. 21-134. When annual budget to be submitted and adopted.

The budget for the development district shall be submitted to the city administrator no later than March 1st and shall be adopted by the city council no later than May 1st. (Ord. No. 81-25, 1-15-82)

Sec. 21-135. Fiscal year.

The fiscal year of the development district shall be July 1st to June 30th. (Ord. No. 81-25, 1-15-82)

Sec. 21-136. Procedure for adoption of budget.

A public hearing shall be held by the city council on the budget and proposed assessment, notice thereof shall be given in accordance with Maine Revised Statutes Annotated, Title 30, Section 4865, Subsection 3, as amended.

Following the public hearing, the city council may decrease the budget but shall not increase the budget to a figure higher than requested by the operating agency.

No budget may include any item for which the city, as of October 1, 1981, was responsible unless the service is curtailed on a city-wide basis. (Ord. No. 81-25, 1-15-82)

Sec. 21-137. Assessment.

An assessment shall be levied upon the owners of properties subject to municipal real estate taxes and located in the district in accordance with the following formula:

There shall be two (2) types of assessments levied on owners of taxable properties:

Type I (front footage assessment) will be levied upon the owners of taxable property fronting on Lisbon Street between Main Street and one hundred (100) feet south of the Chestnut Street/Lisbon Street intersection. This assessment shall be levied on owners of taxable property based on the number of linear feet that the property has fronting on

Lisbon Street. Type 1 assessments shall provide eleven (11) per cent of the total budget.

Type 2 (assessed value assessment) shall be levied upon the owners of taxable property within the district based on the assessed value of each property. Type 2 assessments shall provide eighty-nine (89) per cent of the total budget.

The total of Type 1 and 2 assessments for any individual property shall not exceed a twenty-five hundred dollar (\$2,500.00) ceiling in the first budget year. In subsequent years if the rate for Type 2 assessments changes, this ceiling shall be adjusted and shall be either raised or lowered by the same percentage as the rate for Type 2 assessments is raised or lowered.

Properties shall be assessed on the valuation as of April 1st of the current year and the assessment shall be payable in the same manner and due on the same dates as property tax. The city council may, at the time of setting the assessments, also set penalties for late payment thereof. (Ord. No. 81-25, 1-15-82)

Secs. 21-138—21-150. Reserved.

ARTICLE V. HISTORIC BUILDINGS AND HISTORIC DISTRICTS*

Sec. 21-151. Statement of purpose.

The purpose of the article is to preserve, protect and enhance historic buildings and areas which represent or reflect distinctive and important elements of the city's architectural, archaeological, cultural, social, economic, ethnic and political history; safeguard the city's historic and cultural heritage; and provided procedures for local review of changes to historic structures and of new construction, reconstruction, building alteration, and demolition, within historic districts. (Ord. No. 82-15, 12-23-82)

Sec. 21-152. Definitions.

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

*Cross references—Boards and bureaus, § 2-501 et seq.; zoning, Ch. 31.
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Designated historic district. A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this chapter as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

Designated historic structure. Any improvement, building or structure of particular historical, architectural or geographic significance to the community and designated in accordance with the requirements of this chapter as appropriate for historical preservation. (Ord. No. 82-15, 12-23-82)

Sec. 21-153. Historic preservation review board.

(a) *Creation.* There shall be an historic preservation review board consisting of five (5) members, each of whom shall be a qualified voter of the City of Lewiston and who shall be appointed by the mayor. All members should have knowledge and experience in the architectural, archaeological, cultural, social, economic, ethnic or political history of Lewiston. The terms of office of members of the board appointed following adoption of this article shall be established by the mayor, who shall appoint one (1) member to serve one (1) year; one (1) member to serve two (2) years; one (1) member to serve three (3) years; one (1) member to serve four (4) years; and one (1) member to serve five years. Thereinafter, all members shall be appointed for five (5) year terms.

(b) *Compensation.* Each member of the board shall serve without compensation.

(c) *Duties.* The board shall carry out those duties assigned to it by Article V, Chapter 21 of the Revised Code of Ordinances.

(d) *Organization and rules.*

(1) A quorum necessary to conduct an official meeting of the board shall consist of a least three (3) members.

(2) The board shall, annually elect, a chairman and other officers deemed necessary, from its membership, and a

secretary, who need not be a member. All five (5) members enjoy the same rights and privileges, regardless of any office that they may hold.

- (3) The chairman shall call meetings of the board, as required. The chairman shall also call meetings of the board when requested to do so by a majority of the members, the mayor or other municipal officers.
- (4) The secretary shall maintain a permanent record of all board meetings and all correspondence of the board. The secretary shall be responsible for maintaining those records which are required as part of the various proceedings which may be brought before the board. All records to be maintained or prepared by the secretary are deemed public and may be inspected at reasonable times.
- (5) The concurring vote of at least three (3) members is required to constitute an action on any matter.
- (6) No member of the board shall participate in the hearing or disposition of any matter in which he or she has an interest. Any questions of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified.
- (7) The board may adopt statements of policy, along with its rules of procedure, consistent with the Charter and any applicable ordinance, to enable it to perform its function.
- (8) In addition to other provisions for amending the board's rules of procedure, any rule adopted by the board relating to the conduct of any hearing may be waived by the chairman, upon good cause shown.

(e) *Administration.* The director of the department of development shall be responsible to provide for the administration of the affairs of the board. (Ord. No. 82-15, 12-23-82; Ord. No. 84-5, 5-3-84)

Sec. 21-154. Standards for designation of structures and districts as historic.

- (a) *Historical importance.* The structure or district:
- (1) Has character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation;
 - (2) Is the site of a historic event with an effect upon society;
 - (3) Is identified with a person or group of persons who had some influence on society; or
 - (4) Exemplifies the cultural, political, economic, social or historic heritage of the community.
- (b) *Architectural importance.* The structure or district:
- (1) Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - (2) Embodies those distinguishing characteristics of an architectural-type specimen;
 - (3) Is the work of an architect or master builder whose individual work has influenced the development of the city; or
 - (4) Contains elements of architectural design, detail, materials, or craftsmanship which represent a significant innovation.
- (c) *Geographic importance.* The structure or district:
- (1) Because of being part of, or related to, a square, park or other distinctive area, should be developed or preserved according to a plan based on a historic, cultural or architectural motif; or
 - (2) Due to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or city. (Ord. No. 82-15, 12-23-82)

Sec. 21-155. Designation of structures and districts for historic preservation.

(a) Historic structures and districts, except that district established at the time of passage of this article, shall be established in accordance with this chapter. All such designations may be initiated by application to the chairman of the historic preservation review board by:

- (1) Reference from the city council;
- (2) Petition signed by six (6) or more residents of the City of Lewiston, eighteen (18) years of age or older;
- (3) The planning board;
- (4) The Lewiston historical commission; or
- (5) The historic preservation review board, at its own initiation.

(b) Any application for designation of structures and districts for historic preservation shall be in writing and shall include the following:

- (1) Designation of structures for historic preservation.
 - a. A concise description of the physical elements, qualities, architectural style and period represented by the structure, including a consideration of scale, materials, workmanship and spatial qualities;
 - b. A concise statement of how the structure meets the review criteria of section 12-154 above;
 - c. Interior and exterior photographs of the structure, illustrating significant details described in section 21-155(b)(1)a., above.
- (2) Designation of districts for historic preservation.
 - a. A concise statement of the remaining physical elements which make this area an historic district and a description of building types and architectural styles and periods represented;
 - b. A concise statement of how the district meets the review criteria of section 21-154 above;
 - c. A justification of the boundaries of the district;

- d. A definition of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of noncontributing structures;
- e. A map showing all district structures with the identification of contributing structures.

(c) The historic preservation review board shall hold a public hearing on any written application.

- (1) The public hearing shall be held within thirty (30) days of receipt of the application.
- (2) The board shall make its report and recommendation, including the identification of contributing structures, when applicable, to the city council within thirty (30) days after the public hearing has been closed. Failure of the board to issue its report constitutes a favorable recommendation of the proposed historic structure or district.
- (3) The board shall give proper notice of the public hearing to all applicants and to all owners of property within a proposed district. Said notice shall include examples of advantages and disadvantages of being a contributing or non-contributing structure and a form requesting that they indicate their preference.
 - a. Failure of any petitioner to receive such notice of such public hearing shall not necessitate another hearing, shall not constitute grounds for objections by such petitioner and shall not invalidate any recommendation by the board on such matter.
 - b. Notice must be served a reasonable time in advance of the meeting, which will be construed to mean at least seven (7) days before the date of such meeting. 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.

(d) The city council, upon receipt of the historic preservation review board's recommendation, may designate structures or districts for historic preservation. Contributing structures within such districts shall be identified. Due consideration shall be given

to the written views of owners of affected property and, at its discretion, the city council may hold public hearings on any proposed structure or district for historic preservation designation. Such designation shall become effective thirty (30) days after a two-thirds ($\frac{2}{3}$) vote of the city council. (Ord. No. 82-15, 12-23-82)

Sec. 21-156. Certificate of appropriateness.

(a) *Purpose.* The historic preservation review board shall protect designated historic structures and districts by the issuance of a certificate of appropriateness.

(b) *Exclusive authority of board.* A certificate of appropriateness may only be issued by the historic preservation review board.

(c) *When required.* A certificate of appropriateness is required for any of the following activities:

- (1) Any change in the exterior appearance of a designated historic structure or contributing structure within a designated historic district;
- (2) New construction of a principal or accessory building or structure, where such building or structure will be located within a designated historic district;
- (3) Demolition or removal of a designated historic structure or contributing structure within a designated historic district;
- (4) Any change in siding materials, roofing materials, exterior door and window sash, and integral exterior decorative elements including, but not limited to, cornices, brackets, windows, architraves, doorway pediments, railings, balusters, columns, cupolas, cresting, and roof decorations of a designated historic structure or contributing structure within a designated historic district.

(d) *Exceptions to requirement.* A certificate of appropriateness is not required if, in the opinion of the building inspector, changes, as described in subsection (c)(1) and (c)(4) of this section would be made with materials of the same composition, design, texture and visual qualities and would result in no alteration of the buildings' appearance or physical detail.

(e) *Application for certificate.*

- (1) *Application procedure.* An application for a certificate of appropriateness shall be submitted in writing to the building inspector, who shall date the application and transmit it to the chairman of the historic preservation review board. The board shall consider each application and, within twenty (20) days of the date of submittal, approve or deny the application. Upon mutual written consent of the board and the applicant, the review period may be extended. Failure to approve or deny the application at the end of the review period shall constitute approval of the application.
- (2) *Application contents.* The application shall state the location, use and nature of the matter for which such certificate is sought and shall include the following information:
 - a. The applicant's name, address and interest in the property;
 - b. The owner's name and address, if different than the applicant;
 - c. The present use of the property; and
 - d. A brief description of the work for which the certificate of appropriateness is required.
- (3) *Additional information.* Where necessary to further the intent of this article, the board may require, in cases of major changes to the property, the following additional information:
 - a. A drawing or drawings indicating the design and location of any proposed alteration or new construction for which the certificate is required;
 - b. Photographs of the building and of adjacent buildings; and
 - c. A site plan indicating improvements affecting appearance, such as walls, walks, terraces, accessory buildings, signs and other elements.
- (4) *Review criteria.* The following criteria shall be used by the board to review applications for certificates of appropriateness:
 - a. New construction, reconstruction, alteration or restoration:

1. Impact upon any significant architectural or historic feature;
 2. Impact on the nature and character of the structure or district;
 3. Compatibility with the architectural style, construction techniques and appearance of the structure or other structures within the district; and
 2. Reasonableness of the cost of restoration or repair; chapter.
- b. Demolition or removal:
1. State of repair of the structure;
 2. Reasonableness of the cost of restoration or repair;
 3. Existing and potential usefulness, including economic usefulness;
 4. Historical or architectural contribution of the structure;
 5. Historical or architectural character of the neighborhood or district;
 6. Impact of demolition or removal on the remaining structures in the neighborhood or district; and
 7. Evidence of a good faith effort to sell the structure for eventual rehabilitation or restoration.
- (5) *Action by the historic preservation review board.* The board may approve, modify or disapprove the application.
- a. Upon approval of the application, the board shall immediately issue a certificate of appropriateness. The issuance of a certificate of appropriateness shall in no way be interpreted as a waiver of any regulation governing the issuance of a building permit, save those regulations contained in section 21-156 of this chapter. Any changes or modifications in the proposed work that are approved by the board shall become conditions of the certificate of appropriateness.
 - b. Upon disapproval of the application, the applicant may immediately reapply for a certificate of appropriateness, based upon amended plans for the proposed work. A building permit shall not be issued without evidence of a certificate of appropriateness, except that:

1. Following a period of ninety (90) days after disapproval of an application for new construction, reconstruction, alteration or restoration, the requirement for a certificate of appropriateness is waived;
2. Following a period of one hundred eighty (180) days after disapproval of an application for demolition or relocation, the requirement for a certificate of appropriateness is waived;
3. Notwithstanding the provisions of subsections (e)(5)b.1., and (e)(5)b.2., above, the city council may, by majority vote, reinstate the requirement for a certificate of appropriateness.

(6) *Appeals.* Any action of the historic preservation review board, as described in section 21-156(e)(5), may be appealed in writing directly to the city council, by any affected party. The city council may hold a public hearing on the appeal. Within thirty (30) days after receipt of the appeal, the city council shall approve, disapprove, or modify the action of the board. (Ord. No. 82-15, 12-23-82)

Sec. 21-157. Designated historic structures and historic districts.

(a) *Boundary lines generally.* Unless otherwise described, the district boundary lines are the center lines of streets, alleys, waterways or public utility and railroad rights-of-way or such lines extended.

(b) *Historic district.* The following described district is designated a historic district:

District 1. Start at the intersection of Pine and Blake Streets:

Thence in a general southeasterly direction along Blake Street to a point approximately two hundred fifty (250) feet northwesterly of Birch Street; thence in a general southwesterly direction along a line two hundred fifty (250) feet from and parallel to Birch Street approximately one hundred twenty-five (125) feet; thence in a general southeasterly direction along a line one hundred twenty-five (125) feet from and parallel to Blake Street approximately fifty

(50) feet; thence in a general northeasterly direction along a line two hundred (200) feet from and parallel to Birch Street to Blake Street; thence along Blake Street to Birch Street; thence along Birch Street to Bates Street; thence along Bates Street to a point approximately one hundred twenty-five (125) feet northwesterly of Birch Street; thence in a general southwesterly direction along a line one hundred twenty-five (125) feet from and parallel to Birch Street approximately one hundred twenty-five (125) feet; thence in a general southeasterly direction along a line one hundred twenty-five (125) feet from and parallel to Bates Street approximately one hundred twenty-five (125) feet to Birch Street; thence along Birch Street to a point approximately one hundred twenty-five (125) feet southwesterly of Knox Street; thence along a line one hundred twenty-five (125) feet southwesterly of and parallel to Knox Street to Spruce Street; thence along Spruce Street to a point approximately one hundred twenty-five (125) feet southwesterly of Park Street; thence along a line one hundred twenty-five (125) feet southwesterly of and parallel to Park Street to Chestnut Street; thence along Chestnut Street to Park Street Alley; thence along Park Street Alley to a point approximately one hundred seventy-five (175) feet southeasterly of Ash Street; thence along a line one hundred seventy-five (175) feet southeasterly of and parallel to Ash Street to Park Street; thence along Park Street to Pine Street; thence along Pine Street to Blake Street and the point of beginning.

The following are noncontributing structures within District 1:

- 13 Knox Street;
- 15 Knox Street;
- 17–19 Knox Street;
- 21 Knox Street;
- 139–149 Park Street;
- 103 Chestnut Street.

The following are contributing structures within District 1:

- 73 Pine Street;
- 190 Bates Street;

194 Bates Street;
143 Blake Street;
208 Bates Street;
One Walnut Street;
220 Bates Street;
250 Bates Street;
56 Birch Street;
255—269 Bates Street;
247—253 Bates Street;
47 Spruce Street;
6 Knox Street;
10 Knox Street;
20 Knox Street;
22 Knox Street;
26—28 Knox Street;
34—36 Birch Street;
30 Birch Street;
28 Birch Street;
25 Knox Street;
11 Knox Street;
5 Knox Street;
35—37 Spruce Street;
One Knox Street;
171 Park Street;
99 Chestnut Street;
27—33 Pine Street;
107 Park Street;
103 Park Street;
120—188 Park Street. (Ord. No. 82-15, 12-23-82)

Chapter 25

SUBDIVISIONS*

- Art. I. In General, §§ 25-1—25-20
Art. II. Procedure For Subdivision Approval, §§ 25-21—25-40
Art. III. Design and Construction Standards, § 25-41

ARTICLE I. IN GENERAL

Sec. 25-1. Purpose; criteria for subdivision approval.

The purpose of these standards is to provide for orderly growth and coordinated development of the city, to assure comfort, convenience, safety, health and welfare of the people, and to protect our natural environment. To this end, in approving subdivisions, the planning board shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

- (1) Will not result in undue water or air pollution. In making this determination, it shall at least consider: The elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations;
- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

*Charter references—Planning board, § 4.05; board of appeals, § 4.06.

Cross references—Planning and development, Ch. 21; streets and sidewalks, Ch. 24; zoning, Ch. 31.

State law reference—Municipal authority to regulate the subdivision of land, 30 M.R.S.A. § 4956.

- (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- (6) Will provide for adequate sewage waste disposal;
- (7) Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
- (9) Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;
- (10) The subdivider has adequate financial and technical capacity to meet the above-stated standards;
- (11) Whenever situated, in whole or in part, within two hundred fifty (250) feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;
- (12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
(Code 1970, as amended, § 24-1; Ord. No. 87-8, 3-17-87)

Sec. 25-2. Definitions.

The following terms used herein are defined as follows:

Arterial street. A street which carries through traffic from community to community, or to and from major traffic generators within a community.

Base flood. The flood having one per cent chance of being equalled or exceeded in any given year.

Cluster subdivision. A subdivision which groups structures to increase building densities on some portions of the subdivision area in order to leave other portions as open space.

Collector street. A street which generally carries traffic between arterial and local streets.

Date of submission. The date of submission shall be the date of the first scheduled planning board meeting occurring at least seven (7) days after the plans are received by the planning director.

Developer. Any person, corporation, municipality or other governmental agency or authority engaged in any facet of changing, expanding or starting a land use activity.

Easement. Any authorization, filed in the Androscoggin County Registry of Deeds, for a particular use or non-use of land for a specified purpose.

Engineer. A professional engineer licensed by the state.

Final subdivision plan. The final drawings on which a developer's plan of subdivision is presented to the board for approval and which, if approved, must be recorded at the Androscoggin County Registry of Deeds.

Local street. A street which provides access to dwellings and places of business, not designed to encourage through traffic.

Open space. Land dedicated, by easement, covenant or conveyance to being permanently free of buildings or permanent structures.

Owner. Includes his or her duly authorized agent or attorney, a purchaser, devisee, fiduciary, and a person having a vested or contingent interest in the property in question.

Performance guarantee. A cash or other bond satisfactory to the board to ensure the carrying out of every duty, act, requirement or condition, the performance of which was the basis for subdivision approval. Failure to provide a

performance guarantee when required revokes approval which may have previously been obtained. Failure to perform successfully the acts for which the guarantee is posted may result in a partial or total forfeiture of the guarantee.

Preliminary subdivision plan. Preliminary drawings, indicating the proposed subdivision development, to be submitted to the planning board for review and preliminary approval.

Public easement. An easement for public use by motor vehicles and otherwise over privately owned land as defined in 23 M.R.S.A., Section 3021(3) that has been accepted by the city as provided in Chapter 24.

Resubdivision. Amendment to an approved subdivision plan which relocates a street and/or in the opinion of the planning department, significantly alters lot configuration.

Street. A public way laid out and established by the state, county or city or accepted by the city as a street or public easement under Chapter 24, or a way shown on a plan of subdivision duly approved by the planning board and for which a performance guarantee has been posted.

Subdivision. The division of a tract or parcel of land into three (3) or more lots within any five-year period, whether accomplished by sale, lease, development, building or otherwise, except when the division is accomplished by inheritance, order of court or gift to a relative, unless the intent of such gift is to avoid the objectives of 30 M.R.S.A., Section 4956. In determining whether a parcel of land is divided into three (3) or more lots, land retained by the subdivider for his own use as a single-family residence for a period of at least five (5) years shall not be included. No sale or lease of any lot or parcel shall be considered as being a part of a subdivision if such lot or parcel is forty (40) acres or more in size except where the intent of such sale or lease is to avoid the objectives of 30 M.R.S.A., Section 4956. For the purposes of this section, a lot shall not include a transfer of an interest in land to an abutting owner, unless

the effect of such transfer is to create one or more lots, suitable for building, that would otherwise require approval as a subdivision.

The creation of three (3) or more units of ownership on a tract or parcel of land shall also constitute a subdivision. A unit of ownership shall include any interest in real estate created by sale, lease for a term of twenty (20) years or more with or without option to purchase, or condominium declaration.

Subdivision, major. Any subdivision requiring a new street, extension of an existing street, or extension of municipal water or sewer line. A major subdivision may not be located on or serviced only by a public easement.

Subdivision, minor. Any subdivision not classified as a major subdivision. (Code 1970, as amended, § 24-2; Ord. No. 87-5, 3-17-87; Ord. No. 87-8, 3-17-87)

Sec. 25-3. Administration and enforcement.

(a) The administration and enforcement of all regulations required by this chapter for the designing and platting of

subdivisions shall be the responsibility of the planning board.

(b) The administration of these standards shall not infringe upon the authority of the municipal officers to accept or vacate streets as vested by state statutes and city ordinances.

(c) No utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

(d) Any person, firm, corporation or other legal entity who sells, leases or conveys for consideration, offers or agrees to sell, lease or convey for consideration any land in a subdivision which has not been approved as required by this chapter shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each such sale, lease or conveyance for consideration, offering or agreement. The attorney general or board may institute proceedings to enjoin the violation of this section.

(e) No buildings may be constructed and no utilities may be installed on any lot within a proposed subdivision until approved in conformity with this chapter and recorded in the county registry of deeds.

(f) The planning board may modify any of these regulations where their strict application would not provide for the proper development of a particular subdivision, provided that any such modification shall comply with the purpose of these regulations.

(g) Every approved plan, by virtue of such approval, shall be deemed an amendment to the city's official map and a part thereof.

(h) This chapter, as amended, shall apply to all subdivisions for which plans are submitted to the planning department after 5:00 p.m. on the thirtieth day after the date of enactment of Ordinance Number 74-14.

(i) The planning board may determine to hold a public hearing on a proposed subdivision. If the board determines

to hold a hearing, it shall be held at the next regularly schedule meeting or within thirty (30) days of the date of submission, whichever represents the fewest number of days. The board shall cause notice of the date, time and place of such hearing to be published in the local newspaper at least twice, the date of the first publication to be at least seven (7) days prior to the meeting. (Code 1970, as amended, § 24-3)

Charter reference—Planning board, § 4.05.

Cross reference—Planning board, § 21-16 et seq.

Sec. 25-4. General requirements.

(a) *Open Space.*

- (1) All major subdivisions or their extensions proposed by the same or an associated developer, including forty (40) or more dwelling units developed within any five-year period, shall provide a minimum of one thousand (1,000) square feet of open space per dwelling unit. This open space shall be in parcels no smaller than forty thousand (40,000) square feet. The open space shall generally be accessible from all lots of the subdivision and shall be of a character, configuration and location suitable for the particular use intended. The open space shall be accepted in dedication by the city or shall be reserved for and maintained by a neighborhood association as described in section 31-20(B)(10) of the zoning ordinance.
- (2) The planning board may deem the reservation of open space as inappropriate and unnecessary for a particular subdivision where one or more of the following criteria is satisfied:
 - a. Sufficient open space is already reserved and available to the neighborhood;
 - b. The layout and size of the development precludes the availability of accessible and suitable open space;
 - c. An intown location economically and/or physically prohibits such reservation.

(b) *Easements.*

- (1) Shoreland residential subdivisions shall provide access to abutting navigable water bodies by easement for adequate shoreland area and access thereto to be used in common by all residents and owners within the subdivision.
- (2) Where a subdivision is traversed by a natural water course, drainageway, channel or stream, the developer shall provide to the city a storm water easement which may be utilized for both surface and subsurface drainage, municipal water, sewer and underground street lighting facilities, conforming substantially with the lines of such watercourse, and be of such width as will assure adequate storm water runoff. Such easement shall not be less than thirty (30) feet wide.

(c) *Assurance for Completion of Requirements.* To ensure proper development of all subdivisions requiring public improvements, subdividers are required to either post a performance guarantee or complete the public improvements as described below:

- (1) Before the final plat is signed by the chairman of the planning board, applicants shall complete the street, sanitary sewer, storm drainage and water improvements required by city ordinances, plat specifications and special conditions of final plat approval. Conformance with this completion requirement shall be indicated by issuance of a certificate of completion by the city engineer. No lot can be sold and no building permit can be issued until the plat is signed and registered.
- (2) The planning board may waive the above completion requirement for a portion or portions of a subdivision for which the subdivider posts a performance guarantee. Only lots in that portion of the subdivision covered by the performance guarantee can be sold or issued building permits. The plat shall clearly indicate those portions of the subdivision covered by the

performance guarantee prior to being signed by the chairman.

The developer shall file said performance guarantee at the time of submission of final plans. This guarantee may be tendered in the form of a certified check payable to the city or a faithful performance bond running to the city and issued by a surety company acceptable to the city, or an irrevocable letter of credit of a lending institution. A period of not more than five (5) years shall be set forth in the bond time within which the required improvements must be completed. The board may, however, extend the bond time when unusual circumstances warrant such action. Any such performance guarantee shall be satisfactory to the city engineer as to amount of coverage and to the corporation counsel as to form and manner of execution and surety. The conditions of the performance guarantee shall run or continue to apply to the developer's successors, heirs or assigns. The guarantee shall cover at least the total cost of required street construction, sanitary sewer and storm drainage extensions. The planning board may permit a subdivision to be developed in phases and may accept a performance guarantee for one or more phases. Before a developer may be released from any obligation required by this performance guarantee, the board shall require the city engineer to issue a certificate of completion.

- (3) Before a developer is released from any obligation to construct the required improvements according to either of the above processes, the board shall require the city engineer to issue a certificate of completion certifying that all conditions of approval relating to public improvements have been satisfactorily completed as required.

(d) *Preservation of Natural or Historic Features.* The planning board may require a landscape plan that may show the preservation of existing trees, the replacement and addition of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas.

(e) *Cluster Subdivisions.* A cluster subdivision, whether classified by the planning department as either a major or minor subdivision, shall comply with section 31-20(B) of the zoning ordinance, in addition to all requirements of this chapter.

(f) *Phase Development.* If a developer chooses to develop an area in phases and chooses not to submit a subdivision plan for the entire area but only its first phase or phases, the planning board shall request the developer to provide a sketch plan for the entire area's proposed development in order to relate the first phase or phases to the whole development.

(g) *Amendment to Approved Plan.* Any amendment to an approved plan which relocates a street and/or, in the opinion of the planning department, significantly alters lot configuration must be approved by the board.

(h) *Post-Development Plans.* The developer shall provide the city engineer with all finish-grading plans and all as-built utility plans prior to the developer's release from any obligation required by his performance guarantee.

(i) *Exemptions.* This chapter shall not apply to proposed subdivisions approved by the planning board or the municipal officials prior to September 23, 1971, in accordance with laws then in effect nor shall it apply to subdivisions as defined by this chapter in actual existence on September 23, 1971, that did not require approval under prior law or to a subdivision as defined by this chapter, a plan of which had been legally recorded in the registry of deeds prior to September 23, 1971. The division of a tract or parcel as defined by this chapter into three (3) or more lots and upon all of which lots permanent dwelling structures legally existed prior to September 23, 1971, is not a subdivision.

The dividing of a tract or parcel of land and the lot or lots so made, which dividing of lots when made are not subject to this chapter shall not become subject to this section by the subsequent dividing of said tract or parcel of land or any portion thereof; however, the planning board shall consider

the existence of such previously created lot or lots in reviewing a proposed subdivision created by such subsequent dividing.

(j) *Relationship to Floodplains.* All subdivisions shall be evaluated to determine whether the development will be reasonably safe from flooding. All lots shall have, at a minimum, sufficient building area above the base flood elevation to permit construction with the lowest floor, including basement, to be elevated (or floodproofed if a non-residential structure) to or above the base flood level.

Subdivisions shall be designed and developed to preserve the flood carrying capacity of affected watercourses to the maximum extent feasible and to ensure that adequate drainage is provided to reduce the exposure to flood hazards. All public utilities and facilities such as sewer, gas, electrical and water systems shall be located, elevated and constructed to minimize or eliminate flood damages. (Code 1970, as amended, § 24-4; Ord. No. 79-25, 9-25-79; Ord. No. 80-16, 2-14-80; Ord. No. 86-19, 12-5-86)

Secs. 25-5—25-20. Reserved.

ARTICLE II. PROCEDURE FOR SUBDIVISION APPROVAL

Sec. 25-21. Sketch plan.

(a) Prior to submitting an application for subdivision or resubdivision, the developer shall submit to the planning department a sketch plan which shall consist of a simple sketch, on a topographic map with contour intervals no greater than five (5) feet, showing the proposed layout of streets, lots, utilities and other features in relation to existing conditions.

(b) The planning department shall, within one week, inform the developer in writing of the sketch plan's classification as either a minor subdivision, a major subdivision, and whether or not a cluster development.

(c) If classified as a minor subdivision, the subdivision plan shall comply with section 25-22 of this chapter. If classified as a major subdivision, the subdivision shall comply with section 25-23 of this chapter. (Code 1970, as amended, § 24-8)

Sec. 25-22. Minor subdivisions.

(a) Within six (6) months after classification of the sketch plan as a minor subdivision, the developer shall submit a final plan at least seven (7) days prior to a scheduled planning board meeting. The final plan shall generally conform to the layout shown on the sketch plan plus any recommendations made by the board.

(b) The developer, or his authorized representative, shall attend the planning board meeting at which the final plan is to be reviewed.

(c) The planning board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing if one is held, unless the developer agrees in writing to an extension of this period, issue an order denying or granting approval upon such terms and conditions as it may deem necessary to ensure that the subdivision complies with the standards of this chapter.

(d) *Submissions.*

(1) The final plan shall be drawn in ink upon tracing cloth at a scale of one hundred (100) feet or less to the inch. Topography, utilities and existing structures may be shown on paper on accompanying sheets at an appropriate scale. Sheets shall not exceed twenty (20) inches by thirty (30) inches, and if more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision. The original, a sepia, and three (3) prints shall be submitted to the board. Endorsement of the original by the board chairman shall constitute approval, whereupon the original shall be recorded in the county registry of deeds by the planning director. The final plan shall include the following:

- a. All information from sketch plan;
- b. Subdivision name, boundaries, north point, scale, date and lot numbers;
- c. Name of record owner, subdivider and engineer, and names of abutting property owners;
- d. Lot dimensions and areas;
- e. Field survey of the subdivision giving complete descriptive lot data by bearings, distances and radii of curves, made and certified by surveyor licensed by the state. All survey monuments shall be described and referenced on the plan; copies of field notes indicating that the unadjusted traverse has a minimum ratio of precision of one part in ten thousand (10,000) shall be furnished. The traverse shall be made to close (balance); the method used and copies of computations shall also be furnished with a survey plan;
- f. The location and size of any existing sewers, culverts, drains, gas mains and other underground structures;
- g. Soil condition reports for all lots proposed to have subsurface sewage disposal systems. Subsurface soil, bedrock and groundwater conditions to depths of at least four (4) feet or resistance shall be explored in the presence of a city-appointed plumbing inspector and evaluated by a state-certified soil scientist, or geologist, or a registered professional engineer experienced in the field of soils engineering. Such reports shall conform to state plumbing code standards;
- h. A separate plan of the same scale showing the system for water service, if other than private wells;
- i. Satisfactory evidence of a safe and dependable water supply, if no connection to the municipal system is proposed;
- j. Location and size of existing and proposed fire hydrants and a letter from the fire department regarding the hydrants' adequacy to serve the subdivision;
- k. Areas to be reserved for open space;

- l. Copies of all covenants, deed restrictions and easements intended to affect the subdivision or a part of the subdivision;
- m. Written offers of cession to the city for any proposed municipal open space, and copies of covenants assuring control and maintenance of other open space;
- n. Letter from the city treasurer confirming receipt of the performance guarantee, or letter from the applicant indicating intent to complete all public improvements prior to the sale of lots and construction of buildings, whichever is appropriate;
- o. For subdivisions creating fewer than five (5) lots, a fee of twenty-five dollars (\$25.00); for subdivisions creating five (5) to ten (10) lots, a fee of fifty dollars (\$50.00); and for subdivisions creating more than ten (10) lots, a fee of one hundred dollars (\$100.00) by check payable to the City of Lewiston. Such fee will include cost of recording the plan at the County Registry of Deeds;
- p. All subdivision proposals shall include base flood elevation data;
- q. A copy, in duplicate, of any document which the developer is required to file with any state agency or record in any registry of deeds under any applicable state statute relating to the development;
- r. A letter from the police department regarding vehicular and pedestrian safety and traffic circulation. (Code 1970, as amended, § 24-9; Ord. No. 84-11, 9-21-84; Ord. No. 87-8, 3-17-87)

Sec. 25-23. Major subdivisions.

(a) Preliminary Plan.

- (1) Within six (6) months after classification of the sketch plan as a major subdivision, the developer shall submit a preliminary plan at least seven (7) days prior to a scheduled planning board meeting. The preliminary plan shall generally conform to the layout shown

on the sketch plan plus any recommendations made by the board.

- (2) The developer, or his authorized representative, shall attend the planning board meeting at which the preliminary plan is to be reviewed.
- (3) The planning board shall request the director of public works to report to the board with respect to street grades, street drainage, and sewerage of the subdivision.
- (4) The planning board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing if one is held, unless the developer agrees in writing to an extension of this period, issue an order denying or granting approval of the preliminary plan or granting approval upon such terms and conditions as it may deem necessary to ensure that the subdivision complies with the standards of this chapter. Approval of the preliminary plan does not constitute approval of the subdivision.
- (5) The planning board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing, if one is held, state in writing the specific change which it will require in the final plan. A copy of such statement shall be delivered to the developer.
- (6) The preliminary plan shall be submitted in duplicate to the planning board. The plan shall be of a scale of one hundred (100) feet or less to the inch, and shall show or be accompanied by the following:
 - a. All information from sketch plan;
 - b. Subdivision name, boundaries, north point, scale, date and lot numbers;
 - c. Name and address of record owner, subdivider and engineer, and names of abutting property owner;
 - d. Field survey of the exterior boundaries of the subdivision. Copies of field notes indicating that

the unadjusted traverse has a minimum ratio of precision of one part in ten thousand (10,000) shall be furnished. The traverse shall be made to close (balance); the method used and copies of computations shall also be furnished with a survey plan;

- e. Approximate lot dimensions and areas;

- f. The location and size of any existing sewers, water mains, culverts, drains and other underground structures;
- g. Existing and proposed streets and names, the profile of each proposed street with tentative grades indicated;
- h. A generalized plan showing approximate location, size, grade of water and sewer lines, and storm drainage;
- i. Satisfactory evidence of a safe and dependable water supply, if no connection to the municipal system is proposed;
- j. Areas to be reserved for open space; and
- k. All subdivision proposals shall include base flood elevation data.

(b) *Final Plan.*

- (1) Within twelve (12) months after approval of the preliminary plan, the developer shall submit a final plan at least seven (7) days prior to a scheduled planning board meeting. The final plan shall generally conform to the layout shown on the preliminary plan plus any recommendations made by the planning board.
- (2) The developer, or his authorized representative, shall attend the planning board meeting at which the final plan is reviewed.
- (3) The planning board shall request the director of public works to report to the planning board with respect to street grades, street drainage, water service, underground street lighting facilities, and sewerage of the subdivision, and subdivision approval by the planning board shall incorporate these recommendations.
- (4) The planning board shall request the director of public works to report to the board as to the amount of coverage for the performance guarantee, and subsequent to that report, the planning board shall inform, in writing, the developer of the required performance guarantee. Prior to subdivision approval, the planning

board shall request the city attorney to report to the board as to form and manner of execution and surety of the performance guarantee.

- (5) The planning board shall, within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing, if one is held, unless the developer agrees in writing to an extension of this period, issue an order denying or granting approval of the proposed subdivision or granting approval upon such terms and conditions as it may deem necessary to ensure that the subdivision complies with the standards of this chapter.
- (6) The final plan shall be drawn in ink upon tracing cloth at a scale of one hundred (100) feet or less to the inch. Topography, street cross sections, utilities and existing structures may be shown on paper on accompanying sheets at an appropriate scale. Sheets shall not exceed twenty (20) inches by thirty (30) inches, and if more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision. The original, a sepia, and three (3) prints shall be submitted to the board. Endorsement of the original by the planning board chairman shall constitute approval, whereupon the original shall be recorded in the county registry of deeds by the planning director. The final plan shall include the following:
 - a. Subdivision name, boundaries, north point, scale, date and lot numbers;
 - b. Name of record owner, subdivider and engineer, and names of abutting property owners;
 - c. Complete descriptive lot data by bearings, distances and radii of curves certified by a surveyor licensed by the state. All survey monuments and easements shall be described and referenced on the plan;
 - d. All angles and curve data pertaining to streets;
 - e. Cross sections at fifty-foot intervals of all proposed streets or proposed street extensions;

- said cross sections shall extend to the limit of cut and fill slopes;
- f. Center line stations for all proposed streets or proposed street extensions shall be established and shown. Points of curve, points of tangent, points of intersection as well as turnaround dimensions and information shall be shown and referenced to the street centerline;
 - g. Plans and profiles showing location, size and grade of sewers and location and layout of both surface and subsurface drainage systems;
 - h. A separate plan of the same scale as the survey sheet showing the system for water service, if other than private wells;
 - i. Soil condition reports for all lots proposed to have subsurface sewage disposal systems. Subsurface soil, bedrock and groundwater conditions to depths of at least four (4) feet or resistance shall be explored in the presence of the city-appointed plumbing inspector and evaluated by a state-certified soil scientist, or geologist, or a registered professional engineer experienced in the field of soils engineering. Such reports shall conform to state plumbing code standards;
 - j. Location and size of existing and proposed fire hydrants and a letter from the fire department regarding the hydrants' adequacy to serve the subdivision;
 - k. Areas to be reserved for open space;
 - l. Copies of all covenants, deed restrictions and easements intended to affect the subdivision or part of the subdivision;
 - m. Written offers of cession to the city for any proposed municipal open space, and copies of covenants assuring control and maintenance of other open space;
 - n. Letter from the city treasurer confirming receipt of the performance guarantee, or letter from the applicant indicating intent to complete all public

improvements prior to the sale of lots and construction of buildings, whichever is appropriate;

- o. For subdivisions creating fewer than five (5) lots, a fee of twenty-five dollars (\$25.00); for subdivisions creating five (5) to ten (10) lots, a fee of fifty dollars (\$50.00); and for subdivisions creating more than ten (10) lots, a fee of one hundred dollars (\$100.00), by check payable to the City of Lewiston. Such fee will include cost of recording the plan at the county registry of deeds;
- q. A copy, in duplicate, of any document which the developer is required to file with any state agency or record in any registry of deeds under any applicable state statute relating to the development;
- r. A letter from the police department regarding vehicular and pedestrian safety and traffic circulation. (Code 1970, as amended, § 24-101; Ord. No. 84-11, 9-21-84; Ord. No. 87-8, 3-17-87)

Secs. 25-24—25-40. Reserved.

ARTICLE III. DESIGN AND CONSTRUCTION STANDARDS

Sec. 25-41. Generally.

In addition to the requirements of section 24-65, the following additional requirements shall apply to streets proposed as a part of a subdivision:

- (1) Rights-of-way for future cross streets or access to adjacent properties shall be provided at least every five hundred (500) feet unless, in the opinion of the board, topographic or other considerations justify greater distances.
- (2) Every lot shall abut a public street.
- (3) Side lines of lots shall be at right angles to street lines or radial to curved street lines unless a variation of this rule will give a better street and lot plan.

- (4) All lots shall comply with dimensional and area requirements established by the zoning ordinance.
- (5) Through lots, running from one street to another, shall be avoided.
- (6) Half-width streets along the boundary of land proposed for subdivision shall not be permitted.
- (7) Individual services for all underground utilities shall be provided and shall extend to the edge of the street right-of-way line where they will be properly capped. An accurate record of each service, including the location and depth at the lot line, shall be kept by the developer's engineer and a true copy of same shall be provided to the city engineer. Locations of all services at the lot line shall be physically marked by the placement of wooden stakes, driven full-length into the ground at each location.
- (8) Dead-end streets designed to have one end permanently closed shall not be longer than one thousand (1,000) feet. Dead-end streets longer than one thousand (1,000) feet may be approved by the planning board when physical characteristics of the land or existing development does not preclude the eventual extension of a dead-end street to other streets. In determining the acceptability of dead-end streets longer than one thousand (1,000) feet, the planning board shall seek input from the director of public works, fire chief and police chief. (Code 1970, as amended, § 24-30; Ord. No. 85-15, 11-29-85)

Chapter 31

ZONING*

Sec. 31-1. Statement of purpose.

An ordinance regulating in the City of Lewiston the location and use of real estate for industrial, commercial, residential and other purposes; construction, height, number of stories, area and bulk of all structures, size and open spaces of real estate; population density and setback of structures along ways of public property. An ordinance drafted as an integral part of a comprehensive plan for municipal development and promotion of health, safety and general welfare of the residents of the City of Lewiston, among other things, designed to encourage the most appropriate use of land throughout the municipality, to promote traffic safety, to provide safety from fire and other elements, to provide adequate light and air, to prevent overcrowding of real estate, to promote a wholesome home environment, to prevent housing development in unsanitary areas, to provide an adequate street system, to promote the coordinated development of unbuilt areas, to encourage the formation of community units, to provide an allotment of land area in new developments sufficient for all requirements of community life, to conserve natural resources, to provide for adequate public services, and for said purposes dividing the city into zones as hereafter designated, defined and described. (Code 1970, as amended, § 29-1)

***Charter references**—Planning board, § 4.05; board of appeals, § 4.06.

Cross references—Division of code enforcement, § 2-95; planning and development, Ch. 21; site location of major developments, § 21-2; subdivisions, Ch. 25.

State law references—Municipal authority to enact a zoning ordinance, 30 M.R.S.A. § 4953; municipal authority to regulate buildings, structures, trailers and equipment, 30 M.R.S.A. § 451(4); zoning generally, 30 M.R.S.A. §§ 4951—4957; a nuisance exists when emissions of offensive smells or other annoyances become injurious and dangerous to the public, 17 M.R.S.A. § 2802.

Sec. 31-2. Short title.

This chapter shall be known and may be cited as "The Zoning Ordinance for the City of Lewiston, Maine." The original zoning ordinance was adopted June 16, 1947, and subsequently amended. The adoption of this chapter which becomes effective October 31, 1972, includes all the amendments to that date. (Code 1970, as amended, § 29-2)

Sec. 31-3. Definitions.

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

Accessory use or structure. A subordinate use of a building, other structure or land, or a subordinate building or other structure:

- (a) Whose use is customary in connection with the principal building, other structure or use of land;
- (b) Whose use is clearly incidental to the use of the principal building, other structure or use of land;
- (c) Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot (except off-street parking as defined in section 31-35 of this chapter) if in the same ownership or part of the same establishment; and
- (d) Which does not constitute, in effect, conversion of the principal use of the premises to one not permitted.

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

Adjoining, adjacent. Lying near, close or contiguous, neighboring.

Adult amusement establishment. A business establishment which:

- (a) Keeps for public patronage, or permits or allows the operation of, any adult amusement device as defined in section 17-2 of this Code; or

- (b) Offers live entertainment, customarily exhibits motion pictures, or displays any other visual representation described or advertised as being "X-Rated" or "For Adults Only," and which excludes persons from any portion of the premises by reason of immaturity of age by use of such, or similar phrases; or
- (c) Offers as a substantial portion of its stock-in-trade, books, magazines, or other periodicals characterized by their emphasis on specified anatomical areas or specified sexual activities, as defined in section 17-2 of this Code, "adult amusement devices."

As used in this definition, "customarily" shall mean more often than an average of one calendar week during any calendar month of operation, and "substantial portion" shall mean greater than seventy-five (75) per cent of the books, magazines and other periodicals carried as stock-in-trade.

Adult business establishment. A business or commercial establishment which customarily derives at least fifty (50) percent of its operating income from the retail sale or lease of goods and/or services which may not lawfully be sold or leased to persons under the age of eighteen (18), or a business entity which customarily excludes persons under the age of eighteen (18) from admission to its premises, including, but not limited to, adult amusement establishments, private membership clubs, taverns, restaurants or other establishments deriving at least fifty (50) percent of their operating income from the sale of liquor; and shall also include any licensed billiard or pool hall and any business establishment containing more than two (2) of any type of billiard or pool table.

Alley. A public highway which is a narrow way, less in size than a street, and which is not designed for general travel, which is used primarily as a means of access to the rear of residences and business establishments and which,

generally, affords only a secondary means of access to the property abutting along its length.

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

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

Apartment. See “dwellings, lodgings and related terms” and “dwelling unit.”

Apartment house (tenement house). See “dwellings, lodgings and related terms” and “multiple dwelling.”

Area. As applied to a building or structure, means the maximum horizontal projected area of the building or structure at or above grade.

Auto court. See “dwellings, lodgings and related terms” and “hotel.”

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

Automobile parking station. Any parking lot open to the public for which charges are made for parking or storage of automobiles. (See “garage, commercial” for parking or storage in structures where charges are made.)

Automobile service station. A repair garage or any structure, enclosure or premises used for repairs other than or in addition to those permitted at gasoline supply stations.

Base flood. The flood having a one per cent chance of being equalled or exceeded in any given year.

Basement. A story (or portion of a story) of a building or structure having one-half or more of its clear height below grade. Also see “story.”

Billboard or poster panel. See “display.”

Board of appeals. The Lewiston Board of Appeals shall constitute the board of appeals within the meaning of this chapter.

Boarding house. An establishment where meals are regularly prepared and served for compensation for three (3) or more persons and where most of the food is placed upon the table family style, without service or ordering of individual portions from a menu, and also where lodging units are sometimes available.

Building area. The portion of the lot remaining after required yards have been provided. Buildings may be placed in any part of the building area, but if there are limitations on per cent of the lot which may be covered by buildings, some open space may be required within the buildable area.

Building inspector. An administrative agent of the City of Lewiston who is charged, among other things, with inspecting buildings, issuing building or use permits upon a showing by the applicant of compliance with all applicable City of Lewiston ordinances and laws of the State of Maine, and enforcing this chapter.

Building. A combination of materials to form a construction that is safe and stable and adapted to permanent or continuous occupancy for residential, agricultural, industrial, commercial or institutional purposes; the term “building” shall be construed as if followed by the words “or part thereof.”

Building, accessory. See “accessory use of structure.”

Building, height of. See “height.”

Building line. See “setback line.”

Building, principal. A building in which the primary use of the premises is conducted.

Building or use permit. A document to be secured from the Building Inspector of the City of Lewiston by every landowner or his agent within the City of Lewiston who

desires to construct, add to, alter, move or demolish any building or structure on his land or change the present use of his land or of any building or structure on it, showing that the landowner has fully complied with the provisions of all City of Lewiston ordinances and laws of the State of Maine.

Bulk. The term used to describe the size of buildings or other structures and their relationship to each other and to open areas and lot lines, and therefore includes:

- (a) The size of buildings or other structures,
- (b) The area of the zoning lot upon which a residential building is located, and the number of dwelling units or rooms within such building in relation to the area of the zoning lot,
- (c) The shape of buildings or other structures,
- (d) The location of exterior walls of buildings or other structures in relation to lot lines, to other walls of the same building, to legally required windows or to other buildings or other structures, and
- (e) All open areas relating to buildings or other structures and their relationship thereto.

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

Child care. An agency, organization or individual providing nonboarding care for children younger than sixteen (16) years, not related by blood or marriage to, or not legal wards of or foster children of, the attendant adult. The following categories of child care shall apply for the purposes of zoning:

- (a) *Home child care.* Child care for six (6) or fewer children per twenty-four (24) hour period.
- (b) *Group child care.* Child care other than "home child care" including nursery school and kindergarten.

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

Club. Buildings and facilities owned and operated by a corporation or association of persons for social or recreational purposes, but not operated primarily for profit or to render a service which is customarily carried on as a business.

Cluster development. A land development that groups dwellings to increase dwelling densities on some portions of the development area in order to have other portions as open space.

Commercial use. The use of real estate, [a] building or structure, or any portion thereof, for the displaying, selling or buying of goods, wares or merchandise.

Compatible use. A use which is capable of existing in harmony with other uses situated in its immediate vicinity.

Comprehensive plan. A compilation of policy statements, goals, standards, maps and all pertinent data relative to the past, present and future trends of the municipality with respect to its population, housing, economics, social patterns, land use and water resources and their use, transportation facilities and public facilities prepared by the municipal planning board, agency or office. The comprehensive plan, being as much a process as a document capable of distribution, may, at successive stages, consist of data collected, preliminary plans, alternative action proposals and finally as a comprehensive plan to be adopted. In its final stages, it may consist of a series of subsidiary but interrelated plans such as, but not limited to, a water and sewerage system plan, a land use plan, a community facilities plan, a transportation plan, an urban renewal or rehabilitation plan, an air or water pollution plan and a park and open space plan. The comprehensive plan shall include recommendations for plan execution and implementation such as, but not limited to, capital improvements

program, renewal and rehabilitation programs, land use control ordinances and building, safety and housing codes. The comprehensive plan shall include mechanisms which will ensure continual data collection, re-evaluation in light of new alternatives and revision. The comprehensive plan may include planning techniques such as, but not limited to, planned unit development site plan approval, open space zoning and clustered development.

Conditions (requirements). Three (3) broad categories of conditions are recognized:

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

Conditional use (special use, special exception, secondary uses). A use or structure not permitted as a matter of right, subject only to general conditions, but permitted under the provisions of this chapter if those special conditions defined in this chapter are additionally met.

Constructed. The word "constructed" shall be construed to include the words "built," "erected," "reconstructed," "altered," "enlarged," "moved" and "placed."

Convalescent home (nursing home, rest home, home for the aged). See "nursing home."

Conversion. The changing of use or occupancy of a dwelling by alterations or by other reorganization so as to

increase the number of families or dwelling units in a structure.

Corner cutback. The part of a corner lot within an imaginary triangle bounded by the two (2) street lines with an imaginary line connecting a point on each street line. Such points shall be measured twenty (20) feet back from the intersection of the street lines where a front yard setback is required, and eight (8) feet back where no such setback is required. As used in this definition, streets shall not include alleys.

Court. An open, uncovered, unoccupied space on the same lot with a building:

- (a) "Inner court" means any court other than an outer court or a yard.
- (b) "Outer court" means a court other than a yard having at least one side thereof opening onto a street, alley or yard or other permanent open space.
- (c) "Yard" means a court on the same lot with a building extending along the entire length of a lot line.

Covenant. An agreement in writing usually recorded between two (2) or more parties having an interest in the land wherein the covenantor affirms that certain acts either will or will not be done. The covenant may be a specified duration, may bind and be enforced only by the signatory parties, or, if so intended, may be designed to run with the land binding and giving enforcement powers not only to the signatory parties but to all who may subsequently hold through them. The City of Lewiston in which the land is located may be a coventee (beneficiary of a covenant).

Coverage. That percentage of the lot area or plot covered by the building area.

Curb level. The elevation of the street curb as established in accordance with law; referring to a building, it means the elevation at that point of the street grade that is opposite the center of the wall nearest to and facing the street line.

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

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Dog kennel. A structure used for the harboring of more than four (4) dogs that are more than four (4) months old.

Display sign. A structure erected independently or attached to any structure that is arranged, intended, designed or used as an advertisement, announcement or direction, and includes a sign, sign screen, billboard and advertising devices of every kind. Attached display signs shall include such as are permanently attached to any building or other structure. Detached display signs shall include such as are specially constructed, as such, without attachment to any other structure.

Driveway. That space specifically designated and reserved on the lot for the movement of vehicles from one lot to another or from a lot to a public street.

Dwelling, attached. Buildings containing only one or two (2) dwelling units and with three (3) buildings attached to each other. Side yards shall be required only at the end of rows of attached dwellings; such buildings shall have individual lots, or shall be so located on land in the same ownership that individual lots meeting the requirements of zone regulations could be provided for each, or shall be so located and grouped on land in the same ownership that individual lots plus common open space for each and all groups would yield a lot area per dwelling unit at least equal to that required for the zone. The term "attached dwelling" is intended to apply to row houses, town houses, patio houses and other forms with three (3) buildings attached to each other, provided that any such building containing more than two (2) dwelling units shall be considered a multiple-family dwelling.

Dwelling, detached. A building containing only one or two (2) dwelling units entirely surrounded by yards or other separation from buildings on adjacent lots.

Dwelling, duplex. A building containing only two (2) dwelling units, but with a single front entrance and all exterior characteristics of a one-family dwelling.

Dwelling, multiple. A building containing three (3) or more dwelling units.

Dwelling, one-family. A building containing only one dwelling unit. The term is general, including such specialized forms as one-family detached, one-family semi-detached and one-family attached (row houses, town houses, patio houses and the like). For regulatory purposes, the term is not to be construed to include mobile homes, travel trailers, housing mounted on self-propelled or drawn vehicles, tents or other forms of temporary or portable housing.

Dwelling, semi-detached. A building containing only one or two (2) dwelling units separated from only one other building containing only one or two (2) dwelling units by a party wall without openings, and with each building having a separate lot with at least minimum dimensions required by zone regulations for such buildings, or so located on land in the same ownership that such lots could be provided. For the purpose of side yard regulations, semi-detached dwellings with common party walls shall be considered as one building occupying one lot.

Dwelling, two-family. A building containing only two (2) dwelling units. The term is general, including duplex, two-family detached, two-family semi-detached and two-family attached.

Dwelling unit. A room or rooms connected together constituting a separate, independent housekeeping establishment for a family, for owner occupancy or rental or lease on weekly or longer terms, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent kitchen and sleeping facilities. Dwelling units available for rental or occupancy for periods of less than one week shall be considered lodging units.

Elderly. Families or persons included in the term “elderly” under the United States Housing Act of 1937, as amended.

Erected. See “constructed.”

Fabrication. Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families and that no more than two (2) lodging units may be occupied by a total of two (2) or less roomers, who may also board with the family. Two (2) or less boarders, including, but not necessarily restricted to, roomers on the premises, may be accommodated. The term “family” shall not be construed to mean a fraternity, sorority, club or institutional group. (For two (2) or more roomers or boarders, see “boarding house” and “rooming house.”)

Filling station. See “gasoline supply station.”

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

Flood insurance rate map (FIRM). The official map prepared by the Federal Insurance Administration which delineates both the special hazard areas and the risk premium zones.

Floodproofing. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Garage, commercial. A structure used for parking or storage of automobiles, generally available to the public and involving payment of a charge for such parking or storage. A garage used solely in conjunction with a multiple-family dwelling or hotel shall not be construed to be a commercial garage, but rather a permitted accessory structure and use, even though not on the same premises as the multiple-family dwelling or hotel.

Garages, private, residential. An accessory building or part of the residence for parking or temporary storage of automobiles of residential occupants of the premises. In private residential garages for one- or two-family dwellings, not more than one space may regularly be used by the private passenger automobile of a person not resident on the premises.

Gasoline supply stations. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail and where, in addition, the following services may be rendered and sales made, and no other:

- (a) Sales and servicing of spark plugs, batteries and distributors and distributor parts;
- (b) Tire servicing and repair, but not recapping or regrooving;
- (c) Replacement or adjustment of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- (d) Radiator cleaning and flushing; provision of water, antifreeze and the like;
- (e) Washing and polishing and sale of automotive washing and polishing materials;
- (f) Greasing and lubrication;
- (g) Providing and repairing fuel pumps, oil pumps and lines;

- (h) Servicing and repair of carburetors;
- (i) Emergency wiring repairs;
- (j) Adjusting and repairing brakes;
- (k) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (l) Provision of cold drinks, packaged foods, tobacco and similar convenience goods for gasoline supply station customers, but only as accessory and incidental to principal operation;
- (m) Provisions of road maps and other informational material to customers; provisions of restroom facilities; and
- (n) Serving as an "official inspection station" when and as provided by the applicable laws of the State of Maine.

Uses permissible at a gasoline supply station do not include operation of an automobile parking station or commercial garage as an accessory use, or any activity involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in gasoline supply stations.

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

Group care facility. A boarding care facility wherein children under eighteen (18) years of age or adults over sixteen (16) years of age and not legally related to the operator are provided personal care, supervision and social or rehabilitative services. Uses within the meaning of this definition must be licensed by the State of Maine and may include, but are not limited to, group homes, half-way homes and congregate homes but do not include foster family homes. For the purpose of regulation application, the following categories of group care facilities shall apply:

- (a) *Type "A" group care facility.* A facility providing residential care for individuals including, but not

limited to, the aged, the dying, the physically handicapped, children, the mentally ill, the mentally retarded, or adults with or without dependent children who are unable to remain at home but not including offenders, ex-offenders, or alcohol or drug abusers.

- (b) *Type "B" group care facility.* A facility providing residential care for offenders, ex-offenders, or alcohol or drug abusers.

Height. As applied to a building, means the vertical distance from grade to the average elevation of the roof of the highest story; "height" of a building in stories does not include basements—see "story":

- (a) "Height," as applied to a court, means the vertical distance from the level of the floor of the lowest story served by that court to the level under consideration;
- (b) "Height," as applied to a story, means the vertical distance from top to top of two (2) successive tiers of floor beams or finished floor surfaces;
- (c) "Height," as applied to a wall, means the vertical distance to the top measured from the foundation wall, or from a girder or other immediate support of such wall.

Home occupation. An occupation conducted in a dwelling unit, provided that:

- (a) No person other than a member of the family residing on the premises shall be engaged in such occupation; and
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) per cent of the floor area of the dwelling units shall be used in the content of the home occupation; and
- (c) There shall be no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such home occupation other than one sign,

except not hereinafter permitted (see section 31-37 of this chapter, not exceeding one square foot in area non-illuminated and mounted flat against the wall of the residence); and

- (d) No home occupation shall be conducted in an accessory building or structure; and
- (e) No traffic shall be generated by such home occupations in greater volumes than would primarily be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard; and
- (f) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the home occupation is conducted in a detached one-family dwelling, or outside the dwelling unit if conducted in any other form of dwelling. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receiver off the premises, or causes fluctuations in line voltage off the premises; [and]
- (g) There shall be no stock in trade regularly maintained, or any new commodity sold on the premises; and
- (h) The following are specifically excluded as home occupations: Convalescent or nursing home, tourist home, animal hospital, restaurants, doctors' offices, and dentists' offices.

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

Hotel (motel, motor lodge, tourist court, auto court). These terms as used herein are synonyms and mean a building or

group of attached or detached buildings containing in combination ten (10) or more lodging or dwelling units intended primarily for rental or lease to transients by the day or week, as distinguished from multiple-family dwellings in which rentals or leases are for weekly or longer periods and occupancy is generally by residents rather than transients.

Home for the aged (nursing home, rest home, convalescent homes). See "nursing home."

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

Industrial use. The use of real estate, [a] building or structure, or any portion thereof, for assembling, fabricating, finishing, manufacturing, packaging or processing operations.

Junkyard. A yard, field or other area used as a place of storage for:

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

Living quarters. A general term including lodging units and dwelling units.

Loading space. An on-the-property space for the standing, loading or unloading of vehicles to avoid undue interference with the public use of streets and alleys. Such space shall be not less than fourteen (14) feet in width, fourteen (14) feet in height and fifty (50) feet in length, exclusive of access aisles and maneuvering space.

Lodging house (tourist home). A building or group of attached or detached buildings containing in combination three (3) to nine (9) lodging and/or dwelling units for occupancy for daily or weekly periods, with or without board, and primarily for occupancy by transients, as distinguished from multiple dwellings and rooming houses in which occupancy is primarily by residents rather than transients.

Lot. A lot, for zoning purposes, is a piece of land identified on a plat of record or in a deed of record and of sufficient area and dimensions to meet zone requirements for width, area, use and coverage and to provide such yards and open spaces as are required. A lot may consist of combinations of adjacent individual lots and/or portions of lots so recorded; provided, however, that in no case of division or combination shall any residual lot, portion of lot or parcel be created which does not meet the requirements of this chapter and the subdivision regulation of Lewiston. All lots shall have direct vehicular access to a public street as herein defined.

Lot area. The area of land enclosed within the boundary lines of a lot.

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

Lot, interior. A lot other than a corner lot.

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

Lot, width of. The longest single dimension of the lot measured along the line of the street, being synonymous with the street frontage.

Lot line. A line dividing one lot from another, or from a street or other public space.

Manufacturing. The making of goods and articles by hand or, especially, by machinery.

Master plan. See "comprehensive plan."

Mobile home. A vehicular portable structure built on a chassis designed as a single-family dwelling unit suitable for year-round occupancy containing sleeping accommodations, kitchen facilities, the same water supply, waste disposal and electrical conveniences as immobile housing and with plumbing and electrical connections provided for attachment to outside systems. A mobile home shall be considered as a mobile home whether it is placed on a slab or permanent foundation, whether the wheels are removed or whether any other action is taken to make it appear as anything but a mobile home.

Mobile home lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

Mobile home park. A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for nontransient use.

Mobile home stand. A part of the individual lot which has been reserved for placement of the mobile home, appurtenant structures or additions.

Multiple dwelling use. For the purpose of determining whether a lot is in multiple dwelling use, the following considerations shall apply:

- (a) Multiple dwelling uses may involve dwelling units intended to be rented and maintained under central ownership or management or [such as] cooperative apartment[s], condominiums and the like;
- (b) Where an undivided lot contains more than one building and the buildings are not so located that lots conforming to requirements for one- or two-family dwellings in the zone could be provided, the lot shall be considered to be in multiple dwelling use if there are three (3) or more dwelling units on the lot, even though the individual buildings may each contain less than three (3) dwelling units;
- (c) Servants' quarters shall not be considered as dwelling units in computations under (b) above.

- (d) Any multiple dwellings in which dwelling units are available for rental or lease for periods of less than one week shall be considered a tourist home or hotel, depending on the number of dwelling and/or lodging units available for periods of less than one week; provided, however, that temporary living quarters for guests of regular tenants only may be provided in any multiple dwelling, with [the] number of such units limited to ten (10) per cent of the number of dwelling units and subject to other requirements of the zone as to lot area per unit, off-street parking and the like.

Neighborhood grocery store. A small retail store having an interior selling space of less than three thousand (3,000) square feet offering foodstuffs to the inhabitants of the immediate neighborhood in which it is located.

Nonconforming use of structure. Any legal use or structure already in existence or begun before the passage of this land use control ordinance or amendment thereto, which ordinance or amendment by its terms would now make the particular use or structure either totally impermissible, impermissible as presently located, or impermissible by virtue of the manner in which the use or structure is being operated.

Nursing home (convalescent home, rest home, home for the aged, boarding home, etc.). An institution principally devoted to offering nonintensive nursing care and board to persons who are chronically ill, infirm because of age or disabling physical or mental defect or disease, or convalescing from illness or surgery. In the proposals of this chapter, nursing homes shall be included under boarding houses.

Occupied. As applied to a building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied."

Off-street parking space. An all-weather surfaced area not in a street or alley and having an area nine (9) feet by twenty (20) feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street by an all-weather surface driveway

(which affords ingress and egress for an automobile without requiring that any vehicle back out into a street or requiring that any other vehicle be moved).

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

Owner. This includes his/her duly authorized agent or attorney, a purchaser, devisee, fiduciary and a person having a vested or contingent interest in the property in question.

Penthouse. An enclosed structure, other than a roof structure, located on the roof, extending not more than twelve (12) feet above and used primarily for living or recreational accommodations. Also see "story."

Performance guaranteed. A cash, property or other bond satisfactory to the City of Lewiston issuing a required building, use or other permit or approval under the provisions of this land use control ordinance to ensure the actual carrying out of every duty, act, requirement or condition, the performance of which was the basis for issuing the permit or approval. A performance guarantee may be required before the actual work allowed under the permit or approval has begun or at any time prior to the completion of the act allowed under the permit or approval. Failure to provide a performance guarantee when required to do so revokes any permit or approval which may previously have been obtained. Failure to perform successfully the acts for which the guarantee is posted may result in a partial or total forfeiture of the guarantee.

Permitted use (principal use, primary use). A use or structure permitted in a given location as a matter of right under the provisions of this land use control ordinance subject only to those general conditions (requirements) which are to be met by all applicants seeking a required permit under this chapter.

Planned unit development. A land development composed of separate elements which has been designed from the beginning as a unit. This may apply to a shopping center, an industrial park or a residential development, especially one containing a variety of housing types and recreational and shopping services for the residents.

Premises. Includes vacant or unimproved land and the buildings erected thereon within the confines of a specified zone.

Primary use. See "permitted use."

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

Principal use. See "permitted use."

Processing. Any operation changing the nature of material or materials such as chemical composition or physical qualities. Does not include operations described as fabrication.

Regulatory floodway. 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 foot at any point.

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

Requirements. See "conditions."

Residential uses. The use of real estate, buildings or structures, or any portion thereof, by individuals for whom sleeping accommodations are provided, with or without dining facilities.

Rest home (nursing home, convalescent home, home for the aged). See "nursing home."

Retail. Sale to the ultimate consumer for direct consumption and not for trade.

Retaining walls. Any masonry, reinforced concrete, reinforced masonry, structural plain concrete, steel encased in concrete or masonry wood, or stone wall used to keep a bank of earth from sliding, prevent water from flooding, or to increase the elevation of land.

Roof. The roof slab or deck with its supporting members.

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

Rooming house. A building or group of attached or detached buildings containing in combination three (3) to nine (9) lodging units for occupancy for weekly or longer periods with or without board, as distinguished from hotels and tourist homes in which rentals are generally for daily or weekly periods and occupancy is by transients.

Setback. The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure.

Sign or billboard. See "display sign."

Special flood hazard area. An area having special flood or flood related erosion hazards, and shown on the flood insurance rate map as Zone A, A1-99.

Spot zoning. A zoning amendment which permits a small "island" of land for more intensive use than permitted on adjacent properties. Spot zoning is invalid where some or all of the following factors are present:

- (a) A small parcel of land is singled out for special and privileged treatment;

- (b) The singling out is not in the public interest but only for the benefit of the owner;
- (c) The action is not in accord with the comprehensive plan.

Story. The part of a building comprised between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds thirty-three and one-third (33 1/3) per cent of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one thousand (1,000) square feet or thirty-three and one-third (33 1/3) of the roof area. The basement of a building, other than a single-family house, used for additional occupancy shall be considered a story if it is used for purposes other than storage or heating.

Street. A public way laid out and established by the State of Maine, County Commission of Androscoggin County, or city, or accepted by the city council of the City of Lewiston as a street or public easement under Chapter 24 of this Code, or a way shown on a plan of a subdivision duly approved by the planning board and for which a performance guarantee has been posted.

Street line. A lot line dividing a lot from a street.

Structure. A combination of material to form a construction that is safe and stable, including, among others, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, swimming pools (above and below ground), trestles, piers, wharves, sheds, coal bins, shelters, fences and display signs; the term "structure" shall be construed as if followed by the words "or part thereof."

Tenement house. See "apartment house."

Tourist home. See "dwelling, lodgings and related terms."

Use. See "permitted use, conditional use and accessory use."

Used. The word "used" shall be construed to include the words "arranged," "designed," "converted," "rented" or "leased to be used."

Variance. A special exemption to do what would otherwise constitute a violation of this chapter, which is granted where strict application of a provision of this chapter would cause undue hardship.

Warehousing. The storage of goods, wares and merchandise in a warehouse.

Wholesale. Sale for resale, not for direct consumption.

Wind energy conversion system. (WECS). A device which converts wind energy to electrical or mechanical energy and including a supporting tower.

Yard, front. The open, unoccupied space, within and extending the full width of the lot, between the street line and any part of the building nearest to such line.

Yard, rear. The open space, unoccupied except for permitted accessory buildings, running the full width of the lot, between the nearest part of the rear wall of the building throughout its height and the rear line of the lot. In the case of a lot on the corner of two (2) or more streets, either lot line not bordering on a street may be elected by the owner to be the rear line, provided he notes the same on his/her plans as officially filed with the building inspector. In case of a gore lot (triangular) between two (2) streets meeting at any angle of ninety (90) degrees or less, the lot line which is not also a street line shall be considered a side lot line and not a rear lot line.

Yard, side. The open, unoccupied space within the lot between a side lot line or its vertical projection and the parts of the building nearest to such side line. Such a side yard shall extend through from the street line or the front yards, if such is required, to the rear yard, if such is required, or to the rear lot line.

Yard, side, width of. The least distance between the side lot line or its vertical projection and the wall nearest to the side lot line.

Zone. See "zoning district."

Zoning district (zone). A zone district is a distinct category of use privileges defined with particularity by the City of Lewiston in this chapter and the conditions which attach to the exercise of these privileges, which category of privileges may be carried on in geographically defined and delineated areas within the City of Lewiston.

Zoning map. A map prepared by the City of Lewiston Planning Board outlining each zone established or modified by the municipality. The map is filed in the office of the city clerk of Lewiston.

Zoning board of appeals. See "board of appeals."

Zoning ordinance. A City of Lewiston ordinance designed to be a means of implementing the comprehensive plan. It, among other things, seeks to incorporate the widest possible range of legal land (or water) use alternatives in appropriate zoning districts which ensure that development activities will be in harmony with the landscape (or waterscape) and with one another, orderly and economical (in terms of both public and private interest), and that the health, safety and general welfare of the residents of the City of Lewiston are safeguarded. It, among other things, sets forth the steps which must be taken and the conditions which must be met before an existing land (water) use may be altered or a lot, tract or parcel of land improved. And, among other things, it provides for a board of appeals to interpret this chapter and hear and decide alleged error in any interpretation and order of the building inspector, to determine whether special conditions required by this chapter and made requisite to the granting of a conditional use permit have been met, and to hear and decide requests for variances.

(Code 1970, as amended, § 29-3; Ord. No. 79-26, 9-25-79; Ord. No. 79-28, 10-9-79; Ord. No. 80-20, 2-14-80; Ord. No. 80-28, 5-15-80; Ord. No. 81-24, 12-10-81; Ord. No. 83-2, 3-1-83; Ord. No. 84-2, 5-3-84; Ord. No. 84-14, 12-20-84; Ord. No. 87-6, 3-17-87)

Sec. 31-4. Nonconforming use.

(A) [NUISANCE DECLARED.]

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

(B) [APPLICABILITY OF ZONING ORDINANCE TO EXISTING STRUCTURES, USES.]

This zoning ordinance shall not apply to structures and uses existing at the time it is enacted, but shall apply to new structures and uses, and change in structures and uses made afterward. Therefore, any lawfully nonconforming building or structure and any lawfully nonconforming use of building or land may be continued in the same kind and manner and to the same extent as at the time it became lawfully nonconforming.

(C) CHANGE OR EXTENSION OF NONCONFORMING BUILDING, STRUCTURE OR USE.

Except for changes of a nonconforming building, structure or use to a conforming building structure or use, or except after the board of appeals determines by the special requirements for conditional uses in section 31-26 of this chapter that a change or extension of a nonconforming building, structure or use will not be substantially more detrimental or injurious to the neighborhood:

- (1) A lawfully nonconforming use shall not be changed, extended or enlarged;
- (2) A lawfully nonconforming residential building may not be enlarged beyond the size permitted by side yard, front yard, rear yard, height, building area, corner clearance or area of lot per family limitations generally in effect for building in said zone, nor beyond the size limitations for residential buildings contained in the ordinances of the City of Lewiston and the laws of the State of Maine;
- (3) A lawfully nonconforming building or structure other than a residential building may not be extended or enlarged.
- (4) Changes involving the construction, extension or addition of signs, fences, retaining walls, tennis courts, swimming pools and detached garden sheds, tool sheds and greenhouses occupying a floor space of less than one hundred and twenty-five (125) square feet on lots where there exists a nonconforming building, structure or use shall be permitted as a matter of right, provided such changes meet the applicable zoning requirements.

(D) CHANGE OF A NONCONFORMING BUILDING, STRUCTURE OR USE TO CONFORMING BUILDING, STRUCTURE OR USE.

If any nonconforming building, structure or nonconforming use of a building, structure or of land is changed to

one conforming with provisions in the zone in which located it shall thereafter continue to conform.

(E) NONCONFORMING USE, ABANDONMENT.

If any nonconforming use of a building, structure or of land be discontinued for a period of twelve (12) consecutive months' duration or more, abandonment is presumed, and such use shall not be resumed, except as provided for below, and only a use conforming with provisions in the zone in which located shall thereafter be made of such building, structure or land. Abandonment of a seasonal nonconformity is presumed when the building, structure or use is idle, unopened or otherwise not in actual use during any single season wherein its use might normally be anticipated. Nonconforming uses presumed abandoned may be re-established during the eighteen (18) month period immediately following the date of presumed abandonment upon issuance of a conditional use permit by the board of appeals. In addition to applying the requirements for conditional use permits (section 31-26), the zoning board of appeals shall determine that:

- (1) The proposed use will not increase automobile traffic volumes or frequencies of stop and go movements beyond that which would normally be associated with the use generating the most traffic that is permitted in the zone.
- (2) The proposed use will not impose a light, smoke, noise, fume or vibration intrusion of adjoining uses.
- (3) The hours of operation will not induce activity during the neighborhood's normal quiet hours.
- (4) The proposed use will not inhibit or discourage the creation, development or use of permitted uses in the neighborhood.
- (5) The proposed use will not impair the economic value, use or enjoyment of neighboring, conforming uses.
- (6) Reserved.

(7) Signage of the proposed use will conform to the requirements of that zone.

(F) NONCONFORMING USE, DAMAGE TO BUILDING, STRUCTURE OF USE.

A nonconforming building, structure or use shall not be changed to a different type of nonconforming use, building or structure, or rebuilt, repaired or altered if damaged or destroyed by fire, flood, lightning, wind or structural failure, exposure or otherwise to an extent greater than fifty (50) per cent of the total value of the nonconforming use or structure at the time of such damage or destruction, except for a purpose permitted in the zone in which such building, structure or use is located.

(G) NONCONFORMING DISPLAY SIGNS.

A nonconforming display sign which has been removed for twelve (12) months or more shall not be replaced. A nonconforming sign may, for reasons of disrepair, be altered or replaced provided that its original size is not increased, its illumination is not differed, nor its location changed.

(H) DIVISION OF NONCONFORMING LOTS.

Nonconforming lots containing more than one residential building, all of which were constructed as residential buildings in conformance with the lot area, lot width and yard space requirements of any applicable zoning ordinance then in effect, may be divided into separate lots for each residential building only when the zoning board of appeals determines, by the special requirements for conditional uses in section 31-26 of this chapter, that the division will not be substantially more detrimental or injurious to the neighborhood. Lots created by such division shall conform to the applicable lot area, lot width and yard space requirements to the maximum extent feasible.

(I) NONCONFORMING MOBILE HOMES

A nonconforming mobile home may be improved; provided, that the board of appeals determines, by the special requirements for conditional uses in section 31-26 of this chapter, that the

improvement will not be substantially more detrimental or injurious to the neighborhood; and provided further, that the number of bedrooms is not increased and that such improvement will not substantially increase the longevity of such mobile home. Nothing in this section shall restrict normal maintenance which, for the purposes of this section, may include the installation of a pitched roof and replacement siding, in addition to general property repairs.

(J) NONCONFORMING PORCHES.

Legally nonconforming covered, unenclosed porches projecting into required yards, but not into the corner cutback area, may be enclosed, subject to the following conditions:

Porches projecting no further into a required yard than the primary building may be enclosed; and

Porches projecting further into a required yard than the primary building may be enclosed; provided, that such enclosed porch shall not be used for year-round habitation unless authorized by the board of appeals upon issuance of a conditional use permit.

Legally nonconforming, enclosed porches projecting into a corner cutback area may be enclosed if authorized by the board of appeals upon issuance of a conditional use permit.

(K) NONCONFORMING ADULT BUSINESS ESTABLISHMENTS.

(1) Notwithstanding section 31-4(A), (B) or (E), any adult business establishment existing in violation of the density regulations of section 31-20(K), and which does not have a valid nonconforming use permit issued in accordance with these ordinances, is a nuisance.

(2) Notwithstanding section 31-4(B), an adult business establishment which is nonconforming by reason of section 31-20(K) as of the effective date of this ordinance [section], shall be entitled to a nonconforming use permit if the applicant shows that during the twelve (12) months prior to such effective date:

- (a) The adult business establishment was open for business, and engaged in substantial business activity, as an adult business establishment on at least one hundred fifty (150) days, and generated at least thirty thousand dollars (\$30,000.00) in gross receipts from the sale or lease of those goods which make the use an adult business establishment; or
- (b) The owner or lessee spent, or prior to the date of the public hearing on this ordinance amendment entered into an enforceable and nonrescindable contract to spend, at least fifteen thousand dollars (\$15,000.00) in capital improvements directly related to the use of the premises as an adult business establishment;

and if the applicant complies with the requirements for obtaining such a permit. The permit shall be valid for a period of one (1) year from its effective date.

(3) Notwithstanding section 31-4(E), an adult business establishment which holds a valid nonconforming use permit shall be entitled to renew its permit each year, if the applicant shows that during the twelve (12) months immediately following the effective date of the last issuance or renewal of said permit, the adult business establishment:

- (a) Was open for business, and engaged in substantial business activity, as an adult business establishment on at least one hundred fifty (150) days; and
- (b) Generated at least thirty thousand dollars (\$30,000.00) in gross receipts from the sale or lease of those goods or services which make the use an adult business establishment;

and if the applicant complies with the requirements for obtaining such a permit.

(Code 1970, as amended, § 29-4; Ord. No. 83-16, 12-15-83; Ord. No. 84-14, 12-20-84; Ord. No. 86-13, 9-19-86)

Sec. 31-5. Zoning map.

(a) The planning board of the City of Lewiston shall prepare a zoning map describing each zone established or modified by the City of Lewiston as described by ordinance.

(b) If at any time there arises a conflict between said zoning map and a description by metes and bounds, such conflict shall be resolved in favor of the description by metes and bounds.

Sec. 31-6. Establishment of zones.

To help accomplish the purposes stipulated in section 31-1 and to implement the provisions of this chapter in the City of Lewiston, the following classes of zones are hereby established:

- Section 31-8 Residential 1 "R1" Zone
- Section 31-9 Residential 3 "R3" Zone
- Section 31-10 Residential 8 "R8" Zone
- Section 31-11 Agricultural "A" Zone
- Section 31-12 Apartment "Apt." Zone
- Section 31-13 Institutional Zone
- Section 31-14 Commercial "C" Zone
- Section 31-15 Central Business District "CBD" Zone
- Section 31-15.1 Urban Commercial "UC" Zone
- Section 31-16 Transitional "T" Zone
- Section 31-17 Industrial "I" Zone
- Section 31-18 Urban Industrial "UI" Zone
- Section 31-19 Resource Protection "RP" Zone

(Code 1970, as amended, § 29-6; Ord. No. 84-15, 12-20-84)

Sec. 31-7. Boundaries of zones.

(a) Unless otherwise described or shown, the zone boundary lines are the center lines of streets, alleys, waterways or public utility and railroad rights-of-way or such lines extended.

(b) Where a zone boundary line divides a lot in a single or joint ownership of record at the time such line is adopted, the provisions of this chapter for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted zone. (Code 1970, as amended, § 29-7)

Sec. 31-8. Residential 1 "R1" Zone.

(A) STATEMENT OF PURPOSE.

A "R1" Zone reflects an area in which use of real estate is not only overwhelmingly residential in character, but to single-family dwellings and their accessory structures and uses. The stipulated uses and space and bulk requirements are designed to reflect and protect this unique character.

(B) PERMITTED USES.

In an "R1" Zone, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Single-family detached dwellings;
- (2) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage for not more than three (3) motor vehicles;
 - (b) Private greenhouse, tool shed, garden shed, playhouse, fall-out shelter, tennis court, swimming pool (see section 31-30 of this chapter), or other similar building or structure for domestic storage or use. But no accessory building or structure shall be used as a separate dwelling unit;
 - (c) The renting of rooms or the furnishing of table board in a dwelling for not more than two (2) persons other than members of the family (whether regular or transient);
 - (d) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (e) Off-street parking and loading requirements. (See section 31-35 of this chapter);
 - (f) Display signs. (See section 31-37 of this chapter);
 - (g) The keeping of household pets;
 - (h) Gardening for the propagation of plants only and for the use of the residents of the premises only;
 - (i) Fences. (See section 31-31 of this chapter);
 - (j) Home child care.

(C) CONDITIONAL USES.

In a "R1" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon

issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
- (2) Reservation, wildlife preserve or other conservation area of a nonprofit organization or membership club;
- (3) Church or other place of worship, parish house, rectory or convent;
- (4) Library, art gallery or museum open to the public or connected with an allowed educational or other institutional use and not conducted as a gainful business;
- (5) Fire or police station; other protective use of a governmental agency;
- (6) Reservoir, pumping station, standpipe or other water supply use;
- (7) Transformer station, substation, telephone exchange or other public utility or communications use, but not including any office, storage or repair use in connection therewith;
- (8) Two (2) or more unregistered vehicles on any one lot or premise[s];
- (9) Earth removal. (See section 31-36 of this chapter)
- (10) Uses as permitted in section 31-8(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;
- (11) Type "A" group care facilities for six (6) or fewer adults or children.

(D) SPECIAL REQUIREMENTS.

Space and bulk. All buildings or structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following minimum requirements:

(1) **Minimum lot area.** Seven thousand five hundred (7,500) square feet, except that a single-family dwelling may be erected on any lot of record as of July 15, 1964, provided the lot is held under separate and distinct ownership from adjacent lots on that date, having a lot area of at least five thousand (5,000) square feet and having a street frontage of at least forty (40) feet, and provided it is serviced by public or private community electricity, water and sewer.

(a) **Public or private community sewer not available.** Same as provided in an "R3" Zone, section 31-9(D)(1)(b).

(2) **Minimum lot width.** Seventy-five (75) feet.

(a) **Public or private community sewer not available.** Same as provided in an "R3" Zone section 31-9(D)(2)(b).

(3) **Minimum rear yards.**

(a) **Single-family dwellings.** Twenty (20) feet.

(b) **Accessory buildings or structures.** Ten (10) feet.

(4) **Minimum side yards.**

(a) **Single-family dwellings.** There shall be on each side of such family dwelling a side yard having a width of ten (10) feet from the lot line, and provided further that in the case of a family dwelling for which a permit has been granted as of July 15, 1964, an appurtenant garage, carport or breezeway may be constructed within ten (10) feet but in no case less than five (5) feet from the side lot line.

(b) **Accessory buildings or structures.** There shall be on each side of each accessory building or

structure a side yard having a width of five (5) feet from the lot line. Exempt from this side yard requirement are accessory buildings or structures covering a ground area of less than one hundred twenty-five (125) feet which shall be at least two (2) feet from the lot line; however, if it is separated from the lot line by a fence of at least five (5) feet in height, the accessory building or structure may be erected to the lot line.

(5) Minimum front yards.

- (a) Single-family dwellings. There shall be in the front of each family dwelling a front yard of twenty (20) feet from the sidewalk or lot line in new developments. In older built-up sections, the front yard need be no deeper than the depth of the front yard of the next neighbor nearest the twenty (20) foot line or on the twenty (20) foot line, provided that on a lot held under separate or distinct ownership from adjacent lots and of record October 30, 1950, and less than one hundred (100) feet deep at the time it is placed in a residential zone, no front yard need be deeper than fifteen (15) per cent of the depth of said lot.
- (b) Accessory buildings or structures. No accessory building or structure shall be located in the required front yard of the lot or premises. (This includes detached garages.)

(6) Maximum height.

- (a) Single-family dwellings. Two (2) stories or thirty-five (35) feet.
- (b) Accessory buildings or structures. One and one-half (1½) stories or twenty-one (21) feet.

(7) Maximum building area.

- (a) Single-family dwellings. Thirty (30) per cent of lot area.
- (b) Accessory buildings or structures. If located on rear yard, it shall occupy not more than thirty (30) per cent of said rear yard.

(8) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter.

(Code 1970, as amended, § 29-8; Ord. No. 79-15, 8-15-79; Ord. No. 80-28, 5-15-80; Ord. No. 81-18, 7-6-81; Ord. No. 82-4, 4-23-82; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86)

Sec. 31-9. Residential 3 "R3" Zone.

(A) STATEMENT OF PURPOSE.

An "R3" Zone reflects an area in which the uses of real estate are residential in character and generally more densely built-up than the "R1" Zone or capable of supporting higher densities. The stipulated uses and space and bulk requirements are designed to reflect and protect this residential character.

(B) PERMITTED USES.

In an "R3" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Single-family detached dwellings;
- (2) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage for not more than three (3) motor vehicles;
 - (b) Private greenhouse, tool shed, garden shed, playhouse, fallout shelter, tennis court, swimming pool (see section 31-30 of this chapter), or other similar building or structure for domestic storage or use. But no accessory building or structure shall be used as a separate dwelling unit;
 - (c) The renting of rooms or the furnishing of table board in a dwelling for not more than two (2) persons other than members of the family (whether regular or transient);

- (d) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (e) Off-street parking and loading requirements. (See section 31-35 of this chapter);
 - (f) Display signs. (See section 31-37 of this chapter);
 - (g) The keeping of household pets;
 - (h) Gardening for the propagation of plants only and for the use of the residents of the premises only;
 - (i) Fences. (See section 31-31 of this chapter);
 - (j) Home child care;
- (3) Single-family semidetached dwellings, provided that each such single-family dwelling shall have its own undivided lot;
- (4) Duplex dwellings;
- (5) Two-family detached dwellings including those in which units are on the same level and those in which one unit is above another, provided that each such two-family dwelling shall have its own undivided lot;
- (6) Two-family semidetached dwellings, provided that each such two-family dwelling shall have its own undivided lot;
- (7) Multiple-family dwellings created by partitioning or dividing existing buildings are permitted when:
- (a) No addition of more than ten (10) per cent of the floor area is made to the building;
 - (b) Minimum total floor area per dwelling unit shall conform to the requirements of section 15-41(e) of the City of Lewiston Housing Code;
 - (c) No living quarters shall be permitted below the first story;
 - (d) Living quarters shall conform to the City of Lewiston Life Safety Code;
- (8) Multiple-family dwellings with up to three (3) dwelling units;
- (9) Home occupations.

(C) CONDITIONAL USES.

In an "R3" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter.)

- (1) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
- (2) Reservation, wildlife preserve or other conservation area of a nonprofit organization or membership club;
- (3) Church or other place of worship, parish house, rectory or convent;
- (4) Library, art gallery or museum open to the public or connected with an allowed educational or other institutional use and not conducted as a gainful business;
- (5) Fire or police station; other protective use of a governmental agency;
- (6) Reservoir, pumping station, standpipe or other water supply use;
- (7) Transformer station, substation, telephone exchange or other public utility or communications use, but not including any office, storage or repair use in connection therewith;
- (8) Two (2) or more unregistered vehicles on any one lot or premise[s];
- (9) Earth removal. (See section 31-36 of this chapter.)
- (10) Nonprofit schools both public and private (other than nursery school or kindergarten) offering general education courses, which shall have a minimum lot area of one-half ($\frac{1}{2}$) acre;
- (11) Group child care;
- (12) Extension of an existing cemetery;

- (13) Any other use of a municipal agency not specifically listed herein, except sewage treatment plants and dumps;
- (14) Uses as permitted in section 31-9(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;
- (15) Group "A" group care facilities for six (6) or fewer adults or children.

(D) SPECIAL REQUIREMENTS.

(1) Minimum lot area per dwelling unit.

- (a) Where public or private community sewer is used, the following minimum lot areas per dwelling unit shall apply:
 - 1. Seven thousand five hundred (7,500) square feet for single-family detached dwellings, except that a single-family dwelling may be erected on any lot of record as of July 14, 1964, provided that lot is held under separate and distinct ownership from adjacent lots on that date and has a lot area of at least five thousand (5,000) square feet and has a street frontage of at least forty (40) feet.
 - 2. Seven thousand five hundred (7,500) square feet for single-family semidetached dwellings.
 - 3. Three thousand seven hundred and fifty (3,750) square feet for duplex dwellings.
 - 4. Three thousand seven hundred and fifty (3,750) square feet for two-family detached dwellings.
 - 5. Three thousand seven hundred and fifty (3,750) square feet for two-family semidetached dwellings.

6. Seven thousand five hundred (7,500) square feet for the first dwelling unit plus two thousand five hundred (2,500) square feet for each additional dwelling unit per multiple-family dwelling.
- (b) Where public or private community sewer is not used, the following minimum lot areas per dwelling unit shall apply:
 - (1) Forty thousand (40,000) square feet for single-family detached dwellings;
 - (2) Forty thousand (40,000) square feet for single-family semidetached dwellings;
 - (3) Twenty thousand (20,000) square feet for duplex dwellings;
 - (4) Twenty thousand (20,000) square feet for two-family detached dwellings;
 - (5) Twenty thousand (20,000) square feet for two-family semidetached dwellings;
 - (6) Twenty thousand (20,000) square feet for multiple-family dwellings;
 - (c) Notwithstanding the requirements of section 31-9(D)(1)(b) of this chapter, if soil tests indicate suitability for subsurface sewage disposal and the

plumbing inspector in the division of code enforcement in accordance with the provisions of the state plumbing code approves, the board of appeals may authorize, upon issuance of a conditional use permit, a reduction in the required lot area per dwelling unit to the minimum consistent with the regulations and guidelines of Part II (Private Sewerage Disposal Regulations) of the state plumbing code and all other applicable state laws, provided such minimum is not less than twenty thousand (20,000) square feet per dwelling unit.

(2) Minimum width of lot.

- (a) Where public or private community sewer is used, seventy-five (75) feet.**
- (b) Where public or private community sewer is not used, one hundred and fifty (150) feet.**
- (c) Notwithstanding the requirement of section 31-9 (D) (2) (b) of this chapter, if soil tests indicate suitability for subsurface sewage disposal and the plumbing inspector in the division of code enforcement in accordance with the provisions of the state plumbing code approves, the board of appeals may authorize, upon issuance of a conditional use permit, a reduction in minimum lot width, provided such minimum is not less than one hundred (100) feet.**

(3) Minimum rear yards.

- (a) Principal buildings or structures. Twenty (20) feet.**
- (b) Accessory buildings or structures. There shall be at the rear of each accessory building or structure a rear yard having a width of five (5) feet from the lot line. Exempt from this rear yard requirement are accessory buildings or structures covering a ground area of less than one hundred twenty-five (125) square feet which shall be at least two (2) feet from the lot line; however, if it is separated from the lot line by a fence of at least five (5) feet in height, the accessory building or structure may be erected to the lot line.**

(4) Minimum side yards.

- (a) Principal buildings or structures. There shall be on each side of each principal building or structure a side yard having a width of ten (10) feet from the lot line, and provided further that in the case of a dwelling house for which a permit has been granted as of July 15, 1964, an appurtenant garage, carport or breezeway may be constructed within ten (10) feet but in no case less than five (5) feet from the side lot line.
- (b) Accessory buildings or structures. There shall be on each side of each accessory building or structure a side yard having a width of five (5) feet from the lot line. Exempt from this side yard requirement are accessory buildings or structures covering a ground area of less than one hundred twenty-five (125) feet which shall be at least two (2) feet from the lot line; however, if it is separated from the lot line by a fence of at least five (5) feet in height, the accessory building or structure may be erected to the lot line.

(5) Minimum front yards.

- (a) Principal buildings or structures. There shall be in the front of each principal building or structure a front yard of twenty (20) feet from the sidewalk or lot line in new developments. In older built-up sections, the front yard need be no deeper than the depth of front yard of the next neighbor nearest the twenty (20) foot line or on the twenty (20) foot line, provided that on a lot held under separate or distinct ownership from adjacent lots and of record October 30, 1950, and less than one hundred (100) feet deep at the time it is placed in a residential zone, no front yard need be deeper than fifteen (15) per cent of the depth of said lot.
- (b) Accessory building or structures. No accessory building or structure shall be located in the required front yard of the lot or premises. (This includes detached garages.)

- (6) Maximum height.
 - (a) Principal buildings or structures. Two and one-half (2½) stories or thirty-five (35) feet.
 - (b) Accessory buildings or structures. One and one-half (1½) stories or twenty-one (21) feet.
- (7) Maximum building area.
 - (a) Principal buildings or structures. Thirty (30) per cent of lot area.
 - (b) Accessory buildings or structures. If located in the rear yard, it shall occupy not more than thirty (30) per cent of said rear yard.
- (8) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter.

(Code 1970, as amended, § 29-9; Ord. No. 79-15, 8-15-79; Ord. No. 80-20, 2-14-80; Ord. No. 81-18, 7-16-81; Ord. No. 81-19, 8-28-81; Ord. No. 82-4, 4-23-82; Ord. No. 84-1, 3-21-84; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86)

Sec. 31-10. Residential 8 "R8" Zone.

(A) STATEMENT OF PURPOSE.

An "R8" Zone reflects an area in which uses of real estate are residential in character and generally more densely built-up than the "R3" Zone or capable of supporting higher densities. The stipulated uses and space and bulk requirements are designed to reflect and protect this residential character.

(B) PERMITTED USES.

In an "R8" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Single-family detached dwellings;

- (2) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage for not more than three (3) motor vehicles;
 - (b) Private greenhouse, tool shed, garden shed, playhouse, fallout shelter, tennis court, swimming pool (see section 31-30 of this chapter), or other similar building or structure for domestic storage or use. But no accessory building or structure shall be used as a separate dwelling unit;
 - (c) The renting of rooms or the furnishing of table board in a dwelling for not more than two (2) persons other than members of the family (whether regular or transient);
 - (d) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (e) Off-street parking and loading requirements. (See section 31-35 of this chapter);
 - (f) Display signs. (See section 31-37 of this chapter);
 - (g) The keeping of household pets;
 - (h) Gardening for the propagation of plants only and for the use of the residents of the premises only;
 - (i) Fences. (See section 31-31 of this chapter);
 - (j) Home child care;
- (3) Single-family semidetached dwellings, provided that each such single-family dwelling shall have its own undivided lot;
- (4) Duplex dwellings;
- (5) Two-family detached dwellings including those in which units are on the same level and those in which one unit is above another, provided that each such two-family dwelling shall have its own undivided lot;
- (6) Two-family semidetached dwellings, provided that each such two-family dwelling shall have its own undivided lot;
- (7) Multiple-family dwellings created by partitioning or dividing existing buildings are permitted when:

- (a) No addition of more than ten (10) per cent of the floor area is made to the building;
 - (b) Minimum total floor area per dwelling unit shall conform to the requirements of section 15-41(e) of the City of Lewiston Housing Code;
 - (c) No living quarters shall be permitted below the first story;
 - (d) Living quarters shall conform to the City of Lewiston Life Safety Code.
- (8) Multiple-family dwellings with up to eight (8) dwelling units;
- (9) Home occupations;
- (10) Type "A" group care facilities.

(C) CONDITIONAL USES.

In an "R8" Zone the following additional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-9, 31-22, 31-23, 31-25 and 31-26 of this chapter.)

- (1) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
- (2) Reservation, wildlife preserve or other conservation area of a nonprofit organization or membership club;
- (3) Church or other place of worship, parish house, rectory or convent;
- (4) Library, art gallery or museum open to the public or connected with an allowed educational or other institutional use and not conducted as a gainful business;
- (5) Fire or police station; other protective use of a governmental agency;
- (6) Reservoir, pumping station, standpipe or other water supply use;

- (7) Transformer station, substation, telephone exchange or other public utility or communications use, but not including any office, storage or repair use in connection therewith;
- (8) Two (2) or more unregistered vehicles on any one lot or premise[s];
- (9) Earth removal. (See section 31-36 of this chapter.)
- (10) Nonprofit schools both public and private (other than nursery school or kindergarten) offering general education courses, which shall have a minimum lot area of one-half acre;
- (11) Group child care;
- (12) Extension of an existing cemetery;
- (13) Any other use of a municipal agency not specifically listed herein, except sewage treatment plants and dumps.
- (14) Rooming houses;
- (15) Convalescent or nursing homes, homes for the aged, orphans homes;
- (16) Country club, fraternal lodge or other social, civic or recreational use of a nonprofit organization or membership club (but not including any use, the chief activity of which is one customarily conducted as a gainful business);
- (17) Hospitals (but not including veterinary hospitals), sanitariums, institutions for the handicapped provided they have a minimum lot area of two (2) acres;
- (18) Heliports;
- (19) Mobile home park (see section 31-33 of this chapter);
- (20) Governmental administrative building;
- (21) Beauty parlors and barbershops, limited to one licensed operator and five hundred (500) square feet of floor space per establishment;

- (22) Uses as permitted in section 31-10(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;

(D) SPECIAL REQUIREMENTS.

Space and bulk. All buildings and structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following requirements:

- (1) Same as provided in an "R3" Zone, section 31-9(D) of this chapter, except that section 31-9(D)(1)(a)6. shall read "Three thousand seven hundred fifty (3,750) square feet for the first two (2) dwelling units plus one thousand eight hundred and seventy-five (1,875) square feet for each additional dwelling unit per multiple-family dwelling."

(Code 1970, as amended, § 29-10; Ord. No. 79-15, 8-15-79; Ord. No. 80-28, 5-15-80; Ord. No. 82-4, 4-23-82; Ord. No. 84-1, 3-21-84; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86)

Sec. 31-11. Agricultural "A" Zone.

(A) STATEMENT OF PURPOSE.

An "A" Zone reflects a rural area in which uses of real estate are generally restricted to agriculture, silviculture and recreation. The stipulated uses and space and bulk requirements are designed to protect farming and open space and to deter development in those areas of the City of Lewiston where residential, commercial or industrial development would be injurious either to the city's welfare or its natural resources.

(B) PERMITTED USES.

In an "A" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or

structure, or part thereof, shall be altered, enlarged, reconstructed, or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Gardening and farming of field crops, row crops, orchards, truck gardens, plant nurseries, woodlands, pastures and fields with all land, equipment and machinery, and buildings and structures accessory to the same, including, but not limited to, the following: Barns, service and storage of farm equipment used on the premises (but not within any front yards); processing, handling, storage and sale of agricultural produce, providing that there shall be only a single stand for the sale of agricultural produce not over five hundred (500) square feet in area, removable in its entirety, limited in operation from May first to December first each year, and which is limited to selling produce, of which at least fifty (50) per cent, by total dollar sales, must be produced on the premises;
- (2) Cattle farms, dairy farms, stud farms, sheep ranches and other animal farms including farms for fur-bearing animals, licensed kennels and licensed veterinarians, provided that all of the above uses be located on a lot of which the area is not less than three (3) acres. However, no greenhouse or building or structure for the housing, feeding, watering or permanent enclosure of livestock, fur-bearing animals or poultry shall be located within one hundred (100) feet of any property line of a residential premises other than that of the owner or lessee of such greenhouse or building or structure containing such livestock, fur-bearing animals or poultry;
- (3) Farm dwellings required for farm or management;
- (4) Seasonal dwellings on lots not less than three (3) acres land area;
- (5) Single-family dwellings (including individual mobile homes) and accessory uses as specified in section 31-8(B)(2);

- (6) Home occupations;
 - (7) Existing cemeteries;
 - (8) Display signs (see section 31-37 of this chapter);
 - (9) Fences (see section 31-31 of this chapter).
- (C) CONDITIONAL USES.

In an "A" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Churches, provided they have a minimum lot area of three (3) acres;
- (2) Cemeteries;
- (3) Reservoirs, pumping station[s], standpipes or other water supply uses;
- (4) Transformer stations, substations, telephone exchanges or other public utility or communications use;
- (5) Earth removal (see section 31-36 of this chapter);
- (6) Sanitariums and institutions for the handicapped, provided they have a minimum lot area of three (3) acres;
- (7) Heliports;
- (8) Airports;
- (9) The housing and feeding of seasonal agricultural workers in or near the premises where employed for the duration of the season employed;
- (10) Junkyards and automobile graveyards built and operated in conformity with the laws of the State of Maine and the ordinances of the City of Lewiston;
- (11) Gravel pits and other extractive industries;
- (12) Sanitary landfills;

- (13) Public or private recreational centers and public or private open space and recreational uses, exclusive of drive-in theaters;
- (14) Poultry farms;
- (15) Uses as permitted in section 31-11(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;
- (16) Types "A" and "B" group care facilities;
- (17) Group child care.

(D) SPECIAL REQUIREMENTS.

Space and bulk. All buildings and structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following requirements.

- (1) Minimum lot area per family.
 - (a) Three (3) acres for farms.
 - (b) Three (3) acres for seasonal dwellings.
 - (c) One acre for single-family nonfarm dwellings.
- (2) Minimum width of lot.
 - (a) Two hundred fifty (250) feet for farms.
 - (b) Two hundred fifty (250) feet for seasonal dwellings.
 - (c) Two hundred (200) [feet] for single-family nonfarm dwellings.
- (3) Minimum rear yards.
 - (a) Same as provided in an "R3" Zone, section 31-9(D)(3) of this chapter.

- (4) Minimum side yards.
 - (a) Same as provided in an "R3" Zone, section 31-9(D)(4) of this chapter.
- (5) Minimum front yards.
 - (a) Same as provided in an "R3" Zone, section 31-9(D)(5) of this chapter.
- (6) Maximum height.
 - (a) Principal buildings or structures. Two and one-half (2½) stories or thirty-five (35) feet.
 - (b) Accessory buildings or structures. One and one-half (1½) stories or twenty-one (21) feet except that there shall be a three (3) story or seventy (70) foot maximum for farm buildings.
- (7) Maximum building area. None.
- (8) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter.

(Code 1970, as amended, § 29-11; Ord. No. 79-15, 8-15-79; Ord. No. 80-28, 5-15-80; Ord. No. 82-4, 4-23-82; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86)

Sec. 31-12. Apartment "Apt." Zone.

(A) STATEMENT OF PURPOSE.

An "Apt." Zone reflects an area in which the uses of real estate are generally residential multiple-family dwelling use[s]. The stipulated uses and space and bulk requirements are designed to reflect and protect this residential multiple-family character. Additionally, real estate in this zone is served by public or private community electricity, water and sewer.

(B) PERMITTED USES.

In an "Apt." Zone no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any

purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Single-family detached dwellings;
- (2) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage for not more than three (3) motor vehicles;
 - (b) Private greenhouse, tool shed, garden shed, playhouse, fallout shelter, tennis court, swimming pool (see section 31-30 of this chapter), or other similar building or structure for domestic storage or use. But no accessory building or structure shall be used as a separate dwelling unit;
 - (c) The renting of rooms or the furnishing of table board in a dwelling for not more than two (2) persons other than members of the family (whether regular or transient);
 - (d) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (e) Off-street parking and loading requirements (see section 31-35 of this chapter);
 - (f) Display signs (see section 31-37 of this chapter);
 - (g) The keeping of household pets;
 - (h) Gardening for the propagation of plants only and for the use of the residents of the premises only;
 - (i) Fences (see section 31-31 of this chapter);
 - (j) Home child care;
- (3) Single-family semidetached dwellings, provided that each such single-family dwelling shall have its own undivided lot;
- (4) Duplex dwellings;
- (5) Two-family detached dwellings including those in which units are on the same level and those in which one unit is above another, provided that each such two-family dwelling shall have its own undivided lot;

- (6) Two-family semidetached dwellings, provided that each such two-family dwelling shall have its own undivided lot;

- (7) Multiple-family dwellings created by partitioning or dividing existing buildings are permitted when:
 - (a) No addition of more than ten (10) per cent of the floor area is made to the building;
 - (b) Minimum total floor area per dwelling unit shall conform to the requirements of section 15-41(e) of the City of Lewiston Housing Code;
 - (c) No living quarters shall be permitted below the first story;
 - (d) Living quarters shall conform to the City of Lewiston Life Safety Code.
- (8) Multiple-family dwellings except that multiple-family dwellings containing fifty (50) or more dwelling units may have the following accessory uses: Commercial (including service) uses such as dining room, barber-shop, beauty shop, newsstand, gift shop and the like provided:
 - (a) All public entrances to such facilities shall be from inside such multiple dwellings;
 - (b) No show windows or other advertising of such facilities shall be visible from outside such buildings.
- (9) Home occupations;
- (10) Rooming houses;
- (11) Boarding houses;
- (12) Tourist homes containing not more than six (6) lodging units for rental;
- (13) Fences (see section 31-31 of this chapter);
- (14) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
- (15) Type "A" group care facilities.

(C) CONDITIONAL USES.

In an "Apt." Zone the following conditional uses are permitted if and as authorized by the board of appeals upon
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issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
- (2) Reservation, wildlife preserve or other conservation area of a nonprofit organization or membership club;
- (3) Church or other place of worship, parish house, rectory or convent;
- (4) Library, art gallery or museum open to the public or connected with an allowed educational or other institutional use and not conducted as a gainful business;
- (5) Fire or police station; other protective use of a governmental agency;
- (6) Reservoir, pumping station, standpipe or other water supply use;
- (7) Transformer station, substation, telephone exchange or other public utility or communications use, but not including any office, storage or repair use in connection therewith;
- (8) Two (2) or more unregistered vehicles on any one lot or premise[s];
- (9) Earth removal (see section 31-36 of this chapter);
- (10) Nonprofit schools both public and private (other than nursery school or kindergarten) offering general education courses, which shall have a minimum lot area of one-half acre;
- (11) Group child care;
- (12) Extension of an existing cemetery;
- (13) Any other use of a municipal agency not specifically listed herein, except sewage treatment plants and dumps;

- (14) Convalescent or nursing homes, homes for the aged, orphans homes;

- (15) Country club, fraternal lodge or other social, civic or recreational use of a nonprofit organization or membership club (but not including any use, the chief activity of which is one customarily conducted as a gainful business);
- (16) Hospitals (but not including veterinary hospitals), sanitariums, institutions for the handicapped provided they have a minimum lot area of two (2) acres;
- (17) Reserved;
- (18) Governmental administrative building;
- (19) Beauty parlors and barbershops, limited to two (2) licensed operators and five hundred (500) square feet of floor space per establishment;
- (20) Hotels;
- (21) Motels;
- (22) Neighborhood grocery store;
- (23) Uses as permitted in section 31-12(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;
- (24) Type "B" group care facilities;
- (25) Automobile parking stations serving only those uses identified in sections 31-12(B) and (C) of the Zoning Ordinance provided they conform to the requirements of Chapter 31-35, off-street parking and loading requirements;
- (26) Real estate office, limited to two (2) employees and three hundred (300) square feet of floor space per establishment.

(D) SPECIAL REQUIREMENTS.

- (1) **Space and bulk.** All buildings and structures shall be constructed, added to, altered, enlarged, rebuilt, moved

into or used only when in compliance with the following requirements.

(a) Minimum lot area per family or apartment.

1. Five thousand (5,000) square feet for single-family detached dwellings.
2. Five thousand (5,000) square feet for single-family semidetached dwellings.
3. Two thousand five hundred (2,500) square feet for duplex dwellings.
4. Two thousand five hundred (2,500) square feet for two-family detached dwellings.
5. Two thousand five hundred (2,500) square feet for two-family semidetached dwellings.
6. Multiple-family dwellings. There shall be a minimum lot area of five thousand (5,000) square feet for multiple-family dwellings which have from three (3) to ten (10) family dwelling units or apartments, and this five thousand (5,000) square feet of lot area shall be increased for family dwelling units or apartments above ten (10) according to apartment type as follows:

<i>Apt. type</i>	<i>No. of bedrooms</i>	<i>Lot area per dwelling unit</i>
1	1	200 square feet
2	2	500 square feet
3	3	700 square feet
4	4 or more	1,000 square feet

7. No specific footage requirements per family unit in multiple-family dwellings created by partitioning or dividing existing buildings is required (lot as it presently exists satisfies requirement).

(b) Minimum width of lot. Fifty (50) feet.

(c) Minimum rear yards.

1. Principal buildings or structures. Twelve (12) feet.
2. Accessory buildings or structures. Ten (10) feet.

- (d) Minimum side yards.
 - 1. Principal buildings or structures. Ten (10) feet.
 - 2. Accessory buildings or structures. Five (5) feet.
- (e) Minimum front yards.
 - 1. Principal buildings or structures. There shall be in the front of each building a front yard of fifteen (15) feet from the sidewalk or lot line, provided that no front yard need be deeper than the average of the depth of front yards on the lots next thereto on either side, a vacant lot, or a lot occupied by a building with a front yard more than fifteen (15) feet deep considered as having a front yard fifteen (15) feet deep.
 - 2. Accessory buildings or structures. No accessory building or structure shall be located in the required front yards of the premises. (This includes detached garages.)
- (f) Maximum height.
 - 1. Principal buildings or structures. No building shall exceed sixty-five (65) feet or five (5) stories in height unless it sets back from each street and lot line ten (10) feet in addition to the above requirement plus one foot for each foot of excess height. No building shall exceed seventy (70) feet or five (5) stories in height. All buildings and structures must conform to the Lewiston Building Code, the provisions of which are to take precedence over any height provisions of this chapter which conflict with the building code.
- (g) Maximum building area. Principal buildings or structures and accessory buildings or structures. The coverage of a lot by a building including accessory buildings shall occupy no more than sixty (60) per cent, provided that on a corner lot an additional four hundred (400) square feet may be occupied. Additional accessory buildings or

structures shall occupy no more than thirty (30) per cent of a rear yard.

- (h) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter.

(Code 1970, as amended, § 29-12; Ord. No. 79-15, 8-15-79; Ord. No. 80-28, 5-15-80; Ord. No. 80-31, 7-3-80; Ord. No. 82-4, 4-23-82; Ord. No. 82-11, 8-13-82; Ord. No. 84-1, 3-21-84; Ord. No. 84-2, 5-3-84; Ord. No. 85-11, 10-3-85; Ord. No. 86-1, 3-18-86)

Sec. 31-13. Institutional Zone.

(A) STATEMENT OF PURPOSE.

The Institutional Zone characterizes an area in which there is a substantial concentration of educational, religious, charitable, hospital, cultural, historical, community purpose and athletic facilities. The area is generally serviced by full municipal services. The zoning requirements are designed to foster further development of the above-listed uses within the zone and to prohibit residential development not an intimate part of the permitted institutional uses.

(B) PERMITTED USES.

In an Institutional Zone no new building or structure shall be constructed, or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Academic institutions, including buildings or structures for classroom, administrative, laboratory, art, theater, dining, service, library, bookstore and student recreational uses, and athletic buildings or structures in which the number of spectators permitted under the fire code of the City of Lewiston shall not exceed the combined staff and resident student population of the institution; together with buildings accessory to the foregoing permitted principal buildings or structures;
- (2) Hospitals, not including veterinary hospitals, but including institutions for the handicapped;

- (3) Religious facilities including churches, synagogues and other houses of worship, rectories and parsonages, and church-affiliated community purpose facilities;
- (4) Nursing homes, both intermediate term and long term, including homes for the aged;
- (5) Group child care which is conducted in buildings or structures other than in a private residence;
- (6) Museums, libraries and nonprofit art galleries and theaters;
- (7) Public community meeting and civic function buildings including auditoriums;
- (8) Athletic buildings or structures, other than athletic buildings or structures listed above as being within academic institutions, which are situated on the premises of an institution engaged in one of the foregoing permitted uses, and for which no licensing is required under the fire code of the City of Lewiston;
- (9) Dormitories and vocational education buildings which are situated further than one hundred and twenty-five (125) feet from all zone boundaries, provided that the principal building or structure does not exceed seventy-five (75) feet in height;
- (10) Types "A" and "B" group care facilities.

(C) CONDITIONAL USES.

In an Institutional Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Government administrative buildings;
- (2) Clubhouses for qualified charitable, but not merely nonprofit, corporations, provided that the primary use of the premises is not for the conduct of profit-making ventures;

- (3) Fraternal and social clubrooms and facilities for organizations which are not qualified charitable corporations, but which are directly affiliated with a use permitted under subsection (B), provided that the primary use of the premises is not for the conduct of profit-making ventures;
- (4) Housing facilities on the premises of institutions permitted under subsection (B) for staff members of such institutions;
- (5) Publicly affiliated or supported research facilities;
- (6) Service buildings or structures ancillary to and affiliated with permitted institutional uses including, but not limited to, pharmacies and medical supply outlets;
- (7) Athletic buildings or structures other than those defined in subsections (B)(1) and (B)(8);
- (8) Primary buildings or structures, exceeding seventy-five (75) feet in height;
- (9) Dormitories and vocational education buildings which are located one hundred and twenty-five (125) feet or less from any zone boundary;
- (10) Uses as permitted in section 31-13(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the applicable front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure.

(D) SPECIAL REQUIREMENTS.

All buildings and structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following requirements:

- (1) **Minimum setback.** All buildings or structures shall be set back at least fifty (50) feet from each lot line separating the institution's premises from an accepted public way or the premises of another owner. Where

the Institutional Zone abuts the premises of another property owner in an adjoining residential zone with no intervening public way, suitable plantings shall be established and maintained in the setback area to screen the institutional uses from adjoining uses. A suitable planting area shall be interpreted to mean a year-round, substantially sight-impervious screen of evergreen foliage and other appropriate measures to reduce visual and noise intrusions.

- (2) Distance between principal buildings and structures.
 - (a) The distance between principal buildings shall be not less than fifty (50) feet at the closest point from building to building; except in the case of a breezeway or partially enclosed walkway connecting two (2) such buildings;
 - (b) The distance between accessory buildings, shall be not less than five (5) feet, except in the case of a breezeway or partially enclosed walkway connecting two (2) such buildings.
- (3) Maximum building area. The maximum percentage of an institution's ground surface area which may be occupied by buildings or structures shall be as follows:
 - (a) Principal buildings or structures shall occupy not more than fifty (50) per cent of an institution's ground surface area;
 - (b) Accessory buildings or structures shall not occupy more than ten (10) per cent of an institution's ground surface area.
- (4) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter except that in applying the standards of section 31-35 to auditoriums, stadiums, sports arenas, race tracks, skating rinks, gymnasiums, convention halls or similar buildings or structures situated on the premises of, and designed specifically for use by

residents of a residential academic institution, a ratio of one parking space for each seven (7) seats shall be used.

- (5) Display signs. Display signs shall be regulated in accordance with the requirements of section 31-37(D) of this chapter.

(Code 1970, as amended, § 29-12.1; Ord. No. 79-15, 8-15-79; Ord. No. 80-28, 5-15-80; Ord. No. 81-18, 7-16-81; Ord. No. 84-2, 5-3-84)

Sec. 31-14. Commercial "C" Zone.

(A) STATEMENT OF PURPOSE.

A "C" Zone reflects an area in which use of real estate is commercial in character, devoted primarily to providing general sales, service, business space and light manufacturing. The stipulated uses and space and bulk requirements are designed to reflect and protect this commercial character. Additionally, real estate in this zone is generally serviced by public or private community electricity, water and sewer.

(B) PERMITTED USES.

In a "C" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Single-family detached dwellings;
- (2) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage for not more than three (3) motor vehicles;
 - (b) Private greenhouse, tool shed, garden shed, playhouse, fallout shelter, tennis court, swimming pool (see section 31-30 of this chapter), or other similar building or structure for domestic storage

- or use. But no accessory building or structure shall be used as a separate dwelling unit;
- (c) The renting of rooms or the furnishing of table board in a dwelling for not more than two (2) persons other than members of the family (whether regular or transient);
 - (d) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (e) Off-street parking and loading requirements (see section 31-35 of this chapter);
 - (f) Display signs (see section 31-37 of this chapter);
 - (g) The keeping of household pets;
 - (h) Gardening for the propagation of plants only and for the use of the residents of the premises only;
 - (i) Fences (see section 31-31 of this chapter);
 - (j) Home child care;
- (3) Single-family semidetached dwellings, provided that each such single-family dwelling shall have its own undivided lot;
 - (4) Duplex dwellings;
 - (5) Two-family detached dwellings including those in which units are on the same level and those in which one unit is above another, provided that each such two-family dwelling shall have its own undivided lot;
 - (6) Two-family semidetached dwellings, provided that each such two-family dwelling shall have its own undivided lot;
 - (7) Multiple-family dwellings created by partitioning or dividing existing buildings are permitted when:
 - (a) No addition of more than ten (10) per cent of the floor area is made to the building;
 - (b) Minimum total floor area per dwelling unit shall conform to the requirements of section 15-41(e) of the City of Lewiston Housing Code;
 - (c) No living quarters shall be permitted below the first story;
 - (d) Living quarters shall conform to the City of Lewiston Life Safety Code.

- (8) Multiple-family dwellings except that multiple-family dwellings containing fifty (50) or more dwelling units may have the following accessory uses: Commercial (including service) uses such as dining room, barber-shop, beauty shop, newsstand, gift shop and the like provided:
- (a) All public entrances to such facilities shall be from inside such multiple dwellings;
 - (b) No show windows or other advertising of such facilities shall be visible from outside such buildings.
- (9) Home occupations;
- (10) Rooming houses;
- (11) Boarding houses;
- (12) Tourist homes containing not more than six (6) lodging units for rental;
- (13) Fences (see section 31-31 of this chapter);
- (14) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
- (15) Retail business;
- (16) Wholesale business;
- (17) Storage:
- (a) Warehousing;
 - (b) Outside storage of stock-in-trade or other materials and equipment, the use of which is customary in connection with the principal conforming use, or is clearly incidental to the principal conforming use.
- (18) Personal or consumer service establishments, except that no commercial garage, gasoline supply station or repair garage shall be constructed, erected or used within the area bounded by Main Street, Canal Street, Birch Street and Blake Street.

- (19) **Business and professional offices;**
- (20) **Places of assembly, amusement and culture;**
- (21) **Research, experimental or testing laboratories;**
- (22) **Light manufacturing (conducted within completely enclosed building);**
- (23) **Business college or private school operated as a commercial enterprise;**
- (24) **Hotels;**
- (25) **Motels;**
- (26) **Hospitals (including veterinary hospitals, sanitariums, institutions for the handicapped);**
- (27) **Convalescent or nursing homes, homes for the aged, orphans' homes;**
- (28) **Cemeteries;**
- (29) **Governmental administrative building, fire or police station, other protective use of governmental agency;**
- (30) **Reservoir, pumping station, standpipe or other water supply use;**
- (31) **Transformer station, substation, telephone exchange or other public utility or communications use;**
- (32) **Any other use of municipal agency not specifically listed herein;**
- (33) **Television or frequency modulation radio towers and relay devices involved in line-of-sight transmission;**
- (34) **Railroad rights-of-way and tracks;**
- (35) **Churches;**
- (36) **Type "B" group care facilities, provided that all special requirements found in section 31-12(D) of this chapter shall be fully complied with;**
- (37) **Type "A" group care facilities;**

- (38) **Adult amusement establishment; provided, that a minimum distance of five hundred (500) feet, measured along the shortest straight line from the main entrance of such establishment to the property line of a pre-existing church, public or private nonprofit school, group child care, playground, park or public library, shall be maintained. "Pre-existing," as used above, shall mean in existence prior to a proposed adult amusement establishment use, and further provided that they conform to the density requirements of section 31-20(K) of this chapter;**
- (39) **Group child care;**
- (40) **Adult business establishments, except adult amusement establishments, provided they conform to the density requirements of section 31-20(K) of this chapter.**

(C) **CONDITIONAL USES.**

In a "C" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Heliport;
- (2) Earth removal (see section 31-36 of this chapter);
- (3) Public and private recreation centers;
- (4) Uses as permitted in section 31-14(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;

(D) **SPECIAL REQUIREMENTS FOR NONRESIDENTIAL USES.**

- (1) **Space and bulk.** All buildings and structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following requirements:

- (38) Adult amusement establishment; provided, that a minimum distance of five hundred (500) feet, measured along the shortest straight line from the main entrance of such establishment to the property line of a pre-existing church, public or private nonprofit school, group child care, playground, park or public library, shall be maintained. "Pre-existing," as used above, shall mean in existence prior to a proposed adult amusement establishment use, and further provided that they conform to the density requirements of section 31-20(K) of this chapter;
- (39) Group child care;
- (40) Adult business establishments, except adult amusement establishments, provided they conform to the density requirements of section 31-20(K) of this chapter.

(C) CONDITIONAL USES.

In a "C" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Heliport;
- (2) Earth removal (see section 31-36 of this chapter);
- (3) Public and private recreation centers;
- (4) Uses as permitted in section 31-14(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;

(D) SPECIAL REQUIREMENTS FOR NONRESIDENTIAL USES.

- (a) Minimum lot area. None;
- (b) Minimum width of lot. None;
- (c) Minimum rear yards. Ten (10) feet, except buildings or structures with a fire wall may be built to the rear lot line;
- (d) Minimum side yards. Ten (10) feet, except for buildings or structures constructed or altered with a fire wall may be built to the side lot line, and see (2) below;
- (e) Minimum front yards. Same as provided in section 31-12, "Apt." Zone of this chapter, and see (2) below;
- (f) Maximum height. All buildings must conform to the City of Lewiston Building Code;
- (g) Maximum building areas. Principal buildings or structures and accessory buildings or structures.

The coverage of a lot by a building including accessory buildings shall occupy no more than seventy (70) per cent, provided that in a corner lot an additional accessory building or structure shall occupy no more than thirty (30) per cent of a rear yard.

- (2) Buffer strips. In a "C" Zone where the lot abuts or is within twenty (20) feet of the side or rear boundary line of any residential zone (including any residential zone in an adjacent municipality), there shall be provided on those sides facing the residential zone, except along any portions of the lot immediately adjacent to a street or railroad right-of-way a buffer strip twenty (20) feet wide, as follows, except when the board of appeals finds that a sight-impervious barrier is adequate separation between the commercial and residential uses:

- (a) Twenty (20) feet nearest the boundary shall be used and maintained as a suitable planting area for lawns, with trees, shrubs and other landscape materials. A suitable planting area shall be interpreted as requiring a substantially sight-impervious screen of evergreen foliage at least eight

(8) feet in height, or less dense planting of shrubs and trees complemented by a sight-impervious fence at least five (5) feet in height;

(b) No building or structure shall be constructed or otherwise placed within any portion of the buffer strip.

(3) **Off-street parking and loading.** Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter.

(4) **Nuisances.** No equipment or process shall be used in such uses which create noise, vibration, glare, fumes, odor or electrical interference detectable and offensive to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates unusual or audible interference in any radio or television receiver off the premises or causes fluctuations of voltage off the premises.

(5) **Outside storage** shall be permitted only in accordance with the following limitation or except as otherwise regulated by this section.

(a) Such items shall be parked or stored only at establishments, or lots adjacent to establishments, engaged in the sale or use of such items.

(b) All such items shall be maintained in condition for safe and effective performance of the function for which they are intended, or such that they can be placed in such condition at a cost not exceeding the value of the items in their existing state.

(c) In no case shall such items be stored in the open for more than six (6) months if not in condition for safe and efficient performance of the function for which they are intended.

(E) SPECIAL REQUIREMENTS FOR RESIDENTIAL USES.

(1) Same as provided for in an "Apt." Zone, section 31-12(D) of this chapter, except that a parcel of land

may not be subdivided into three (3) or more lots for single-family homes.

(Code 1970, as amended, § 29-13; Ord. No. 80-28, 5-15-80; Ord. No. 82-4, 4-23-82; Ord. No. 83-2, 3-1-83; Ord. No. 84-1, 3-21-84; Ord. No. 84-2, 5-3-84; Ord. No. 84-15, 12-20-84)

Sec. 31-15. Central Business District "CBD" Zone.

(A) STATEMENT OF PURPOSE.

The "CBD" Zone is established to encourage the concentration of economic enterprises in a central business district that is convenient and attractive for a wide range of retail, service, financial, government, professional, entertainment, and appropriate residential uses in a setting conducive to a high volume of pedestrian traffic.

(B) PERMITTED USES.

In the "CBD" Zone, no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Same as provided for in a "C" Zone, section 31-14(B) of this chapter, except adult amusement establishments, section 31-14(B)(38).

(C) CONDITIONAL USES.

In a "CBD" Zone, the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant.

- (1) Same as provided for in a "C" Zone, section 31-14(C) of this chapter.

(D) SPECIAL REQUIREMENTS.

- (1) Same as provided for in a "C" Zone, section 31-14(D) and 31-14(E) except that:
 - (a) Section 31-14(D)(1)(c) shall read "Minimum rear yards. Ten (10) feet except buildings or structures

with a fire wall or whose rear lot line abuts a street or alley may be built to the rear lot line.”

(b) Section 31-14(D)(1)(d) shall read “Minimum side yards. Ten (10) feet, except for buildings or structures with a fire wall or whose side lot line abuts a street or alley may be built to the side lot line, and see (2) below.”

(c) Section 31-14(D)(1)(e) shall read “Minimum front yards. None.”

(d) Section 31-14(D)(1)(g) shall read “Maximum building area. None.”

(Code 1970, as amended, § 29-13.1; Ord. No. 79-29, 11-15-79; Ord. No. 84-15, 12-20-84)

Sec. 31-15.1. Urban Commercial “UC” Zone.

(A) STATEMENT OF PURPOSE.

The “UC” Zone reflects an urbanized commercial area of developed real estate devoted primarily to retail, service, wholesale, distribution, light manufacturing, and residential activities.

(B) PERMITTED USE.

In the “UC” Zone, no new building or structure shall be constructed or used, in whole or in part; and no building or structure or part thereof shall be altered, enlarged, reconstructed, or used; and no land shall be used for any purpose or in any manner other than for one or more of the following, as a matter of right:

(1) Same as provided for in a “C” Zone, section 31-14(B) of this chapter.

(C) CONDITIONAL USES.

In a “UC” Zone, the following conditional uses are permitted, if and as authorized by the board of appeals, upon issuance of a conditional use permit to the applicant:

(1) Same as provided for in a “C” Zone, section 31-14(C) of this chapter.

(D) SPECIAL REQUIREMENTS.

- (1) Same as provided for in a "CBD" Zone, section 31-15(D) of this chapter.

(Ord. No. 84-15, 12-20-84)

Sec. 31-16. Transitional "T" Zone.**(A) STATEMENT OF PURPOSE.**

A "T" Zone reflects an area in which uses of real estate create, in transitional areas, a stable mix of compatible residential and commercial uses. Additionally, real estate in this zone is generally served by public or private community electricity, water and sewer.

(B) PERMITTED USES.

In a "T" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed, or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Single-family detached dwellings;
- (2) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage for not more than three (3) motor vehicles;
 - (b) Private greenhouse, tool shed, garden shed, playhouse, fallout shelter, tennis court, swimming pool (see section 31-30 of this chapter), or other similar building or structure for domestic storage or use. But no accessory building or structure shall be used as a separate dwelling unit;
 - (c) The renting of rooms or the furnishing of table board in a dwelling for not more than two (2) persons other than members of the family (whether regular or transient);

- (d) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (e) Off-street parking and loading requirements (see section 31-35 of this chapter);
 - (f) Display signs (see section 31-37 of this chapter);
 - (g) The keeping of household pets;
 - (h) Gardening for the propagation of plants only and for the use of the residents of the premises only;
 - (i) Fences (see section 31-31 of this chapter);
 - (j) Home child care;
- (3) Single-family semidetached dwellings, provided that each such single-family dwelling shall have its own undivided lot;
 - (4) Duplex dwellings;
 - (5) Two-family detached dwellings including those in which units are on the same level and those in which one unit is above another, provided that each such two-family dwelling shall have its own undivided lot;
 - (6) Two-family semidetached dwellings, provided that each such two-family dwelling shall have its own undivided lot;
 - (7) Multiple-family dwellings created by partitioning or dividing existing buildings are permitted when:
 - (a) No addition of more than ten (10) per cent of the floor area is made to the building;
 - (b) Minimum total floor area per dwelling unit shall conform to the requirements of section 15-41(e) of the City of Lewiston Housing Code;
 - (c) No living quarters shall be permitted below the first story;
 - (d) Living quarters shall conform to the City of Lewiston Life Safety Code.
 - (8) Multiple-family dwellings except that multiple-family dwellings containing fifty (50) or more dwelling units may have the following accessory uses: Commercial

(including service) uses such as dining room, barber-shop, beauty shop, newsstand, gift shop and the like provided:

- (a) All public entrances to such facilities shall be from inside such multiple dwellings;
 - (b) No show windows or other advertising of such facilities shall be visible from outside such buildings.
- (9) Home occupations;
 - (10) Rooming houses;
 - (11) Boarding houses;
 - (12) Tourist homes containing not more than six (6) lodging units for rental;
 - (13) Fences (see section 31-31 of this chapter);
 - (14) Public park, playground or other recreational use operated by the City of Lewiston or other governmental agency;
 - (15) Offices including, but not limited to, those of which the primary activity is the distribution, exchange or payment of money. This shall include, but not be limited to, business and professional offices, banks, loan offices, credit unions and offices whose primary purpose is the collection or receipt of payment. This shall not include offices whose primary purpose is the exchange or sale of commodities or goods;
 - (16) Nursing convalescent homes, homes for the aged, orphans' homes;
 - (17) Existing cemeteries;
 - (18) Type "A" group care facilities.

(C) CONDITIONAL USES.

In a "T" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter):

- (1) Places of assembly and culture;
- (2) Business college or private school operated as a commercial enterprise;
- (3) Nonprofit schools, both public and private, offering general education courses;
- (4) Group child care;
- (5) Hospitals, clinics and institutions for the handicapped;

- (6) Governmental administrative buildings, fire and police stations;
- (7) Reservoirs, pumping stations, standpipes or other water supply uses;
- (8) Transformer stations, substations, telephone exchanges or other public utility or communication uses;
- (9) Churches;
- (10) Heliport;
- (11) Uses as permitted in section 31-16(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;
- (12) Type "B" group care facilities.

(D) SPECIAL REQUIREMENTS FOR RESIDENTIAL AND APARTMENT USES.

- (1) Space and bulk. All buildings and structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following requirements:
 - (a) Minimum lot area per family or apartment:
 1. Seven thousand five hundred (7,500) square feet for single-family detached dwellings except that a single-family dwelling may be erected on any lot of record as of July 14, 1964, provided that lot is held under separate and distinct ownership from adjacent lots on that date and has a lot area of at least five thousand (5,000) square feet and has a street frontage of at least forty (40) feet, and provided it is serviced by public or private community electricity, water and sewer.
 2. Seven thousand five hundred (7,500) square feet for single-family semidetached dwellings.

3. Three thousand seven hundred and fifty (3,750) square feet for duplex dwellings.
 4. Three thousand seven hundred and fifty (3,750) square feet for two-family detached dwellings.
 5. Three thousand seven hundred and fifty (3,750) square feet for two-family semidetached dwellings.
 6. Three thousand seven hundred and fifty (3,750) square feet for the first two (2) dwelling units plus one thousand eight hundred and seventy-five (1,875) square feet for each additional dwelling unit per multiple-family dwelling.
 7. No specific footage requirements per family unit in multiple-family dwellings created by partitioning or dividing existing buildings is required (lot as it presently exists satisfies requirement).
- (b) Minimum width of lot. Seventy-five (75) feet.
- (c) Minimum rear yards:
1. Principal buildings or structures. Twenty (20) feet.
 2. Accessory buildings or structures. Ten (10) feet.
- (d) Minimum side yards:
1. Principal buildings or structures. There shall be on each side of each principal building or structure a side yard having a width of ten (10) feet from the lot line, and provided further that in the case of a dwelling house for which a permit has been granted as of July 15, 1964, an appurtenant garage, carport, or breezeway may be constructed within ten (10) feet but in no case less than five (5) feet from the side lot line.
 2. Accessory buildings or structures. There shall be on each side of each accessory building or structure a side yard having a width of five (5) feet from the lot line. Exempt from this

side yard requirement are accessory buildings or structures covering a ground area of less than one hundred twenty-five (125) feet which shall be at least two (2) feet from the lot line; however if it is separated from the lot line by a fence of at least five (5) feet in height, the accessory building or structure may be erected to the lot line.

(e) Minimum front yard:

1. Principal buildings or structures. There shall be in the front of each principal building or structure a front yard of twenty (20) feet from the sidewalk or lot line in new developments. In older built-up sections, the front yard need be no deeper than the depth of [the] front yard of the next neighbor nearest the twenty (20) foot line or on the twenty (20) foot line, provided that on a lot held under separate or distinct ownership from adjacent lots and of record October 20, 1950, and less than one hundred (100) feet deep at the time it is placed in a residential or office zone, no front yard need be deeper than fifteen (15) per cent of the depth of said lot.
2. Accessory buildings or structures. No accessory building or structure shall be located in the required front yard of the lot or premises. (This includes garages.)

(f) Maximum height:

1. Principal buildings or structures. No building shall exceed fifty-two (52) feet or four (4) stories in height unless it sets back from each street and lot line ten (10) feet in addition to the above requirement plus one foot for each foot of excess height. No building shall exceed fifty-seven (57) feet or four (4) stories in height. All buildings and structures must conform to the Lewiston Building Code, the provisions of which are to take precedence over any height provision of this chapter which conflicts with the Building Code.

2. Accessory building and structures. One story or fifteen (15) feet.
- (g) Maximum building area:
 1. Principal buildings or structures. Forty (40) per cent of lot area.
 2. Accessory buildings or structures. Thirty (30) per cent of lot area.
- (h) Off-street parking. Off-street parking shall be provided in accordance with the requirements of section 31-35 of this chapter.

(E) SPECIAL REQUIREMENTS FOR NONRESIDENTIAL USES.

- (1) (a) Space and bulk requirements for new or enlarged buildings and structures. All new buildings and structures or changes to existing buildings and structures increasing the floor area by ten (10) per cent or more shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following requirements:
 - (1) Minimum lot area. Twelve thousand five hundred (12,500) square feet;
 - (2) Minimum width of lot. One hundred twenty-five (125) feet;
 - (3) Minimum rear yards. See (2) (buffer strip) below, (see section 31-16(D)(1)(c));
 - (4) Minimum side yards. See (2) (buffer strip) below, (see section 31-16(D)(1)(d));
 - (5) Minimum front yard. See section 31-16(D)(1)(e);
 - (6) Maximum height. Same as provided in section 31-16(D)(1)(f) of this chapter;
 - (7) Maximum building area;
 1. Principal buildings or structures. Forty (40) per cent of lot area;
 2. Accessory building or structure. Thirty (30) per cent of lot area.

- (b) Space and bulk requirements for existing buildings and structures. Lots, as they exist, shall be considered conforming to minimum lot area and width of lot for all buildings and structures or changes to existing buildings and structures increasing the floor area by less than ten (10) per cent. Such buildings may be constructed, added to, altered, enlarged, rebuilt, moved into, or used only when in compliance with the following requirements:
- (1) Minimum lot area. As it exists;
 - (2) Minimum width of lot. As it exists;
 - (3) Minimum rear yards. See section 31-16(D)(1)(c);
 - (4) Minimum side yards. See section 31-16(D)(1)(d);
 - (5) Minimum front yards. See section 31-16(D)(1)(e);
 - (6) Minimum height. Same as provided in section 31-16(D)(1)(f) of this chapter;
 - (7) Maximum building area:
 1. Principal buildings or structures. Forty (40) per cent of lot area;
 2. Accessory building or structures. Thirty (30) per cent of lot area.
- (2) Buffer strips. In a "T" Zone where a lot which holds a nonresidential use in a building designed primarily for that use, abuts or is within twenty (20) feet of the side or rear boundary line of any residential property (including any residential property in an adjacent municipality), there shall be provided on those sides facing residential properties, except along any portions of the lot immediately adjacent to a street or railroad right-of-way, a buffer strip twenty (20) feet wide as follows, except when the board of appeals finds that a sight-impervious barrier is adequate separation between the nonresidential and residential uses:
- (a) Twenty (20) feet nearest the boundary shall be used and maintained as a suitable planting area

for lawns, with trees, shrubs and other landscape materials. A suitable planting area shall be interpreted as requiring a substantially sight-impervious screen of evergreen foliage at least eight (8) feet in height, or less dense planting of shrubs and trees complemented by a sight-impervious fence at least five (5) feet in height;

(b) No building or structures shall be constructed or otherwise placed within any portion of the buffer strip.

(3) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the provisions of section 31-35 of this chapter.

(4) Nuisances. No equipment or process shall be used in such uses which creates noise, vibration, glare, fumes, odor or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates unusual or audible interference in any radio or television receiver off the premises or causes fluctuations of voltage off the premises.

(Code 1970, as amended, § 29-14; Ord. No. 79-21, 10-14-79; Ord. No. 80-28, 5-14-80; Ord. No. 81-7, 4-24-81; Ord. No. 81-18, 7-16-81; Ord. No. 84-1, 3-21-84; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86; Ord. No. 86-14, 9-19-86)

Sec. 31-17. Industrial "I" Zone.

(A) STATEMENT OF PURPOSE.

An "I" Zone reflects an area in which use of real estate is devoted primarily to providing manufacturing, fabrication, processing, packing or storage uses. The stipulated uses and space and bulk requirements are designed to reflect and protect this industrial character. Additionally, real estate in this zone is generally serviced by public or private community electricity, water and sewer.

(B) PERMITTED USES.

In an "I" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or

structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

AN ORDINANCE PERTAINING TO FABRICATION, PROCESSING, AND
JUNKYARDS AND AUTOMOBILE GRAVEYARDS

THE CITY OF LEWISTON HEREBY ORDAINS

Chapter 31 of the Revised Code of Ordinances of the City
of Lewiston, Maine is hereby amended as follows:

CHAPTER 31
ZONING

Sec. 31-3. Definitions.

Processing. Any operation changing the nature of material or materials such as chemical composition or physical qualities, including, without limitation, the production of raw materials (except as a by-product of the principal operation), and the reduction in size of materials' component parts. Does not include operations described as fabrication.

Sec. 31-17. Industrial "I" Zone.

(A) STATEMENT OF PURPOSE

An "I" Zone reflects an area in which use of real estate is devoted primarily to providing manufacturing, fabrication, processing, packing or storage uses as well as fabrication and processing. The stipulated uses and space and bulk requirements are designed to reflect and protect this industrial character. Additionally, real estate in this zone is generally serviced by public or private community electricity, water and sewer.

(B) PERMITTED USES

- (1) Manufacturing, or fabrication, when conducted entirely within enclosed buildings.
- (6) Junkyards and automobile graveyards, when not operated in conjunction with any shredding, sorting, crushing or other similar processing operation.

(C) CONDITIONAL USES

- (3) processing;
- (4) manufacturing or fabrication other than as permitted in Section 31-17(B)(1); and
- (5) junkyards and automobile graveyards, other than as permitted in Section 31-17(B)(6)

Sec. 31-20. Application of regulations, modifications and exceptions.

(C) APPLICATION OF REGULATIONS

(17) Any manufacturing use which is permitted in a district under the current provisions of this Code and by amendment adopted subsequent to August 31, 1987 is deemed to be a conditional use, shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

NOTE: (Additions are underlined; deletions are ~~struck-out~~)

- (1) Manufacturing;
- (2) Research, experimental or testing laboratories;
- (3) Warehousing and outdoor storage;
- (4) Commercial garage;
- (5) Gasoline supply stations and repair garages;
- (6) Junkyards and automobile graveyards;
- (7) Earth removal (see section 31-36 of this chapter);
- (8) Railroad rights-of-way and tracks;
- (9) Transportation terminals and facilities;
- (10) Governmental administrative building, fire or police station, other protective use of a governmental agency;
- (11) Reservoir, pumping station, standpipe or other water supply use;
- (12) Transformer station, substation, telephone exchange or other public utility or communications use;
- (13) Any other use of a municipal agency not specifically listed herein;
- (14) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage;
 - (b) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (c) Off-street parking and loading regulations (see section 31-35 of this chapter);
 - (d) Display signs (see section 31-36 of this chapter);
 - (e) Restaurant facilities for, and sale of items to, and for the personal convenience of employees;
 - (f) Living quarters for necessary caretakers and watchmen;
 - (g) Display and sale of products (among other items) of manufacturing activities conducted on the premises;

- (h) Group child care;
- (15) Fences (see section 31-31 of this chapter);
- (16) Automobile parking stations, provided they conform to the requirements of chapter 31-35, off-street parking and loading requirements.

(C) CONDITIONAL USES.

In an "I" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter).

- (1) Private and public recreation centers.
- (2) Uses as permitted in section 31-17(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions.

(D) SPECIAL REQUIREMENTS.

- (1) Space and bulk. All buildings or structures shall be constructed, added to, altered, enlarged, rebuilt, moved into or used only when in compliance with the following minimum requirements:
 - (a) Minimum lot area. Forty thousand (40,000) square feet;
 - (b) Minimum lot width. One hundred (100) feet;
 - (c) Minimum rear yards. Ten (10) feet, except for buildings and structures constructed or altered with a fire wall, may be built to the rear lot line; and see (2) below;
 - (d) Minimum side yards. Ten (10) feet, except for buildings or structures constructed or altered with a fire wall may be built to the side lot line; and see (2) below;

- (e) Minimum front yards:
 - 1. Principal buildings or structures. Twenty-five (25) feet from sidewalk or lot line in new developments. In older built-up sections, the front yard need be no deeper than the depth of the front yard of the next nearest principal building or structure nearest the twenty-five (25) foot line or on the twenty-five (25) foot line.
 - (f) Maximum height. Same as section 31-14(D)(1)(f) of this chapter;
 - (g) Maximum building areas. None.
- (2) Buffer strips: In an "I" Zone where the lot abuts or is within one hundred (100) feet of the side or rear boundary line of any residential or agricultural zone (including any residential or agricultural zone in an adjacent municipality), there shall be provided on those sides facing the residential or agricultural zone, except along any portions of the lot immediately adjacent to a street or railroad right-of-way (a buffer strip) fifty (50) feet wide as follows, except when the board of appeals finds that a sight-impervious barrier is adequate separation between the industrial and residential or agricultural uses:
- (a) Twenty (20) feet nearest the boundary shall be used and maintained as a suitable planting area for lawns, with trees, shrubs, other landscape materials. A suitable planting area shall be interpreted as requiring a substantially sight-impervious screen of evergreen foliage at least eight (8) feet in height, or less dense planting of shrubs and trees complemented by a sight-impervious fence at least five (5) feet in height;
 - (b) The remaining thirty (30) feet of space may be used for off-street parking or other permitted open uses, providing bus-uses are screened from view at normal eye level on said residential zone boundary line;

(c) No building or structure shall be constructed or otherwise placed within any portion of the buffer strip.

(3) Industrial performance standards:

(a) Manufacturing and industrial uses which are in conformance with the purpose of this zone shall meet all minimum environmental quality standards as established by the State of Maine's Environmental Improvement Commission which shall, in addition to the City of Lewiston's Building Inspector, enforce such regulations.

(4) Off-street parking and loading: Off-street parking and loading shall be required in accordance with the provisions of section 31-35 of this chapter.

(5) Display signs: Display signs shall be regulated in accordance with the requirements of section 31-37 of this chapter.

(Code 1970, as amended, § 29-15; Ord. No. 80-36, 9-18-80; Ord. No. 82-4, 4-23-82; Ord. No. 83-12, 7-21-83; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86)

Sec. 31-18. Urban Industrial "UI" Zone.

(A) STATEMENT OF PURPOSE.

The "UI" Zone is established to maintain the economic viability of the real estate in the historic urban industrial area by encouraging the continuation of existing industrial uses, including manufacturing, fabrication, processing, packing and storage, and permitting the orderly transition to compatible mixed industrial, commercial and residential uses. The "UI" Zone consists primarily of developed real estate in which buildings generally offer easily subdivided interior space, durable construction and accessible locations conducive to a compatible mix of multiple uses.

(B) PERMITTED USES.

In an "UI" Zone no new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged,

reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Manufacturing;
- (2) Research, experimental and testing laboratories;
- (3) Warehousing and outdoor storage;
- (4) Commercial garage and parking stations;
- (5) Gasoline supply and repair stations;
- (6) Railroad rights-of-way and tracks;
- (7) Transportation terminal and facilities;
- (8) Governmental administrative building, fire or police stations, other protective use of a governmental agency;
- (9) Reservoir, pumping station, standpipe or other water supply use;
- (10) Transformer station, substation, telephone exchange or other public utility or communications use;
- (11) Any other use of a municipal agency not specifically listed herein;
- (12) The following accessory structures and uses subject to the conditions herein specified:
 - (a) Private garage;
 - (b) Earth removal, but only earth removal not controlled by section 31-36 of this chapter, i.e., exempt operations;
 - (c) Off-street parking and loading regulations (see section 31-35 of this chapter);
 - (d) Display signs (see section 31-37 of this chapter);
 - (e) Restaurant facilities for, and sale of items to, and for the personal convenience of employees;
 - (f) Living quarters for necessary caretakers and watchmen;

- (g) Display and sale of products (among other items) of manufacturing activities conducted on the premises;
- (h) Group child care;
- (13) Public or private recreation centers and public or private open space, exclusive of drive-in theaters;
- (14) Personal or consumer service establishments;
- (15) Retail business;
- (16) Wholesale business;
- (17) Business and professional offices;
- (18) Places of assembly, amusement and culture;
- (19) Public and private schools included, but not limited to general education schools, alternative education schools and commercial schools;
- (20) Museums, libraries, art galleries, art centers and visitor centers;
- (21) Public community meeting and civic function buildings including auditoriums;
- (22) Fences (see section 31-31 of this chapter).

(C) CONDITIONAL USES.

In an "UI" Zone the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter).

- (1) Single-family dwellings;
- (2) Multiple-family dwellings;
- (3) Accessory uses as specified in section 31-8(B)(2) and home occupations;
- (4) Uses as permitted in section 31-18(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots

on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;

- (5) Types "A" and "B" group care facilities;
- (6) Group child care.

(D) SPECIAL REQUIREMENTS FOR NONRESIDENTIAL USES.

Same as provided for in an "I" Zone, section 31-17(D).

(E) SPECIAL REQUIREMENTS FOR RESIDENTIAL USES.

Same as provided for in an "Apt" Zone, section 31-12(D).
(Code 1970, as amended, § 29-15.1; Ord. No. 79-34, 12-11-79; Ord. No. 80-28, 5-15-80; Ord. No. 82-4, 4-23-82; Ord. No. 84-2, 5-3-84; Ord. No. 86-1, 3-18-86; Ord. No. 86-18, 11-21-86)

Sec. 31-19. Resource Protection "RP" Zone.

(A) STATEMENT OF PURPOSE.

An "RP" Zone is assigned to protect vulnerable areas in which development would adversely affect water quality, productive habitat, biotic systems or scenic and natural values, and to protect the citizens of Lewiston from potential flood danger.

(B) PERMITTED USES.

In an "RP" Zone no new building or structure shall be constructed or used in whole or in part, and no building or structure or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner other than for one or more of the following as a matter of right:

- (1) Open space recreational uses, such as: Parks, playgrounds, sport fields, golf courses, bathing beaches, picnic areas.
- (2) Preservation of historic areas.
- (3) Agricultural and silvicultural uses.
- (4) Off-street parking and loading areas.

- (5) Uses, as permitted in section 31-17, industrial zone, where the resource protection zone abuts an industrial zone, and where an industrial zone existed at the time of this chapter's adoption.
- (6) Uses, as permitted in section 31-4, Commercial Zone, or section 31-15.1, Urban Commercial Zone, where a Resource Protection Zone abuts a Commercial or Urban Commercial Zone, and where a Commercial or Urban Commercial Zone existed at the time of this chapter's adoption.
- (7) Uses, as permitted in sections 31-18, urban industrial zone, where the resource protection zone abuts an urban industrial zone, and where an industrial zone existed at the time of this chapter's adoption.
- (8) Between Chestnut Street and the southern end of Oxford Street, alteration and renovation of existing buildings and structures and rebuilding of buildings and structures to their original size damaged in any extent by fire, flood, lightning, wind or structural failure, exposure or otherwise, provided that after such renovation, alteration or rebuilding, the building or structure shall substantially retain the historic appearance and character of the surrounding neighborhood. (This paragraph supersedes section 31-4 as to rebuilding damaged buildings and structures).
- (9) Dams.
- (10) Public utilities.
- (11) Bridges.

(C) CONDITIONAL USES.

In an "RP" Zone, the following conditional uses are permitted if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant (see section[s] 31-21, 31-22, 31-23, 31-25 and 31-26 of this chapter).

- (1) Alterations of the natural contour of the land by grading or filling for any purpose other than foundations, and driveways.
- (2) Accessory buildings, structures and uses for uses permitted in sections 31-19(B) and 31-19(C) of this chapter.

- (3) Single-family residential units including seasonal homes as permitted in the abutting zone.
- (4) Multiple dwellings, as permitted in the abutting zone.
- (5) Piers, docks, marinas.
- (6) Uses as permitted in section 31-19(B) and (C) of this chapter, provided they deviate no more than twenty-five (25) per cent from the standard (or normal) front, side or rear yard requirements. This provision shall only apply to lots on which there is a principal building or structure; however, it shall not apply to lots for which other provisions of this chapter dealing with older, built-up sections already permit yard reductions;
- (7) Group child care, except as permitted under sections 31-19(B)(5), 31-19(B)(6) or 31-19(B)(7) of this chapter.

(D) SPECIAL REQUIREMENTS.

- (1) All buildings or structures.
 - (a) The building or structures and storage of materials on the premises acting alone or in combination with existing or future similar uses shall not adversely affect the efficiency or capacity of the

regulatory floodway or adversely affect existing drainage courses or facilities.

- (b) Buildings and structures, in the special flood hazard area, shall be firmly anchored to prevent floating off foundations, and their sills, foundation walls and exterior walls below grade shall be watertight and reinforced to withstand flood water pressure.
 - (c) The contents of such buildings or structures and appurtenances to the use thereof shall not constitute a threat to other structures or humans under high water conditions.
 - (d) All buildings and structures, other than those requiring direct access to the water as an operational necessity, shall be set back at least seventy-five (75) feet from the mean high water line except in the area between Holland Street and a point seven hundred and fifty (750) feet south of Bradbury Street. Industrial, commercial and residential uses shall otherwise meet the space and bulk requirements of the abutting industrial, commercial or residential zone.
 - (e) The issuance of building permits shall be subject to evidence of satisfactory subsurface soil conditions for drainage, erosion prevention, sewage disposal and for the type of structure and intended use. Suitability considerations shall be based primarily on suitability described by the National Cooperative Soil Survey as modified by onsite factors such as depth to water table and depth to refusal. Where site conditions are shown to be "severe or very severe," a building permit shall be issued when the applicant can show that he is taking remedial measures which will avoid all harm that might otherwise result from these soil conditions.
- (2) Erosion control and earth removal.
- (a) Removal of sand or gravel from natural beaches, disruption of vegetation and the removal of

shoreland buffer strips protecting fragile land areas immediately behind the shoreline is prohibited. Clearing of trees and conversion to other vegetation is permitted for approved construction and landscaping. Where such clearing extends to the shoreline, a cleared opening or openings not greater than thirty (30) feet in width for every one hundred (100) feet of shoreline (measured along the normal high water mark) may be created in the strip extending fifty (50) feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

- (b) Earth movements, such as grading, topsoil removal, road and channel cutting, excavation, ditching and the like, shall be permitted provided that in addition to satisfying the requirements of alteration to drainage areas ordinance (section 23-3), such uses are so regulated as to prevent erosion and sedimentation and to create the least disturbance to the natural environment. Where the construction of roads, structures, parks or other facilities results or may result in a significant discharge of sediment into drainage ditches and natural watercourses over a period of a month or more, these shall be provided such ground cover, settling basins and other such devices as shall, in the opinion of the building inspector, with advice from the engineering department, effectively reduce such discharge to an acceptable minimum.

(3) Agriculture and silviculture.

- (a) All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and Maine Soil and Water Conservation Commission in July 1972 or subsequent revision thereof.

1. Reserved.
 2. Tillage of any area in excess of twenty thousand (20,000) square feet in the resource protection zone shall be carried out in conformance with the provisions of a conservation plan which meets the standards of the State Soil and Conservation Commission, and is approved by the Androscoggin County Soil and Water Conservation District. Nonconformance with the provisions of such conservation plan shall be considered to be a violation of this chapter.
- (b) Cutting of shoreland vegetation.
1. Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is left within fifty (50) feet of the shoreline.
 2. In any stand, harvesting shall remove not more than forty (40) per cent of the volume of trees in any ten (10) year period. For the purpose of these standards, a stand means a contiguous group of trees, sufficiently uniform in species, arrangement of age classes and conditions, to be identifiable as a homogeneous and distinguishable unit.
 3. No substantial accumulation of slash shall be left within fifty (50) feet of the normal high water mark of any pond or river. At distances greater than fifty (50) feet from the normal high water mark of such waters and extending to the limits of the area covered by this chapter, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground.
 4. No roads requiring earthmoving, cut or fill shall be constructed within the shoreland area solely for purposes of harvesting timber products.

5. Skid trails, log yards and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of any pond or river. The width of this strip shall vary according to the average slope of the land as follows:

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

6. Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters such as a sediment basin, settling basin, immediate reseeding.
7. Harvesting activities within the shoreland zone shall not create single openings greater than seven thousand five hundred (7,500) square feet in the forest canopy. A buffer strip fifty (50) feet wide shall be maintained between adjacent openings.

(Code 1970, as amended, § 29-16; Ord. No. 79-15, 8-15-79; Ord. No. 79-26, 9-25-79; Ord. No. 79-34, 12-11-79; Ord. No. 80-37, 9-18-80; Ord. No. 84-2, 5-3-84; Ord. No. 84-15, 12-20-84; Ord. No. 86-1, 3-13-86)

Sec. 31-20. Application of regulations, modifications and exceptions.

The following regulations shall apply generally unless zone regulations specifically provide to the contrary.

(A) SUBDIVISIONS.

All proposals for subdivisions, submitted as stipulated in the Subdivision Ordinance of the City of Lewiston, must conform to all sections of this chapter. The obligation to check this conformity rests with the planning board, who may modify space and bulk provisions for the establishment of a new town, planned unit development and cluster development.

(B) CLUSTER DEVELOPMENT.

In reviewing proposals for the establishment of cluster subdivisions, including, but not limited to, a plan and program for a new town, planned unit development and cluster development which, in their judgment, provides adequate public spaces and improvements for circulation, recreation, light, air and service needs of the community when fully developed and populated, and which also provided such covenants or other legal provisions as will assure conformity to and achievement of the plan in accordance with the following standards, the planning board may modify provisions of this chapter relating to space and bulk. This shall not be construed as granting variances to relieve hardship.

- (1) The purpose and intent of this zoning ordinance shall be upheld.
- (2) There shall be compliance with all state and local codes and ordinances.
- (3) To obtain approval, a proposed development shall have a minimum lot area not less than required per family or apartment in the zone in which it is located. For the purposes of this chapter, minimum lot area shall be established by the area of residual space available for development after deduction of vehicular rights-of-

way and land not buildable because of drainage, subsurface conditions or other natural impediment.

- (4) Each building shall be an element of an overall plan for site development.
- (5) Where possible, buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas.
- (6) Development proposals shall include a landscape program to illustrate the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.
- (7) Utilities shall be installed underground wherever possible. Transformer boxes, substations, pumping stations and meters shall be located and designed as not to be unsightly or hazardous to the public.
- (8) Residual open space accumulated by modifying space and bulk requirements within the allowable density limits shall be used for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wild life cover. The use of any open space may be further limited or controlled at the time of subdivision approval where necessary to protect adjacent properties or uses.
- (9) The common open space(s) shall be shown on the subdivision plan and with appropriate notation on the face thereof to indicate that it:
 - (a) Shall not be used for future building lots.
 - (b) A part or all of the common open space may, at the city's option, be accepted in dedication by the city and operated as a city recreational facility.
- (10) If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plat approval:

- (a) Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association and the common land shall be approved by the planning board and included in the deed for each lot.
 - (b) This neighborhood association shall have the responsibility of maintaining the common open space(s) and operation and maintenance of local neighborhood recreation facilities.
 - (c) The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open spaces and neighborhood recreational facilities.
 - (d) The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the planning board upon request of the neighborhood association or the developer or subdivider.
- (11) For the purposes of this section, the tract or parcel of land involved must be either in single ownership or the subject of an application filed jointly by the owners of all the property included.
- (12) For the purposes of this section, accessory uses may be included as an integral part of the plans for the development, retail and service facilities for the convenience of residents only; provided, however, that in the opinion of the planning board such facilities are in no way conflicting with the Comprehensive Plan of the City of Lewiston.
- (13) The developer shall present a letter from the police department assuring pedestrian and vehicular safety and efficient traffic circulation.
- (14) The developer shall present a letter from the fire department regarding the convenience of access to the development and the ability to service the development, in case of fire.

- (15) In a residential planned unit development (PUD), the developer may, in addition to fulfilling the provisions for a subdivision, cluster subdivision or condominium development, propose to service a PUD containing at least three (3) principal buildings, by means of privately constructed and maintained utilities and streets and/or to locate more than one principal building on a single lot, in which case the following provisions shall apply:
- (a) Minimum parcel size for a PUD shall be five (5) acres. Such parcel shall meet all applicable requirements for the zone in which it is located.
 - (b) No fewer than three (3) dwelling units per principal building shall be permitted. The maximum number of dwelling units per building and the maximum number of dwelling units in the PUD shall correspond to that which is permitted in the zone in which the PUD is to be located, excluding land to be dedicated for streets, walkways, service or parking areas.
 - (c) Front yard requirements shall apply only to those buildings located on a public street. Rear and side yard requirements shall apply to those buildings facing the rear or side property line of abutting parcels of land.
 - (d) Open space between unattached principal buildings shall not be less than the height of the higher of said unattached buildings.
 - (e) Open space equivalent to at least twenty-five (25) per cent of the parcel area shall be dedicated for recreational or other outdoor living purposes as described in section 31-20(B)(8). Such open space shall be exclusive of land to be used for streets, walkways, service and parking areas and shall be shown on a development plan as described in section 31-20(B)(9). If such PUD consists of individually owned dwelling units, a neighborhood association as described in section 31-20(B)(10) or, in the case of a condominium, a unit owners' association as required under M.R.S.A. Section 33, Chapter 31, as amended, shall be established.
 - (f) Where a PUD is proposed to be serviced by a privately constructed, owned and maintained street and/or util-

ities, such street or utilities need not meet the design and construction standards as established by the city if the planning board determines, upon recommendation of the director of public works, fire chief and police chief, that such street or utilities are adequate to protect the public health, safety and welfare and are sufficient to meet the present and future needs and purposes of the PUD. In the case of a PUD in which dwelling units are to be individually owned, a neighborhood association such as that described in section 31-20(B)(10) or, in the case of a condominium, a unit owners' association, as required in M.R.S.A. Section 33, Chapter 31, shall be established. Such association shall be required to establish an account to be funded by annual charges sufficient to maintain, repair and, when needed, reconstruct such private streets and/or utilities on a regular basis.

- (g) Where possible, buildings shall be oriented with respect to scenic vistas, natural landscape features, natural drainage areas, and contiguous residential areas.
- (h) Development proposals shall include a landscape plan which sets forth the proposed treatment of open space, streets, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.
- (i) All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations and meters shall be located and designed so as not to be unsightly or hazardous to the public.
- (j) Each building shall be an element of an overall plan for site development, however, this shall not preclude the phased development of a PUD, except that each phase shall independently meet the requirements of this section.
- (k) For the purposes of this section, accessory uses may be included as an integral part of the plan for the development, including retail and service facilities for the convenience of residents only; provided, however, that in the opinion of the planning board, such facilities are in no way conflicting with the comprehensive plan of the City of Lewiston.

- (l) It is the intent of this section that a PUD will be reviewed concurrently with and as an integral part of a subdivision, cluster subdivision or condominium, as appropriate. All items affecting the design, construction and plan for a PUD shall be clearly identified and noted, as required, on the final plan prior to approval by the planning board.
- (m) Private streets and/or utilities developed under the provisions of this section shall not be accepted by the city unless, in the opinion of the director of public works, they are so constructed and in such a condition as to meet all applicable standards for acceptance in effect at the time of proposed acceptance and, in the opinion of the fire chief and police chief, do not present a traffic, safety or fire hazard. Nothing in this section shall prevent the developer or his successor from reconstructing or improving such private streets and/or utilities so as to meet the standards for acceptance as described above.

(C) APPLICATION OF REGULATIONS.

(1) Arterial setback.

- (a) All structures, except display signs, walls, gas pumps and fences, along major traffic arteries and collectors shall be set back from the street lines at least forty (40) feet.
- (b) The following streets, or parts thereof, require said setback:
 - 1. Lisbon Street: Drew Street to Lisbon Town Line;
 - 2. Main Street: Stetson Road to Greene Town Line;
 - 3. Sabattus Street: Pond Road to Sabattus Town Line.

- (2) No new building or structure shall be constructed or used, in whole or in part, and no building or structure, or part thereof, shall be altered, enlarged, reconstructed or used, and no land shall be used for any purpose or in any manner unless in conformity with the

provisions, regulations and restrictions of this chapter. All buildings, structures and uses of land or of buildings and structures which do not meet the requirements of this chapter become lawfully nonconforming.

- (3) When a lot is situated in part in the City of Lewiston and in part in an adjacent municipality, the provisions, regulations and restrictions of this chapter shall be applied to that portion of such lot as lies in the City of Lewiston in the same manner as if the entire lot were situated in Lewiston.
- (4) No new building or structure shall be erected, other than appurtenant buildings or structures except on a lot which fronts on an accepted street or on an accepted public easement.
- (5) All buildings and other structures shall be so located and arranged on lots as to provide safe and convenient access for fire protection, servicing and off-street parking and loading located on the premises.

- (6) Land within the lines of a street on which a lot abuts shall not be counted as part of such lot for the purposes of meeting the area requirements of this chapter even though the fee to such land may be in the owner of such lot.
- (7) Any single vacant lot existing prior to the adoption of this chapter and not adjoined by other vacant land of the same owner may be built upon as a matter of right, provided such lot shall conform to the yard requirements of this chapter.
- (8) Any two (2) or more vacant mutually adjoining lots, either of which is nonconforming, lawfully existing and in common ownership prior to the adoption of this chapter shall be grouped to provide one lot conforming, as far as possible, to the area and width requirements of this chapter, which one lot may be built upon as a matter of right subject to the yard and maximum building area requirements of this chapter. Any excess lot or lots, if not sufficient to be a conforming lot, shall be made part of the one lot.
- (9) No division of land in any zone shall be made whereby the remaining land, if any, excluding the lot or lots to be sold or established under separate deed, shall be smaller than the minimum size provided for the zone in which such remaining land is located, or have less width and yard space than the minimum provided.
- (10) Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been or was taken by eminent domain, shall not be deemed to be transferred in violation of the area, width and yard space provisions of this chapter.
- (11) No lot shall be so reduced that the yards, courts or other open spaces shall be smaller than prescribed by this chapter. No yard, court or other open space shall, at any time, be counted as required open space for more than one building.
- (12) On a corner lot in any zone, a building or structure may face either street, and the front yard shall be

between the principal building or structure and the street on which the building or structure is to be numbered. The side yard, between the building and side street, shall meet front yard requirements of the applicable zone. Additionally, the rear yard, between the principal building and the abutting property on the side street, shall meet side yard requirements of the applicable zone.

- (13) Where a lot containing ten thousand (10,000) square feet or less is completely surrounded by streets or alleys, the building area may be increased twenty (20) per cent.
- (14) Uses similar to but not specially mentioned or covered by any general category of permitted or conditional uses shall be allowed as conditional uses upon a determination by the board of appeals that the proposed use is similar to and compatible with other uses permitted in that zone and meets the special requirements for conditional uses in section 31-26 of this chapter.
- (15) The minimum lot area and minimum lot width for all lots where public or private community sewerage is not available shall be the same as provided in an R3 zone, section 31-9(D), except in those areas where a larger minimum lot area and minimum lot width are specifically required.
- (16) No building shall be erected, altered or used and no premises shall be used for any use which, by noxious exhalations, offensive smells or other annoyances becomes injurious, dangerous, noxious or offensive to the health, comfort or property of individuals or of the public.

(D) PARKING AND/OR STORAGE OF CERTAIN VEHICLES PROHIBITED IN SPECIFIC ZONES.

- (1) Mobile homes. The parking or storage of any mobile home in all zones except the Commercial "C" Zone is hereby prohibited, except on a sales lot, or at an establishment for service, maintenance or repair while

such operations are being diligently pursued, or at a mobile home manufacturing plant, or in a legally authorized junkyard, or as authorized by sections 31-33 and 31-34 of this chapter.

- (2) Commercial trailers. A commercial trailer or semi-trailer shall not be parked or stored in any residential, apartment or transitional zone.
- (3) Commercial vehicles. The parking of a commercial self-propelled vehicle in any residential, apartment or transitional zone is prohibited, except that one commercial vehicle with a manufacturer's rating of not more than one and one-half (1½) ton may be parked on any lot on which there is located a main building, provided that such vehicle is used by a resident of the premises. This regulation shall not be interpreted to prohibit commercial vehicles from loading and unloading in any residential, apartment or transitional zone.
- (4) Major recreational equipment.
 - (a) Definition. "Major recreational equipment" is defined for the purpose of this chapter as including nonresident trailers, boats and boat facilities, and combinations thereof, off-the-road vehicles and their trailers, and combinations thereof, and other similar equipment, and cases and boxes used for transporting recreational equipment, whether occupied by such equipment or not.
 - (b) Parking or storage as accessory to residential use. Parking or storage of major recreational equipment shall be permitted as accessory to principal residential use only in accord with the following limitations:
 1. Unless stored in a garage, carport or accessory building, such equipment shall be parked or stored behind the nearest portion of any building to the street; provided, however, that parking shall be permitted anywhere on the premises or on adjacent streets (if otherwise

- lawful) for not to exceed twenty-four (24) hours during loading and unloading, and further provided;
2. In any side yard not adjacent to a street, no such equipment may be parked or stored if it exceeds twelve (12) feet in height above the ground; provided, however, that masts, antennas, ventstacks, windshields or other minor accessories may exceed this height limit;
 3. Equipment exceeding the limitations set forth in the paragraph above may be parked or stored outdoors only in the rear yard. Any equipment so stored will be subject to these requirements concerning accessory buildings set forth in the special requirements of the applicable zone;
 4. No such equipment parked or stored on a residential lot shall be used in such location for living, sleeping, housekeeping or business purposes.
- (5) Other parking or storage. Except as indicated above, major recreational equipment not in use may be parked or stored only as follows:
- (a) At plants manufacturing such equipment;
 - (b) At establishments engaged in the sale of such equipment;
 - (c) At establishments for service, maintenance or repair of such equipment while such operations are being diligently pursued;
 - (d) At facilities for the active use of such equipment, provided that areas and/or structures for parking or storage shall be appropriately located, improved and, if necessary, screened or fenced;
 - (e) At automobile parking stations;
 - (f) At commercial garages;
 - (g) At legally authorized junk, scrap or salvage yards.
- (6) Maintenance of major recreational equipment stored outdoors. Except when in legally authorized junk,

scrap or salvage yards, major recreational equipment stored in the open shall be maintained in condition for safe and effective performance of the function for which it is intended, or can be placed in such condition at a cost not exceeding the value of the equipment in its existing state. In no case shall such equipment be stored in the open, other than in legally authorized junk, scrap or salvage yards, for a period of more than six (6) months if not in condition for safe and efficient performance of the function for which it is intended.

(E) HEIGHT.

- (1) Excluded portions of structures. The height limitations of this chapter (except as provided below) shall not apply to any penthouses or roof structures for the use of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, nor shall it apply to church spires, belfries, cupolas, domes and monuments, water towers, fire or parapet walls, skylights, steeples, roof signs, flag poles, chimneys, smoke stacks, radio or television towers, silos or similar structures which may be erected above the height limit. The foregoing provisions shall not be interpreted to permit a fire or parapet wall to extend more than four (4) feet above the roof.
- (2) Aviation hazards prohibited. No structure in any district shall be erected which exceeds the maximum height permissible under the federal air regulations of the Federal Aviation Administration.

(F) SEMIDETACHED DWELLINGS-SIDE YARDS.

For the purpose of side yard regulations, semidetached two-family dwellings with common party walls shall be considered as one building occupying one lot.

(G) PROJECTIONS PERMITTED IN REQUIRED YARDS AND COURTS.

- (1) Porte cocheres and covered unenclosed porches permitted in required side or rear yards. Porte cocheres and

covered porches, open on the three (3) sides except for necessary supporting columns and customary architectural features, shall be permitted in required side or rear yards, provided that no such structure shall project closer than two (2) feet to any side lot line, that no such structure shall project into any yard required adjacent to a street, that no such structure shall be more than one story in height or more than twenty-four (24) feet in length and that no such structure shall project more than six (6) feet into any required rear yard.

- (2) Unenclosed porches and the like which are not covered. Unenclosed porches, landings, terraces, patios or platforms which are not covered by a roof or canopy and do not extend above the level of the first floor of the building (except for railings and railing supports) may project into any required front, side or rear yard or court not to exceed eight (8) feet.
- (3) Covered front porches. No porch covered by a roof shall project into any required front yard, except a minor entry porch, which shall not be more than six (6) feet in width and shall not project more than six (6) feet into such yard except that the maximum width may be increased three (3) feet for each separate external entranceway served by said porch.
- (4) Architectural features, chimneys, air conditioners. Cornices, eaves, belt courses, sills, canopies or other similar architectural features (but not including bay windows or vertical projections) may project into a required side yard not more than eighteen (18) inches, but not closer than three (3) feet to the side lot line, and may extend into a required front or rear yard not more than thirty-six (36) inches. Chimneys and air conditioners may project into any yard not more than eighteen (18) inches, but air conditioners rated at twenty-four thousand (24,000) B.T.U. or less shall not be so placed as to discharge within five (5) feet of side yard lines, and those rated over twenty-four thousand (24,000) B.T.U. to discharge air within twelve (12) feet

of side yard lines, other than side yard lines adjacent to streets.

- (5) Open, unenclosed fire escapes.
 - (a) Open, unenclosed fire escapes may project not more than four (4) feet into any required yard, but shall not project closer than three (3) feet to any side lot line.
 - (b) Notwithstanding the requirements of section 31-20(G)(5)(a) above, a fire escape required under the National Fire Protection Association Life Safety Code and measuring no more than twenty-two (22) inches in travel width, may be located within one (1) foot of the side or rear lot line if, in the opinion of the building inspector, such fire escape cannot be safely located as described in section 31-20(G)(5)(a) above.
- (6) Open stairways and balconies. Open, unenclosed stairways or balconies, not covered by a roof or canopy, may extend or project into a required rear yard only, not more than four (4) feet, but shall not be within three (3) feet of any property line.

(H) SPECIAL FLOOD HAZARD AREAS.

(1) Statement of Purpose.

The purpose of this section is to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

(2) Adoption of Flood Hazard Area Delineations.

- (a) The areas of special flood hazard identified by the Federal Insurance Administration in a report entitled "The Flood Insurance Study for Lewiston, Maine," dated March, 1979, with accompanying Flood Insurance Rate Maps and Flood Boundary—Floodway Maps is hereby adopted by reference and declared to be part of this section. The Flood Insurance Study is on file in the City Clerk's Office, the Code Enforcement Office, and the Department of Development.

(b) The floodways delineated on the Flood Boundary—Floodway Map are hereby adopted as regulatory floodways to safely carry the waters of the base flood.

(3) Special Requirements.

(a) In Special Flood Hazard Areas, new buildings or structures shall be constructed or used in whole or in part, and buildings or structures or parts thereof, shall be altered, enlarged, reconstructed or used, and land shall be developed or used for any purpose or in any manner only when in compliance with the terms of this section and other applicable regulations in addition to the requirements of the applicable zone:

1. Same as provided in the Resource Protection Zone, section 31-19(D), except that section 31-19(D)(1)(d) shall not apply.
2. No encroachment, including fill, new construction, substantial improvements and other development, is permitted in the regulatory floodway that would result in any increase in flood levels during the occurrence [occurrence] of the base flood discharge.
3. All mobile homes located within any A Zone on the Flood Insurance Rate Map shall be anchored to resist flotation, collapse or lateral movement by:
 - a. Over-the-top ties anchored to the ground at the four (4) corners of the mobile home, plus two (2) additional ties per side at intermediate points (except that mobile homes less than fifty (50) feet long require only one additional tie per side),
 - b. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (except that mobile homes less than fifty (50) feet long require only four (4) additional ties per side),

- c. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds, and
 - d. Any additions to the mobile home be similarly anchored.
4. All mobile homes located within any A Zone on the Flood Insurance Rate Map shall meet the following requirements:
- a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
 - b. Adequate surface drainage and access for a hauler are provided;
 - c. In the instance of elevation on pilings:
 - 1. Lots are large enough to permit steps;
 - 2. Piling foundations are placed in stable soil no more than ten (10) feet apart;
 - 3. Reinforcement is provided for piers more than six (6) feet above ground level.

(I) REGULATION OF GROUP CARE FACILITIES.

- (1) Density regulation of Types "A" and "B" group care facilities is intended to permit the location of such facilities within the community yet ensure that they will not become overly concentrated in neighborhoods, thereby adversely affecting neighborhood character or the beneficial impact of these facilities on client groups:
- (a) Minimum distance between premises abutting a common street or alley. Twelve hundred (1200) feet measured along the shortest straight line between the main entrances of each facility.
 - (b) Minimum distance between premises not abutting a common street or alley. Eight hundred (800) feet measured along the shortest straight line between the main entrances of each facility.

- (2) Location regulation of Type "B" group care facilities is intended to minimize the adverse impact of Type "B" group care facilities on public or private nonprofit schools.
 - (a) Minimum distance between Type "B" group care facility and public or private nonprofit school. Three hundred (300) feet measured along the shortest straight line between the main entrances of each facility.

(J) REGULATION OF WIND ENERGY CONVERSION SYSTEMS

- (1) Statement of Purpose. Regulation of wind energy conversion systems is intended to permit the location of such devices within the community while ensuring that the public health, safety and welfare is not adversely affected.
- (2) Requirements.
 - (a) Setback. WECS shall be set back from all lot lines a minimum distance equivalent to the distance between the ground level elevation and the highest point on the WECS plus ten (10) feet.
 - (b) Access. All WECS shall be protected against unauthorized access by one or more of the following:
 - (i) Anti-climbing shroud;
 - (ii) Removal of tower climbing apparatus to a height of at least ten (10) feet;
 - (iii) Fence of at least six (6) feet in height; or
 - (iv) Other device approved by the building inspector to prevent unauthorized access.
 - (c) Automatic shutdown. All WECS shall utilize a clutch, feathering device, brake, overspeed control or similar device, either single, or in combination, to automatically shut down the WECS when wind speed exceeds forty-five (45) miles per hour.
 - (d) Installation on buildings. A WECS shall not be installed upon or attached to any building or structure, except a tower integral to the WECS, except when the board of appeals determines under the special requirements for

conditional uses in section 31-26 of this chapter, that said building or structure is capable of safely supporting a WECS and that a WECS installed or attached in such a manner shall not present a safety hazard to the neighborhood.

- (e) Density. One per lot except as authorized by the board of appeals upon issuance of a conditional use permit.
- (f) Certification. All plans for the design and installation of a WECS shall be certified by an engineer or architect registered in the State of Maine to perform such analyses as to the safety and integrity of design and installation and compliance with the requirements of section 31-20(J)(3)(b), (c) and (d).
- (g) Inspection. A WECS shall be installed only upon issuance of a building permit. The building inspector shall perform periodic inspections during the installation of a WECS, which shall include, but not be limited to, inspection of all tower anchorage prior to backfilling, inspection of the tower installation prior to attachment of the energy conversion device, and upon completion of the WECS installation. The applicant shall ensure that each required inspection is completed prior to proceeding with the next stage of installation.
- (h) Noise. Excessive noise created by the action of a WECS may be declared a nuisance.

(3) Location. WECS shall be permitted in all zones except the Central Business District "CBD" Zone, the Urban Commercial "UC" Zone, and the Apartment "Apt." Zone.

(K) REGULATION OF ADULT BUSINESS ESTABLISHMENT.

(1) Density regulation of adult business establishments is intended to permit the location of such establishments within the community, yet ensure that they will not become overly concentrated in neighborhoods or areas, to the detriment of other uses.

- (a) The minimum distance between an adult business establishment and any two (2) other adult business establishments in the same or in an adjoining zone shall be as follows:

- (i) Urban Commercial, Central Business Zones: Three hundred (300) feet.
- (ii) Commercial Zone or any other zone in which such use is located: Five hundred (500) feet.

The minimum distances as described above shall be measured along the shortest straight line between the main entrances of each such use.

(Code 1970, as amended, § 29-17; Ord. No. 79-18, 10-4-79; Ord. No. 79-26, 9-25-79; Ord. No. 80-20, 2-14-80; Ord. No. 80-28, 5-18-80; Ord. No. 80-38, 9-18-80; Ord. No. 80-39, 9-18-80; Ord. No. 81-24, 12-10-81; Ord. No. 83-16, 12-15-83; Ord. No. 84-14, 12-20-84; Ord. No. 84-15, 12-20-84; Ord. No. 85-18, 12-19-85; Ord. No. 87-6, 3-17-87)

Sec. 31-21. Procedure for hearing appeals.

(A) WHAT ONE MAY APPEAL TO THE BOARD.

The board of appeals shall:

- (1) Hear any written appeal by any person affected directly or indirectly by any decision or failure to act of the building inspector.
- (2) Hear any written appeal from a petitioner who seeks a variance.
- (3) Hear any written appeal from a petitioner who seeks a conditional use permit.

(B) HOW TO APPEAL TO THE BOARD.

Written petition for appeals shall be filed with the building inspector within thirty (30) days after the date of his decision. A petition shall be in letter form addressed to the board of appeals:

- (1) If the petitioner is the applicant for the permit, the petition for appeals shall reflect the following information:
 - (a) Street address of the property in question;
 - (b) The legal name and address of the owner of the property involved;

- (c) The legal name and address of the applicant, which address shall be used by the board of appeals in all correspondence hereunder;
- (d) Description of the property in question;
- (e) Petitioner's proposal of what is intended to be done;
- (f) When proposal concerns buildings or structures, a sketch of the proposal giving the location of the building or structure on the property and all dimensions necessary for a clear understanding of what is intended;
- (g) A statement of the reason or reasons why the petitioner believes the appeal should be granted.

- (2) If the petitioner is a protesting party other than the applicant for the permit, the petition for appeals shall reflect the following information:
 - (a) Street address of the property in question;
 - (b) The legal name and address of the protesting party other than the applicant for the permit, which address shall be used by the board of appeals for all correspondence thereunder;
 - (c) Description of the property in question;
 - (d) A description of the activity for which a permit was issued by the building inspector and a statement of the reason or reasons why the petitioner believes the permit should have been denied.
- (3) The fee for filing an appeal shall be set by the city council on the recommendation of the building inspector.

(C) SUCCESSIVE APPEALS TO THE BOARD.

If the board of appeals shall deny an appeal respecting certain buildings, structures or premises, a second appeal of a similar nature shall not be brought before the board within three (3) months from the date of the denial of the board of the first appeal, unless, in the opinion of a majority of the board, substantial new evidence shall be brought forward, or unless the board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made. (Code 1970, as amended, § 29-19; Ord. No. 80-20, 2-14-80)

Sec. 31-22. Administrative action upon written appeals.

(A) All hearings shall be held at the next regular meeting of the board of appeals, unless otherwise arranged between the petitioner and the board of appeals, after the notice period established in paragraph (B) below shall have expired.

(B) The Building Inspector shall serve notice of required public hearings detailing subject time and place of hearing a

reasonable time in advance of the hearing, which shall be construed to mean at least seven (7) days before the date of such hearing, to the following:

- (1) Each member of the board of appeals;
- (2) The petitioner, the planning board, the building inspector, and such persons shall be made parties to the action;
- (3) The owners of property within three hundred (300) feet of all the frontage on both sides of the street and all landowners whose property touches upon the lot involved in the appeal.

For the purpose of this notification, the owners of property shall be considered to be the parties listed by the chief assessor as those against whom taxes were assessed. Failure of any property owners to receive a notice of the public hearing shall not necessitate another hearing and shall not invalidate any action by the board of appeals.

(C) Anyone may appear at a public board meeting/hearing, be represented by his/her agent or be accompanied by an attorney. When an appellant does not have an attorney, the chairman shall insure that the provisions of the zoning chapter applicable to the appeal are understood by the applicant or appellant. This should include an indication of the type of evidence necessary to prove error on the part of the building inspector, to justify granting a variance or to justify the issuance of a conditional use permit.

(D) An appellant, or his/her agent or attorney, must appear at the scheduled meeting/hearing at which the subject case is to be heard. Failure to appear shall require the board to dismiss the case with the appellant receiving written notification of this. Reinstatement of the case shall be allowed upon the filing of a written request within thirty (30) days after the dismissal notice. Reinstatement shall be allowed only after the showing of good cause and upon payment of any required fees incurred from readvertising the case.

(E) A continuance may be granted to an appellant where good cause is shown if he/she is unable to present his/her evidence at the scheduled meeting/hearing. (Code 1970, as amended, § 29-21; Ord. No. 80-20, 2-14-80)

Sec. 31-23. Action by the board of appeals on an appeal.

(A) The board of appeals shall affirm, modify or set aside, within sixty (60) days from the date of filing, the appealed decision of the building inspector by interpreting that provision of the ordinance which has been called into question. The failure of the board of appeals to issue a written notice of its decision, directed to the appellant, as required by Section 2411 of Title 30 of the Maine State Revised Statutes Amended constitutes a denial of the appeal. If the board of appeals finds that the building inspector correctly interpreted and applied the provisions of that ordinance, the board shall affirm his decision, except when an appeal raises the issue of a variance, in which case the board of appeals may grant a variance in accordance with section 31-24 of this chapter, or except when an appeal raises the issue of a conditional use, in which case the board of appeals may issue a conditional use permit in accordance with section 31-25 of this chapter.

(B) The board of appeals may act on its own initiative to vary, modify or reverse any decision of the building inspector.

(C) Any right, including but not limited to variances, conditional use permits and changes or extensions of nonconforming uses, secured by action of the board of appeals on an appeal shall expire if the work or change involved is not begun within six (6) months and substantially completed within one year of such action, provided however, the board may grant one or more extensions of time, no one extension to exceed one year, if, prior to the expiration of the applicable time, the petitioner files a written request with the board stating the reason for such request. Notwithstanding the above, the board may grant an extension of time not to exceed two (2) additional years on
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the date of action on an appeal if the petition for appeals requests such extension. In all cases, the burden of proof shall be on the petitioner to demonstrate that, under the circumstances, the work or change involved cannot reasonably be begun, or substantially completed, within the applicable time.

(D) Variances, conditional use permits, and changes or extensions of nonconforming uses may be granted only by the affirmative vote of two-thirds (2/3) of the members of the board of appeals present and voting. However, the concurring vote of at least four (4) members is required to constitute an action on any variance, conditional use permit or changes or extensions of nonconforming use. (Code 1970, as amended, § 29-22; Ord. No. 80-20, 2-14-80; Ord. No. 86-5, 5-1-86)

Sec. 31-24. Variance.

(A) The board of appeals' power to grant a variance is limited to:

- (1) Allowing, in a zone, construction, addition, alteration or use of a building, structure or part thereof, which is not permitted by this chapter;
- (2) Determining and varying lot area, lot width, yard depth, the percentage of the lot that may be covered by buildings and structures and the height of buildings and structures.

The board is not authorized to grant and is hereby specifically prohibited from granting, any variance other than those authorized by this paragraph's first sentence. Additionally, the board of appeals shall alone hear requests for variances.

(B) Either variance type described above may be granted only where strict application of a provision of this chapter would cause undue hardship. In considering a variance request for either variance type, the board of appeals may grant a variance if, and only if, all the following conditions are met:

- (1) The burden of proof is upon the petitioner to demonstrate undue hardship to himself and his property. To meet this burden of proof the petitioner must demonstrate the following:

- (a) The physical conditions unique to the specific property involved are of such an extraordinary nature that strict application of the provisions of this chapter to the specific property involved practically destroys or greatly decreases its value for any permitted use to which it can reasonably be put;
- (b) That the physical conditions relating to petitioners' property are unique conditions—that is, are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zone;
- (c) The alleged undue hardship is caused by the provisions of this chapter and is not attributed to any act, course of conduct or failure to act of any person presently having an interest in the property;
- (d) The granting of the requested variance will not adversely affect property adjoining or nearby in the same neighborhood or the same zone insofar as the property is being used in conformity with the provisions of this chapter, and will not alter the essential character of the neighborhood or zone;
- (e) The granting of the requested variance will not impair the integrity of the Comprehensive Plan of the City of Lewiston;
- (f) In addition to satisfying (a) through (e) above, a variance from flood plain regulations (section 31-20(H)) for properties located within special flood hazard areas, may be granted only in accordance with the following:
 - (1) A variance shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result;
 - (2) A variance may be issued for substantial improvements or new construction to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base

flood level, in conformance with the procedures of paragraphs (3), (4) and (5) of this section;

- (3) A variance shall only be issued upon (i) a showing of good and sufficient cause; and (ii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
- (4) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- (5) The applicant shall be notified in writing that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance and (ii) such construction below the base flood level increases risks to life and property.

- (2) If the board of appeals finds that the petitioner has satisfied his burden of proof as regards provisions 1(a), 1(b), 1(c) and 1(f) but that either or both of provisions 1(d) and 1(e) have not been satisfied, and if the board further finds that the unsatisfied provisions could be met under certain conditions, the board of appeals may grant a variance on these conditions.

(C) The board of appeals shall give the petitioner, the planning board, the building inspector, the municipal officers and other interested persons a reasonable opportunity to have their views expressed at the hearing on each of the above provisions required for either variance type.

(D) In imposing conditions on either variance type, the board may, and is encouraged to, seek the advice of the planning board.

(E) [Reserved.]

(F) Notification of all variances to section 31-19, resource protection zone, shall be submitted to the state planning office. (Code 1970, as amended, § 29-23; Ord. No. 79-15, 8-15-79; Ord. No. 79-31, 11-15-79; Ord. No. 79-32, 11-15-79)

Sec. 31-25. Action by board of appeals on a conditional use permit petition.

A building, structure or use stipulated as a conditional use (exception) in this chapter may not be constructed, added to, altered, moved, changed and/or premises used unless and until the board of appeals shall grant a conditional use permit. The board of appeals alone, and not the building inspector, shall hear requests for conditional use permits and shall grant a conditional use permit only when all general requirements and all special requirements as specified in this chapter have been met. The burden of proof is upon the petitioner to demonstrate that all special requirements for a conditional use permit as specified in this chapter have been met. The petitioner, the planning board, the building inspector, the municipal officers and other interested persons shall have a reasonable opportunity to have their views expressed at the hearing. If the board of appeals finds that an unsatisfied requirement could be met under certain conditions, the board of appeals may grant the individual use permit on those conditions. In imposing conditions on a conditional use permit, the board of appeals may seek the advice of the planning board and/or other municipal boards and officials. (Code 1970, as amended, § 29-24)

Sec. 31-26. Special requirements for conditional uses.

A building, structure or use stipulated as a conditional use (exception) in this chapter may not be constructed, added to, altered or changed and/or premises used in any zone unless and until the board of appeals determines that the petitioner has demonstrated that, in addition to meeting all of the general requirements which apply, he has satisfactorily met the following requirements:

- (a) That the conditional use sought does not cause conflict with the Comprehensive Plan of the City of Lewiston;
- (b) That the exception sought does not have a harmful effect on the use of nearby land insofar as that land is being used in conformity with Lewiston ordinances and variances;
- (c) That the exception sought will neither create nor aggravate a traffic hazard, a fire hazard or a panic hazard;
- (d) That the exception will not block or hamper the city plan patterns of highway circulation or of planned major public or semipublic land acquisition;
- (e) That the exception sought will not alter the essential character of the neighborhood and will not tend to depreciate the value of the property adjoining and neighboring the property under petition, considering the size and character of the buildings in the vicinity;
- (f) That the exception will not unduly restrict the access of light and air to the premises and to adjoining premises;
- (g) Will not create a hazard to air traffic;
- (h) Will not create a barrier or undue impediment to municipal officials or to the fire department in performing their functions in connection with the premises or the adjoining properties;
- (i) Will not endanger the safety or health of the citizens of Lewiston;
- (j) Will not make undue demands upon public facilities, especially water supply, sewage disposal, police protection or schools;
- (k) That the conditional use will not create significant water pollution;
- (l) That the conditional use will not increase potential flood damage. (Code 1970, as amended, § 29-25)

Sec. 31-27. Enforcement.**(A) BUILDING INSPECTOR.**

- (1) [Reserved.]
- (2) It shall be the duty of the building inspector to enforce the provisions of this chapter. No permit shall be issued for the construction, addition, alteration, removal, demolition or change of use of any building, structure or part thereof, or for the use of any premises unless the plans and intended use indicate that the building, structure or premises is to conform in all respects to the ordinances of the City of Lewiston and the laws of the State of Maine.
- (3) The building inspector is hereby authorized and directed to make such inspections as are necessary to determinate satisfactory compliance with this chapter.
- (4) The building inspector shall be given free access at reasonable hours to all parts of structure[s] regulated by this chapter.
- (5) The building inspector shall act upon all written applications for building or use permits required by this chapter signed by the applicant and directed to the building inspector, either by issuing or refusing to issue such permits within thirty (30) days from the date of filing of the application. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative in writing and shall state the reasons for said refusal. The failure of the building inspector to issue a written notice of his decision, directed to the applicant, within thirty (30) days from the date of filing of the application constitutes a refusal of the permit. The applicant may then either appeal the decision of the building inspector to the board of appeals or reapply for a permit after changing whatever conditions led to the original denial. After granting an application, the building inspector shall file with the board of appeals copies of

all permits which he has granted together with one complete set of the plans filed with him.

- (6) All applications for permits for proposed buildings shall be accompanied by a site and a floor plan submitted in duplicate reflecting the outside contour of all buildings and main bearing partitions and location of said building on [the] lot. All applications for permits for structures shall be accompanied by a sketch submitted in duplicate of the proposal giving the location of the structure on the property and all dimensions necessary for a clear understanding of what is intended.
- (7) The building inspector shall upon approval of any application for a building or use permit required by this chapter, furnish the applicant a permit, retain a copy thereof and file copies thereof with the board of appeals, planning director, the city clerk and the chief assessor of the City of Lewiston.
- (8) It shall be unlawful to use or permit the use of any building, or part thereof, hereafter erected or altered, wholly or partly, in its use or structure, or of which the yards, courts or other open space of which are in any way reduced, until the building inspector shall have certified on the building permit, and on the certificate of occupancy if none is required, specifying the use to which the building, upon being sufficiently completed to comply with the provisions and regulations relating hereto, may be put. The building inspector is hereby authorized to issue summonses to violators of this chapter who fail to comply with a second written notice of violation.

(B) VIOLATIONS.

- (1) Upon the individual initiative of the building inspector, or on any well-founded information in writing from any person aggrieved, or on request by any municipal officer, the building inspector shall make an investigation of the facts and an inspection of the premises where such violations may exist.

- (2) On evidence of any violation after investigation and inspection, the building inspector shall give notice of such violation to the owner or his agent and to the occupant of such premises as hereinafter provided. Such notice shall (1) be in writing; (2) include a statement of the reasons for its issuance; (3) allow a reasonable time for the performance of any act it requires; (4) be served upon the owner or agent and the occupant of the premises as the case may require, provided that such notice be deemed to have been properly served upon such owner or agent and occupant of the premises when a copy thereof has been sent by registered mail to their last known address, or where they have been served with such notice by any method authorized or required by the ordinances of the City of Lewiston and the laws of the State of Maine.
- (3) Whenever, after investigation and inspection, the building inspector finds evidence of a violation which requires immediate action to protect the public health and safety, he may, without notice, issue an order reciting the existence of such an emergency and require that such action be taken as he may deem necessary to meet [the] emergency. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Additionally, the procedure which shall be followed if a dangerous building is found shall be in conformance with 17 M.R.S.A. § 2851 (1965).

(C) VIOLATION ABATEMENT.

If after such notice and demand (or demand in the emergency situation described in (B)(3) above) such violation has not (been) abated within the time specified, the building inspector shall inform the city attorney, who is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this chapter, the same to be brought in the name of the City of Lewiston.

(D) PENALTY.

Any person or persons, firm or corporation being the owner or tenant of, or having the control or use of, any building, structure, land or premises, or [part] thereof, in the City of Lewiston who violates any of the provisions of this chapter, or fails to conform to any of the provisions thereof, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). Each day each such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate offense. (Code 1970, as amended, § 29-26; Ord. No. 80-20, 2-14-80)

Sec. 31-28. Application, validity, severability.**(A) APPLICATION.**

- (1) This chapter should not interfere with, abrogate, annul or appeal any ordinance, rule, regulation or permit previously or hereafter enacted, adopted or issued pursuant to law; provided, however, that unless specifically excepted, where this chapter imposes greater restrictions its provisions shall control.
- (2) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the health, safety and general welfare of residents of the City of Lewiston.

(B) VALIDITY OF SEVERABILITY.

- (1) If any provision of this chapter is declared invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to that provision of this chapter directly involved in the controversy which gave rise to the judgment and shall not affect or impair the validity of any other provision of this chapter.
- (2) Nothing in this chapter shall be construed to affect any suit or proceeding now pending in any court or any rights accrued or existing under any act or

chapter repealed hereby. Nor shall any right or remedy of any character be lost, impaired or affected by this chapter. (Code 1970, as amended, § 29-27)

Sec. 31-29. Amendments to the zoning ordinance.

(A) POWER TO AMEND.

The power to amend this chapter rests in the City Council of the City of Lewiston.

(B) PROPOSED AMENDMENTS.

(1) A proposal to amend this chapter may be initiated by:

- (a) Reference from the City Council;
- (b) Petition signed by not less than ten (10) residents of the City of Lewiston, eighteen (18) years of age and older;
- (c) The Planning Board at its own initiative.

(2) Any proposal to amend this chapter shall be in writing and shall include the following:

- (a) Any proposed ordinance which repeals or amends the zoning ordinance shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by striking out type and shall indicate new matter by underscoring or by italics;
- (b) The enacting clause shall be "The City of Lewiston hereby ordains . . .";
- (c) A statement indicating the reason(s) for the proposed ordinance.

(3) Any proposal to amend this chapter shall be accompanied by the following:

- (a) When a person petitions for rezoning of an area for the purpose of development in accordance with the architect's plan, the area shall not be rezoned unless the petitioner posts a performance bond equal to at least twenty-five (25) per cent of the estimated cost of the development. Said bond

shall become payable to the City of Lewiston if the petitioner fails to begin construction in a substantial manner and in accordance with the plan within one year of the effective date of the rezoning;

- (b) In the case of a petition for rezoning or zoning changes, a blackline print of a diagram reflecting the verbal description of the proposed zoning changes and the relation of the proposed zoning changes to the present existing zone boundaries involved shall be presented to the City of Lewiston.

(C) AMENDMENT PROCEDURE.

- (1) The Planning Board shall hold a public hearing on any written proposal to amend this chapter. Public hearings on proposed amendments initiated by reference from the City Council or by petition as described in Section 31-29(B)(1)(b) shall be held not more than thirty (30) days after the proposed amendment has been submitted to the Planning Board, unless a greater number of days is authorized by the City Council.
- (2) The Planning Board shall make its report and recommendation on the proposed amendment to the City Council not more than fifteen (15) days after the public hearing has been closed. The failure of the board to issue its report constitutes approval of the proposed amendment.

(D) NOTICE OF PUBLIC HEARING.

- (1) The Planning Board shall give proper notice of the public hearing to the petitioners. Failure of any petitioner to receive such notice of such public hearing shall not necessitate another hearing, shall not constitute grounds for objections by such petitioner and shall not invalidate any recommendation by the Planning Board on such zoning matter.
- (2) Notice must be served a reasonable time in advance of the meeting which will be construed to mean at least

seven (7) days before the date of such meeting. 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.

(E) VOTE REQUIREMENTS.

- (1) If the Planning Board approves a proposed amendment to this chapter, either by way of an official report to the city council or by way of default by failing to issue its report to the city council, the city council may, by affirmative vote of at least four (4) aldermen at a regular or special meeting, duly called, amend this chapter.
- (2) If the Planning Board disapproves a proposed amendment to this chapter by way of an official report to the city council, the city council may amend this chapter only by a two-thirds (2/3) vote of the city council at a regular or special meeting, duly called.

(F) AMENDMENTS AFFECTING THE RESOURCE PROTECTION ZONE.

The state planning office shall be notified by certified mail of all proposed amendments to this chapter that would affect the Resource Protection Zone. Such notice shall be made at the same time as the planning board recommendation required by Section 31-29(B) is forwarded to the city council. (Code 1970, as amended, § 29-28; Ord. No. 80-20, 2-14-80)

Sec. 31-30. Regulations pertaining to swimming pools.

(A) DEFINITION.

For the purpose of this section, "swimming pool" shall be defined as follows: A body of water in an artificial receptacle or other container, whether in the ground or above the ground, enclosed, outdoors, used or intended to be used for swimming or bathing and designed for a water depth of thirty-six (36) inches or more.

(B) PLACEMENT REQUIREMENTS.

No swimming pool shall be constructed closer than ten (10) feet from the side or rear lot line to the water line of said swimming pool. If said swimming pool is located on the street side, it shall not be so located closer than twenty-five (25) feet from the front or street side lines to the water's edge of said swimming pool.

(C) ENCLOSURES.

- (1) There shall be erected and maintained around every outdoor swimming pool, a good quality fence or wall, no less than four (4) feet in height and of a character to exclude children. The exterior walls of an aboveground pool may serve as the required fence, if the following conditions are satisfied.
 - (a) The resulting enclosure shall be of sturdy construction and meet the intent of this section;
 - (b) All stairs, ladders and ramps shall be secured, removed, fenced or otherwise made inaccessible when not in actual use; and
 - (c) The pool wall shall be free of any construction feature or appurtenance which could be used to facilitate access to the pool.

Required fencing shall be so constructed as not to have openings, holes or gaps larger than four (4) square inches, except for fences constructed of vertical posts or louvers, in which case, the openings shall not be greater than four (4) inches in width to a height of four (4) feet, with no horizontal members between the top and bottom plates. Doors and gates are excluded from the minimum dimension requirements. A dwelling house or accessory building may be used as part of such enclosure.

- (2) All gates or doors opening through such enclosure shall be equipped with a self-latching device for keeping the gate or door securely locked at all times when not in actual use.
- (3) Any view-obstructing fence shall not be closer than fifteen (15) feet from any street lot line.

(D) POOLS UNDER CONSTRUCTION.

No swimming pool under construction shall be left unattended without a fence or cover.

(E) OTHER POOLS.

Any other pool not included in the above definition, must, when not in use, be fenced, drained or covered.

(F) CONSTRUCTION PERMIT AND APPROVAL.

- (1) Before work is commenced on the construction of swimming pools, or on any alteration, addition, remodeling or other improvement to a swimming pool, an application for a permit to construct and the plans and specifications and pertinent explanatory data shall be submitted to the building inspector for his approval, and no part of the work shall be commenced until the building inspector has granted such approval by a written permit to construct and has further evidenced his approval by a suitable endorsement upon such plans and specifications. No department of the city charged with the duty of issuing permits for plumbing or electrical work, for sewer connections or for other work in connection with the construction of a swimming pool or the construction of any alteration, addition, remodeling or other improvement to a swimming pool shall issue a permit for a swimming pool until the plans and specifications therefor have been thus endorsed and approved by the building inspector. The building inspector shall review such plans and specifications to determine whether they comply with the provisions of this amendment and with reasonable standards of swimming pool construction for the protection of the public safety, health and morals pursuant to this amendment.
- (2) The application to the building inspector for a permit to construct a swimming pool or to construct any alteration, addition, remodeling or other improvement to a swimming pool shall be submitted in such forms and be supported with such information and data, as

well as plans, specifications and pertinent explanatory data, as the building inspector may require.

- (3) All swimming pools, as defined above, constructed previous to the date of this chapter, must comply to the fence regulations stated above. Owners of such pools will have six (6) months in which to comply with such regulations.

(G) POOL OCCUPANCY PERMIT.

After construction of a pool, a pool occupancy permit must be obtained from the building inspector, and said permit must be displayed near the swimming pool.

(H) HEALTH REQUIREMENTS.

The owner of property not serviced by the city sewers must obtain a permit from the division of code enforcement before a construction permit will be issued. (Code 1970, as amended, § 29-29; Ord. No. 80-20, 2-14-80; Ord. No. 84-9, 9-21-84)

Sec. 31-31. Walls, fences and corner cutbacks.

(A) MAXIMUM HEIGHT OF WALLS AND FENCES.

- (1) Front yards. No wall or fence in a required front yard may exceed three and one-half (3½) feet in height, except as provided below.
- (2) Side and rear yards. No wall or fence in a required side or rear yard may exceed eight (8) feet in height, except as provided below.
- (3) Corner cutbacks. No wall, fence, building, landscaping or other visual obstruction more than three (3) feet in height is permitted within a corner cutback, except that part of a building more than eight (8) feet in height, which is not otherwise prohibited, and except as provided below.
- (4) Height measurement. For purposes of this section, the height of walls, fences, buildings, landscaping and other structures shall be measured from the top of the existing curb grade or the crown of the abutting street, whichever is lower.

(B) EXCEPTIONS.

- (1) Corner cutbacks. Fences not more than three and one-half (3½) feet in height are permitted in a corner cutback, provided the vertical surface is not more than ten (10) per cent solid.
- (2) Automobile graveyards and junkyards. Walls, fences or other screening surrounding an automobile

graveyard or junkyard may exceed the maximum height permitted in front, side or rear yards, but not in corner cutbacks, if necessary to meet the requirements of applicable state law.

- (3) Mobile home parks. Walls, fences or other screening surrounding a mobile home park may exceed the maximum height permitted in front, side or rear yards, but not in corner cutbacks, if necessary to meet the requirements of section 31-33(E)(7)(c) of this chapter.
- (4) Tennis courts. A fence enclosing a tennis court located within the rear half of a lot may exceed the maximum height permitted in side or rear yards, provided the vertical surface of that part of such fence more than eight (8) feet in height is not more than ten (10) per cent solid.
- (5) Security fencing. Security fencing may exceed the maximum height permitted in front, side or rear yards if required by a governmental agency.

(C) HAZARDOUS AREAS.

The building inspector may require walls or fences not less than six (6) feet in height along the perimeter of any area that, by reason of the existence on the property of physical hazards, such as frequent inundation, erosion, excavation or grade differential, he determines to be dangerous.

(D) BARBED WIRE [BELOW SIX (6) FEET] PROHIBITED.

No barbed wire fencing is permitted below a height of six (6) feet, except in an agricultural zone.

(E) INSPECTION REQUIRED FOR APPEALS.

Subject to an on-site inspection by the building inspector, the board of appeals may permit exceptions to this section if in addition to meeting the special requirements for conditional uses contained in section 31-26, the exception will neither create nor aggravate a safety hazard. (Code 1970, as amended, § 29-30)

Sec. 31-32. Retaining walls.**(A) GENERAL.**

Retaining walls may be constructed, altered, added to, or changed anywhere on the lot to the lot line provided the following conditions are met:

- (1) A fence or wall may be required to prevent a safety hazard, as described in section 31-31(B).
- (2) The retaining wall shall be located and constructed in a manner that will not create a barrier or undue impediment to municipal officers or to the Fire Department in performing their functions in connection with the premises or adjacent properties.
- (3) Retaining walls may be located in the corner cut-back area of a lot, provided the height of the wall does not exceed three (3) feet. (Code 1970, as amended, § 29-30.1; Ord. No. 79-28, 10-9-79)

Sec. 31-33. Regulations pertaining to mobile home parks.**(A) PURPOSE.**

The mobile home park regulations are intended to provide for the accommodation of mobile homes in planned, integrated mobile home parks at a standard consistent with the protection of health, safety and general welfare of residents of the City of Lewiston. The mobile home regulations established minimum standards for mobile home parks; including requirements for the design, construction, alteration, extension and maintenance of mobile home parks and related utilities and facilities; authorizing the issuance of permits for construction, alteration and extension of mobile home parks; authorizing the licensing of operators of mobile home parks; authorizing the inspection of mobile home parks, and providing for the enforcement of the regulations and requirements.

(B) DEFINITIONS.

As used in these mobile home regulations:

- (1) License means a written license issued by the municipal officers to operate and maintain a mobile home park under the provisions of the Lewiston Zoning Ordinance and regulations issued hereunder.
- (2) Mobile home means a vehicular portable structure built on a chassis designed as a single-family dwelling unit suitable for year-round occupancy containing sleeping accommodations, kitchen facilities, the same water supply, waste disposal and electrical convenience as immobile housing and with plumbing and electrical connections provided for attachment to outside systems. A mobile home shall be considered as a mobile home whether it is placed on a slab or permanent foundation, whether the wheels are removed, or whether any other action is taken to make it appear as anything but a mobile home.
- (3) Mobile home lot means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (4) Mobile home park means a parcel of land owned by a person which has been planned and improved for the placement of mobile homes for nontransient use.
- (5) Mobile home stand means a part of an individual lot which has been reserved for placement of the mobile home, appurtenant structures or additions.
- (6) Permit means a written permit issued by the building inspector permitting the construction, alteration and extension of a mobile home park under the provisions of the Lewiston Zoning Ordinance and regulations issued hereunder.
- (7) Person means any individual, firm, trust, partnership, public or corporation.
- (8) Submission date shall be the date of the first scheduled planning board meeting occurring at least seven (7) days after the park plans are received by the staff.

(C) USES PERMITTED.

(1) Residential mobile homes.

(2) The following incidental uses may be permitted in a mobile home park as part of the development if authorized in the approval of the original plan or approved amendment thereof:

- (a) Dwelling for owner or manager;
- (b) Laundry and restroom facilities;
- (c) Office (related to operation of mobile home park);
- (d) Personal services;
- (e) Recreation facilities;
- (f) Accessory uses customarily incidental to the above uses.

(3) All of the above listed uses shall be subject to the standard of subsection (E).

(D) USES PROHIBITED.

All uses and structures not permitted in subsection (C) are hereby deemed to be specifically prohibited. Additionally, prefabricated houses which are not vehicles but homes designed and built to be transportable from site of construction to site of placement (normally via trailer) yet not designed or intended to be ready for occupancy without major work nor designed or intended to be uprooted and moved on a continuing basis are not mobile homes as defined in this section and are hereby specifically prohibited from all mobile home parks except as a dwelling for the owner or manager if such dwelling conforms in all respects to the ordinance[s] of the City of Lewiston and the laws of the State of Maine. The following general classifications of uses shall not be permitted to be approved as part of the incidental uses permitted under subsection (C):

(1) Industrial uses;

(2) Commercial uses except those permitted in subsection (C).

(E) PROPERTY DEVELOPMENT STANDARDS FOR MOBILE HOME PARKS.

The following property development standards shall apply for all mobile home parks:

- (1) Size of mobile home park. No parcel of land containing less than four (4) acres may be used for the development of a mobile home park. The minimum number of spaces completed and ready for occupancy before first occupancy is permitted shall be five (5). The minimum number of planned units shall be twenty (20).
- (2) Building height. Should be in conformance with applicable zone[s] highest use.
- (3) Yards.
 - (a) General provisions.
 1. Yards shall be measured perpendicular to the property line or from a future street or highway line as shown on the comprehensive plan.
 2. Yard provisions shall apply to both main and accessory structures.
 - (b) Front yard. Each mobile home park shall have a front yard of forty (40) feet extending for [the] full width of the parcel devoted to said use.
 - (c) Side and rear yards. Each mobile home park shall have a rear yard and side yard on both sides on the parcel devoted to said use of not less than fifteen (15) feet, except that where a side or rear yard abuts a city street, the yard shall not be less than forty (40) feet.
- (4) Coverage. No requirement.
- (5) Signs.
 - (a) Sign area. A mobile home park shall be allowed one shadow lighted or unlighted identification sign.

- (b) Ground signs. Ground signs shall comply with the Lewiston Building Code, except that they shall not exceed fifteen (15) in height.
 - (c) Sale and rental signs. Mobile home park properties shall be authorized one sale or rental sign while the property is actually for sale or rent. These signs shall not exceed six (6) square feet in area.
- (6) Access.
- (a) Mobile home parks shall be permitted only one point of access to each abutting city street, unless the planning board finds that more points of access are necessary to prevent a traffic, fire or panic hazard.
 - (b) All vehicular access ways shall be located not less than one hundred (100) feet from the ultimate curbline of intersecting streets.
 - (c) No direct separate access from the city street to any mobile home parking space shall be allowed.
- (7) Screening. Each mobile home park shall be entirely enclosed at its exterior boundaries with adequate screening. Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the mobile home court from ordinary view throughout the entire calendar year.
- (a) Natural or man-made objects may be interpreted to be:
 - 1. Hills, gullies or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance;
 - 2. Buildings or other installations;
 - 3. Combinations of the above.
 - (b) Plantings. Trees, shrubs or other vegetation of sufficient height, density and depth of planting or growth to completely screen the mobile home

court from ordinary view throughout the entire calendar year.

- (c) Fences. Notwithstanding maximum height limitation requirements set forth in section 31-31 of this chapter, "Walls, fences and corner cut-backs," the minimum height of any fence (wall, other screening) shall be six (6) feet or a height above six (6) feet sufficient to accomplish the complete screening from ordinary view. At an intersection or at a mobile home park access, fencing (wall, other screening) must be positioned so that no portion of the fence (wall, other screening) intrudes into a corner cut-back area formed by the intersection or by the mobile home park access. All fences shall be well constructed and maintained. Only sound, undamaged material uniform in appearance and erected in a workman-like manner will be acceptable.
- (8) Environmental requirements. Conditions of soil, ground, water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to predictable flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
 - (9) Off-street loading and refuse areas.
 - (a) No loading spaces are required.
 - (b) The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
 - (c) All refuse shall be stored in flytight, watertight, rodentproof containers, which shall be located not more than one hundred and fifty (150) feet from any mobile home lot. Containers shall be provided

in sufficient number and capacity to properly store all refuse.

- (d) Adequate trash enclosures or provisions for same shall be provided for all refuse containers, and such enclosures must meet the approval of the Lewiston Planning Board. The Lewiston Planning Board shall declare trash enclosures adequate if the following standards are met:
1. Enclosures shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration [and] to facilitate cleaning around them.
 2. Enclosures shall be substantially constructed of materials that will inhibit the entrance of rodents and vermin.
 3. Height of the enclosure shall be sufficient to conceal the contents of the enclosure, including containers, but in no case shall be less than five (5) feet in height.
 4. Enclosure shall be so oriented on the property that convenient access is provided for waste disposal service.

All refuse containing garbage shall be collected at least once weekly.

(10) Insect and rodent control:

- (a) Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination method(s) and other measures to control insects and rodents shall be approved by the health officer.
- (b) Parks shall be maintained free of accumulation of debris which may provide rodent harborage or breeding places for flies, mosquitoes or other pests.
- (c) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building material shall be stored at least one foot above the ground.

- (d) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
- (e) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers, mosquitoes and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health.

(F) PROPERTY DEVELOPMENT STANDARDS
WITHIN THE MOBILE HOME PARK.

- (1) Size of mobile home space and yards. The size of mobile home spaces shall be a minimum of five thousand (5,000) square feet with a minimum width of fifty (50) feet and a minimum depth of one hundred (100) feet. In no case will a mobile home and appurtenance structures take up more than twenty (20) per cent of the mobile home space.
 - (a) Yards for individual mobile home spaces.
 - 1. Front yards. There shall be a minimum front yard of fifteen (15) feet extending for the full width of the mobile home space and measured from the interior street.
 - 2. Side and rear yards. There shall be a minimum side and rear yard of ten (10) feet. Where a side or rear yard abuts an access road, public parking area or walk, said yard shall not be less than ten (10) feet in width.
 - 3. Accessory buildings or structures. There shall be a side yard and rear yard of a minimum of five (5) feet from the lot line. In the case of buildings covering a ground area of less than one hundred and twenty-five (125) square feet, there shall be a minimum side yard or rear yard of two (2) feet.
- (2) Distance between mobile homes.
 - (a) There shall not be less than twenty (20) feet between mobile homes.

- (b) Where mobile homes are located near any permitted building other than mobile homes, the minimum space between the mobile home and said building shall be fifteen (15) feet.
- (3) Off-street parking.
- (a) Parking spaces shall be provided in the ratio of one and one-half (1½) spaces for each mobile home space. Each such space shall have a minimum size of nine (9) feet by twenty (20) feet. One parking space shall be located on each mobile home space, and the remaining parking space may be located in adjacent parking bays or along access roads where sufficient paved roadway width is provided. If a parking space is planned to serve also as a walk, then an additional two (2) feet in width shall be added.
 - (b) All parking areas shall be improved as follows:
 - 1. Graded for adequate drainage;
 - 2. Surfaced with concrete with [a] minimum six (6) inch thickness or asphalt concrete with [a] minimum two (2) inch thickness;
 - 3. Parking stalls shall be clearly striped;
 - 4. There will be a limit of one hour parking on all streets within the mobile home park.
- (4) Access roads.
- (a) Access roads within a mobile home park shall be paved to a width of twenty-two (22) feet.
 - (b) Access roads with paved width of less than thirty-two (32) feet shall not be used for parking at any time.
 - (c) Each mobile home shall have frontage on an access road. A minimum fifteen (15) foot wide unobstructed access shall be provided to an approved access road for the movement of mobile homes and service vehicles.
 - (d) The plan, profile and section of access roads shall be subject to the approval of the appropriate city departments.

- (5) Walks.
- (a) General requirements. All parks shall be provided with safe, convenient all season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park street and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
 - (b) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3½) feet.
 - (c) Individual walks. All mobile home stands shall be connected to common walks to paved streets or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet.
- (6) Illumination of access roads within a mobile home park. All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:
- (a) All parts of the park street systems: 0.6 footcandle with a minimum of 0.1 footcandle;
 - (b) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: Individually illuminated, with a minimum of 0.3 footcandle.
- (7) Sanitary sewer. Each mobile home stand and each other permitted use shall be provided with a connection to an approved private sewer line or to a city sewer, if available. Mobile homes that are not connected to an approved sanitary sewer system shall not be permitted to be used for human habitation. The sewer system or connection plans shall be subject to

the approval of the appropriate city and state departments. If a mobile home park is approved with a private sewerage system, said mobile home park shall be required to connect to city sewer system when it becomes available.

- (8) Electrical service. All electrical, telephone and television services within the mobile home park shall be underground.
- (9) Park and recreation space.
 - (a) In all mobile home parks there shall be one or more recreation areas which shall be easily accessible to all park residents.
 - (b) The size of such recreation areas shall be based upon a minimum of two hundred (200) square feet for each lot. No outdoor recreation shall contain less than ten thousand (10,000) square feet, with a minimum dimension of not less than one hundred (100) feet.
 - (c) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be conveniently located for all residents.
- (10) Mobile home stands. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.
 - (a) The mobile home stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
 - (b) The mobile home stand shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home.

- (c) Anchors and tie-downs shall be placed at least at each corner of the mobile home.
- (11) Mobile home park areas for nonresident uses.
- (a) No part of any mobile home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park.
 - (b) Nothing contained in this section shall be deemed as prohibiting the sale of a mobile home located on a mobile home stand and connected to the pertinent utilities.
- (12) No mobile home lot access road, parking facility or recreation area is permitted to be located below the base flood elevation.

(G) PERMITS.

It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of the City of Lewiston unless he/she holds a valid permit issued by the building inspector in the name of such person for the specific construction, alteration or extension proposed.

- (1) Prior to a mobile home's installation in and/or removal from a mobile home park, the mobile home park manager shall ensure that the owner of the mobile home or his agent, has obtained either an installation or a removal permit, whichever is appropriate, from the building inspector. Such permit shall be deemed a building permit.

(H) LICENSES.

- (1) It shall be unlawful for any person to operate and maintain any mobile home park within the City of Lewiston unless such person holds a valid license issued annually by the municipal officers in the name of such person for the specific mobile home park. All applications for licenses shall be made at the city clerk's office where the city clerk shall issue a license

upon compliance by the applicant with the provisions of this section and regulations issued hereunder and of the applicable legal requirements.

- (2) Every person holding a license shall give notice in writing to the municipal officers within seventy-two (72) hours after having sold, transferred, given away or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park. A license is a personal privilege and is not assignable or transferable.
- (3) (a) Application for original licenses shall be made only after [the] proposed mobile home park has been approved first by the Lewiston Planning Board and second by the board of appeals and shall be in writing, signed by the applicant as to the truth of the application, and by the deposit of a fee according to the following schedule: Twenty (20) or less mobile home spaces—Twenty dollars (\$20.00); over twenty (20) mobile home spaces—One dollar (\$1.00) per space, and shall contain: The name and address of the applicant; the location and legal description of the mobile home park; and a site plan of the mobile home park showing all mobile home lots, structures, roads, walkways and other facilities. And in addition to the foregoing, the applicant shall furnish to the city clerk such other information as may be required in Chapter 17 of the Revised Code of Ordinances, City of Lewiston, Maine.
- (b) Applications for renewals of licenses shall be made in writing by holders of the licenses, shall be accompanied by the deposit of a fee according to the following schedule: Twenty (20) or less mobile homes spaces—Twenty dollars (\$20.00); over twenty (20) mobile home spaces—One dollar (\$1.00) per space and shall contain any change in the information submitted since the original license was issued or the latest renewal granted.

- (4) Any person whose application for a license to operate and maintain a mobile home park has been denied may request, and shall be granted, a hearing on the matter before the municipal officers under the procedure provided by subsection (J) and from said municipal officers to the superior court.
- (5) Whenever, upon inspection of any mobile home park, the building or housing inspector finds that conditions or practices exist which are in violation of any provision of this section or regulations issued hereunder, the building or housing inspector shall report such to the municipal officers, who shall direct the building or housing inspector to communicate in writing in accordance with subsection (J)(1) to the person to whom the license was issued that unless such conditions or practices are corrected within a reasonable period of time specified in the notice by the municipal officers, the license shall be suspended. At the end of such period, the building or housing inspector shall reinspect such mobile home park and, if such conditions or practices have not been corrected, he shall report such to the municipal officers who will suspend the license and give notice in writing of such suspension to the person to whom the license is issued. Upon receipt of notice of such suspension, such person shall cease operation of such mobile home park except as provided in subsection (J)(2).

(I) INSPECTION OF MOBILE HOME PARKS.

- (1) It shall be the duty of the owners or occupants of mobile home parks and mobile homes contained therein, or of the person in charge thereof, to give the building inspector and housing inspector free access to such premises at reasonable times for the purpose of inspection.
- (2) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park

or its premises at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this section and regulations issued hereunder, or with any lawful order issued pursuant to the provisions of this section.

(J) NOTICES, HEARINGS AND ORDERS.

(1) Whenever the municipal officers determine that there are reasonable grounds to believe that there has been a violation of any provision of this section, or regulations issued hereunder, the municipal officers shall direct the building or housing inspector to give notice of such alleged violation to the person to whom the license was issued as hereinafter provided—Such notice shall:

- (a) Be in writing;
- (b) Include a statement of the reasons for its issuance;
- (c) Allow a reasonable time for the performance of any act it requires;
- (d) Be served upon the owner or his agent as the case may require, provided, that such notice or order be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to his last known address, or where he has been served with such notice by any method authorized or required by the laws of the State of Maine;
- (e) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this section and regulations issued hereunder.

(2) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this section, or regulations issued hereunder, may request, and shall be granted, a hearing on the matter before the municipal officers, provided, that such person shall file in the office of the city clerk a written petition requesting such hearing and setting forth a brief statement of the grounds

therefor within ten (10) days after the day the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued under subsection (J)(5). Upon receipt of such petition, the municipal officers shall set a time and a place for such hearing and shall give petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed, provided, that upon application of the petitioner, the municipal officers may postpone the date of the hearing for a reasonable time beyond the ten (10) day period when in their judgment the petitioner has submitted good and sufficient reasons for such postponement.

- (3) After such hearing, the municipal officers shall make findings as to compliance with the provisions of this section and regulations issued hereunder and shall issue an order in writing, sustaining, modifying or withdrawing the notice which shall be served as provided in subsection (J)(1)(d). Upon failure to comply with any order sustaining or modifying a notice, the license shall be in violation of this section and the license of the mobile home park affected by the order shall be suspended.
- (4) The proceedings at such a hearing, including the findings and decisions of the municipal officers, and together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the city clerk, but the record of the proceedings need not be transcribed unless judicial review of the decision is sought to the superior court.
- (5) Whenever the municipal officers find that an emergency exists which requires immediate action to protect the public health, they may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken

as they may deem necessary to meet the emergency, including the suspension of the permit or license. Notwithstanding any other provisions of this section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but, upon petition to the municipal officers, shall be afforded a hearing as soon as possible. The provisions of subsections (J)(3) and (J)(4) shall be applicable to such hearing and the order issued thereafter.

- (6) The planning board may determine to hold a public hearing on a proposed mobile home park. If the board determines to hold a public hearing it shall be held at the next regularly scheduled meeting or within thirty (30) days of the date of submission, whichever represents the fewest number of days. The board shall cause notice of the date, time and place of such hearing to be published in the local newspaper at least twice, the date of the first publication to be at least seven (7) days prior to the hearing.

(K) DEVELOPMENT.

- (1) In the case of a mobile home park already in existence or for which a permit has been granted prior to the effective date of this section [June 27, 1971], said mobile home park shall be allowed to continue in operation. Any additions to said trailer park, however, shall conform to all regulations as specified herein.
- (2) Enlargement of or changes in a mobile home park approved under the conditions of this section shall require a review of the original and amended plans.

(L) ZONES PERMITTED.

Mobile home parks shall be permitted in the Residential 8 "R8" Zone as a conditional use (exception) if and as authorized by the board of appeals upon issuance of a conditional use permit to the applicant. (See sections 31-22, 31-25 and 31-26).

(M) ACCEPTANCE OF PLANS.

The administration and enforcement of all regulations required by this section for the designing and planning mobile home parks shall be the responsibility of the planning board.

(1) Construction not to precede plan approval. No utility installations, no ditching, clearing, grading or construction shall be done on any part of the land or lots within a mobile home park until a final plan of such development shall have been duly prepared, submitted, reviewed, approved and endorsed as provided in this section.

(2) Preliminary plan.

(a) A preliminary plan shall be submitted in duplicate to the planning staff at least seven (7) days prior to a scheduled board meeting. The plan may be drawn on tracing paper at the scale of one hundred (100) feet or less to the inch. The preliminary plan shall furnish sufficient information about the mobile home park to form a clear basis for discussion of its problems and for the preparation of the final plan. Such information shall include the following:

1. Mobile home park name, boundaries, north point, scale date and lot numbers;
2. Name and address of owner of record, developer, surveyor or engineer;
3. The location of property lines, existing streets, buildings, watercourses, swamps and other features within the area to be developed and similar facts regarding existing conditions upon the land immediately adjacent thereto;
4. The proposed location and width of streets, lots and easements; the profile of each proposed street with tentative grades indicated (this shall be on separate sheets), and the names of the proposed streets. All street plans must be in accordance with the requirements

- and the design standards section of this section;
5. Existing sewers, watermains, culverts and other underground structures within the tract and immediately adjacent thereto;
 6. Topography with contour intervals of not more than five (5) feet;
 7. A notarized statement from a registered civil engineer shall be submitted relative to:
 - a. The ability to drain into existing city sewer lines, if they are available, and to lines proposed on the city sewer system plan, if applicable;
 - b. The adequacy of the proposed area to be used for a community sewer disposal facility if the city sewer is not available;
 - c. The results of sample percolation tests on representative sections of the land, the adequacy of the land for the use of septic tanks and the size of lots required by the zoning ordinance if the city sewer is not available;
 - d. The land area of all irregularly shaped lots.
 8. A statement regarding the developer's plans to connect with the public water system or satisfactory evidence of other safe and dependable water source.

Written notice of the date of submission of such preliminary plan and preliminary information shall be given by the developer by delivering or sending by certified mail to the city clerk a copy of the covering letter submitted to the planning board listing the plans and information transmitted to the board.

Preliminary plans will be reviewed by the planning board in relation to the city plans for the area, the zoning requirements, good land development practice and sound engi-

neering as well as conformance with the design standards and construction specifications set forth in this section;

9. Base flood elevation data.

- (b) The planning board shall request the city engineer to report to the board with respect to grades, drainage and sewerage of a proposed mobile home park before it may be approved.
- (c) The board shall approve in writing with or without conditions, or requests for changes, or shall disapprove a preliminary plan within thirty (30) days after it has been submitted, or within thirty (30) days of a public hearing, if one is held, unless the developer agrees in writing to an extension of this period. Approval of a preliminary plan does not constitute an acceptance of the mobile home park by the board. One copy of the approved preliminary plan signed by the chairman of the board shall be retained by the planning board, and one signed copy shall be given to the developer.
- (d) Approval of the preliminary plan shall expire at the end of one year from the date of such approval.

(3) Final plan.

- (a) The final plan shall be submitted to the planning staff at least seven (7) days prior to a scheduled board meeting. The final plan submitted for approval shall be prepared from an accurate survey and shall be clearly drawn in ink upon tracing cloth at a scale of one hundred (100) feet or less to the inch. Sheets shall not exceed twenty (20) inches by thirty (30) inches, and, if more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire mobile home park. The original and three (3) prints shall be submitted to the planning board. Endorsement of the original by the chairman of the board shall constitute approval of the final plan. For each mobile home park proposed, a fee

of twenty-five dollars (\$25.00) shall be tendered in cash or by certified check payable to the City of Lewiston at the time of submission to the planning board of the preliminary plan of any such mobile home park. Such a fee will cover the cost of processing said plan.

- (b) The final plan shall show:
1. Items as required on the preliminary plan;
 2. All survey monuments and bench marks together with their descriptions;
 3. Certification by a registered civil engineer or surveyor to the effect that the plan represents a survey made by him and that all necessary survey monuments are correctly shown thereon;
 4. The dimensions of lots, radii of curves and the location of all setback lines;
 5. All angles and curve data pertaining to streets and highways.
- (c) The following items will be submitted with the final plan:
1. Profiles on the exterior lines of proposed streets at horizontal and vertical scales acceptable by the city engineer;
 2. Number, location and size of fire hydrants. A letter from the fire chief regarding adequacy of proposed hydrants shall be submitted;
 3. Plans and profiles showing the location, size, and grade of the sewers with which it is proposed to serve the area or the location and description of other proposed means of sewage disposal;
 4. A letter authorizing the city to record the plat in behalf of the owner in the Androscoggin County Registry of Deeds.
- (d) The board shall within thirty (30) days from the date of submission, or within thirty (30) days of a public hearing, if one is held, unless the developer agrees in writing to an extension of this period, issue an order denying or granting approval of the

proposed mobile home park, or granting approval upon such terms and conditions as it may deem necessary to ensure that the mobile home park complies with the standards of this chapter.

(N) DESIGN AND CONSTRUCTION STANDARDS.

The following design and construction standards shall apply to all proposed mobile home parks:

- (1) The minimum center line radii of curved streets shall be fifty (50) feet. Greater radii may be required.
- (2) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.
- (3) Half width streets along boundary of land proposed for development shall not be permitted.
- (4) Dead-end streets designed to have one end permanently closed shall not be longer than five hundred (500) feet. All such dead-end streets shall have a turn-around connected to the tangent portion of the street by reverse curves. No reverse curve shall have a center line radius less than forty (40) feet.
- (5) Street grades shall, in general, conform to the terrain with a minimum grade of one-half of one per cent and a maximum grade of eight (8) per cent. The maximum may be modified in cases of unusual circumstances by the planning board.
- (6) Adequate surface water drainage along, across and under streets shall be provided in conformance with the standards accepted by Lewiston.
- (7) Every mobile home park shall abut a public street.
- (8) All lots shall comply with dimensional and area requirements established by this section.
- (9) Through lots, running from one street to another, shall be avoided.

(O) COMPLIANCE TO BE AT OWNER'S EXPENSE.

Compliance with the conditions and specifications of this section shall be at the sole expense of the owner. No street, utility or service in the mobile home park shall be installed or maintained by the City of Lewiston unless specified in this section.

Miscellaneous requirements.

(1) Responsibilities of the park management.

- (a) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this section and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in clean and sanitary condition.
- (b) The park management shall notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities under this section and regulations issued hereunder.
- (c) The park management shall supervise the placement of each mobile home on its mobile home stand which includes securing its stability and installing all utility connections.
- (d) The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting this park.

(2) Responsibilities of park occupants.

- (a) The park occupant shall comply with all applicable requirements of this section and regulations issued hereunder and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
- (b) The park occupant shall be responsible for proper placement of his mobile home on its mobile home stand and proper installation of all utility

connections in accordance with the instructions of the park management.

- (c) No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to commit any nuisance within the limits of any mobile home lot.

(3) Restrictions on occupancy.

- (a) A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to water, sewerage and electrical utilities, and inspected by the appropriate authorities.
- (b) All mobile homes located in mobile home parks in the City of Lewiston shall meet the USAS A 119.1 Standard for Mobile Homes. (Code 1970, as amended, § 29-31; Ord. No. 80-20, 2-14-80)

Sec. 31-34. Regulations pertaining to individual mobile homes; nonresident trailers; and trailers used as temporary residences.

(A) INDIVIDUAL MOBILE HOMES.

Mobile homes in the City of Lewiston shall be permitted to be located only in approved mobile home parks, except that individual mobile homes shall be permitted to be located in agricultural zones if the following minimum standards are met:

- (1) The proposed site for the individual mobile home shall be one acre or more in size with a minimum frontage of two hundred (200) feet.
- (2) The proposed site for the individual mobile home shall have suitable effluent capacity meeting in all respects the requirements of the City of Lewiston sewer ordinance. Consideration shall not be given to decreasing the minimum lot size on the basis of effluent capacity.
- (3) Side yard, front yard and rear yard requirements will conform with requirements for [a] Residential "R3" Zone.

- (4) The individual mobile home shall meet the USAS A 119.1 Standard for Mobile Homes.
- (5) No individual mobile home shall be occupied for dwelling purposes unless it is properly placed on a mobile home stand; is connected to water, sewerage and electrical utilities [and] otherwise conforms to the requirements of the Ordinances of the City of Lewiston and the laws of the State of Maine.
- (6) All mobile homes located in the Special Flood Hazard Area on the Flood Hazard Boundary Map shall be anchored to resist flotation, collapse or lateral movement by:
 - (a) Over-the-top ties anchored to the ground at the four (4) corners of the mobile home, plus two (2) additional ties per side at intermediate points (except that mobile homes less than fifty (50) feet long require only one additional tie per side);
 - (b) Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (except that mobile homes less than fifty (50) feet long require only four (4) additional ties per side);
 - (c) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds; and
 - (d) Any additions to the mobile home be similarly anchored.

(B) NONRESIDENT TRAILERS.

- (1) As used in this section, "nonresident trailers" (be they camp trailers, tent trailers, house trailers, etc.), "auto homes" or "house cars" are vehicles used for outdoor camping and tenting of a short term nature or for temporary education exhibits, or for temporary shelter at construction sites.
- (2) Nothing in this section shall be construed to prevent nonresidential tenting for outdoor camping by youth groups nor temporary trailers containing education exhibits.

- (3) A trailer not intended for use on the property may be stored on any individual property within the city. Such trailers shall be placed so as not to violate the setback and yard requirements of the individual property.
- (4) A trailer for office or other temporary nonresident use, incidental to a construction project or other limited duration use, may be located within the City of Lewiston, wherever such trailer will not present a public safety hazard or substantially affect existing uses, for a period of up to six (6) months upon receipt of a building permit from the building inspector. The building inspector may attach reasonable conditions to the permit to ensure that the above criteria are met. This permit may be renewed by the building inspector for additional periods of up to six (6) months as necessary.

(C) [TRAILERS USED FOR TEMPORARY RESIDENCES.]

Mobile homes and nonresident trailers may be used as temporary residences for up to six (6) months on lots in which the applicant has obtained a building permit to construct a permanent dwelling upon receipt of a conditional use permit from the zoning board of appeals. Temporary residential mobile homes must be connected to adequate water, sewerage and electric utilities. Temporary residential mobile home permits may be renewed for one additional six-month period upon determination by the zoning board of appeals that substantial progress has been made on the permanent dwelling. (Code 1970, as amended, § 29-32)

Sec. 31-35. Off-street parking and loading requirements.

(A) OFF-STREET PARKING.

- (1) Definition. For the purpose of this chapter an off-street parking space shall consist of a space adequate for parking an automobile of standard dimensions with room for opening doors and entering

or leaving on both sides, with properly related access to a public street or alley, and with maneuvering room sufficient for convenient parking and unparking. For purposes of computation, an off-street parking space, in itself, shall consist of one hundred and eighty (180) square feet.

- (2) The following minimum off-street parking spaces shall be provided and maintained in the case of new buildings and structures. In the cases of a change in the lawful use of the premises or the lawful alteration of the premises, either of which creates a need for an increase of more than twenty (20) per cent of the number of off-street parking spaces originally required by this section, more off-street parking facilities shall be provided and maintained, on the basis of the adjusted needs, as determined by this section; except, that for buildings or structures constructed prior to October 31, 1972, the adjusted needs may be reduced by up to the number of existing off-street parking spaces.

Types "A" and "B" group care facilities	One parking space for each three (3) bedrooms and one parking space for each two (2) staff.
Dwellings other than multiple dwellings	Two (2) parking spaces per each dwelling unit.
Multiple dwellings	One parking space per each dwelling unit.
Multiple dwellings specifically reserved for the elderly	One parking space per each two (2) elderly dwelling units.
Lodging houses (tourist homes)	One parking space per each lodging unit; one additional space for the owner or manager.
Motels, hotels	One parking space per each lodging unit; one space per four (4) employees; one additional per fifty (50) square feet of public assembly dining space; one additional space for each four (4) patrons accommodated at tables or counters.
Rooming houses, boarding houses, student housing facilities	One parking space per each three (3) bedrooms.

Hospitals, sanitariums, convalescent or nursing homes, homes for the aged, orphans' homes, institutions for the handicapped

One parking space per each four (4) patient beds (excluding bassinets); one parking space per each staff or visiting doctor; one parking space for each four (4) employees includ-

Schools	<p>ing nurses. Loading and unloading space for hospital ambulances and similar vehicles shall not be included in the spaces required herein.</p> <p>One parking space per each thirty (30) pupils in primary school; one parking space per each eight (8) students in secondary school; one parking space per each two (2) students in higher education, plus for all schools an additional space per each employee.</p>
Auditoriums, stadiums, sport arenas, race tracks, skating rinks, gymnasiums, convention halls or similar uses	<p>One parking space per each five (5) seats plus one additional space per each two (2) employees. Where individual seats are not provided, each twenty (20) inches of bench or other similar seating, or eight (8) square feet of seating or standing space shall be considered as one seat for the purpose of determining requirements thereof.</p>
Theaters	<p>One parking space per each four (4) seats, plus one space for each two (2) employees.</p>
Churches	<p>One parking space per each four (4) seats or for each one hundred (100) square feet, or major fraction thereof, of assembly space if no fixed seats.</p>
Mortuaries, funeral homes	<p>One parking space per each hearse or service vehicle; one parking space for each family or individual resident on the premises plus one parking space for each ten (10) seats in rooms in which services are held.</p>
Community centers, libraries, museums, civic clubs and similar uses	<p>One parking space per every two (2) employees, plus one space per each one hundred and fifty (150) square feet of public area in the building.</p>
Dance halls	<p>One space per each thirty-six (36) square feet of dance floor area, plus one parking space per each two (2) employees.</p>
Bowling alleys	<p>Three (3) parking spaces per each alley, plus one space per each two (2) employees.</p>

Retail stores and personal service establishments, unless otherwise mentioned herein	One parking space per every two hundred (200) square feet of gross floor area; one parking space per each two (2) employees.
Restaurants or other establishments for sale and consumption of refreshments on the premises, unless otherwise mentioned herein	One parking space per each four (4) chairs; one space per each two (2) employees.
Drive-in facilities for the sale of food and refreshments	Ten (10) parking spaces; ten (10) additional parking spaces per each person serving or preparing food on the largest work shift employed at least once a week during July and August.
Offices, professional and public buildings (other than offices of physicians, surgeons and dentists)	One parking space per each two (2) employees.
Offices of physicians, surgeons and dentists	Five (5) parking spaces per each physician, surgeon or dentist.
Industry, manufacturing and business	One parking space per each one thousand (1,000) square feet of floor area, or major fraction thereof, for that part of every business, manufacturing and industrial building not catering to retail trade and with floor area over three thousand (3,000) square feet.
Airports, railroad passenger stations, bus depots, or other terminal facilities	Parking space adequate for employees, for the loading and unloading of passengers and for spectators, visitors and others.
Roadside farm stands	Four (4) parking spaces.
Mobile home parks	See section 31-33[F](3).
All other permitted or permissible uses	Sufficient parking spaces to accommodate under all normal conditions the cars of occupants, employees, members, customers, clerks or visitors of the premises, as the case may be. Such space shall be deemed inadequate if, when the off-street parking area is substantially full, there is frequent parking of such cars on the street near the premises in question.

(3) Computation of off-street parking space requirements. In case of combination of uses on one premise, requirements for each use shall be totalled (including

fractions) to a combined requirement, with portions over one-half ($\frac{1}{2}$) in the combined total counted as one space.

- (4) Location of facilities. Required or provided off-street parking in all zones shall be located on the same lot as the principal building or use, except as provided by the board of appeals on the basis of the special requirements for conditional uses in section 31-26 of this chapter.
 - (a) In residential zones, the board of appeals may authorize required or provided off-street parking, serving permitted or conditional uses, to be located off the site, provided it is located a reasonable distance from the principal building or use and cannot reasonably be provided on the same lot. Such off-street parking shall be held in fee simple by the owner of the principal use served, or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use, provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by city attorney before use to provide required off-street parking space is considered by the board of appeals. Evidence of fee simple ownership or approved tenure shall be required.
 - (b) In all zones other than residential, required or provided off-street parking shall be located on the same lot with the principal building or use, or within one hundred (100) feet measured along lines of public access, except that where off-street parking cannot be provided within these limits, the board of appeals may permit such off-street parking to be located a reasonable distance from the principal buildings or use, measured along lines of access if such off-lot parking areas shall be held in fee simple by the owner of the use served, or in such other tenure as assures continued availability for parking as long as the particular land will be needed for such use,

provided that if tenure is other than ownership in fee simple, the form of tenure shall be approved by the corporation counsel before use to provide required off-street parking space is considered by the board of appeals. Evidence of fee simple ownership or approved tenure shall be required, and such lots shall be located within nonresidential zones.

- (c) Required off-street parking in all zones other than residential may be substituted by parking facilities which, in the public's interest, may be provided by the municipality. Such substitution shall be shown to be representative of the off-street parking turnover or requirements of the particular use in question and shall take into consideration the needs of other uses with similar demands upon such public space. No such public off-street parking spaces shall be considered as a substitute unless located within three hundred (300) feet of the principal building or use measured along lines of public access.

- (5) Off-street parking for more than six (6) vehicles.

- (a) Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:
1. Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the municipal engineer;
 2. The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent material at least six (6) inches in depth, well-compacted and with a blacktop wearing surface;
 3. A surface drainage system shall be provided;
 4. Lighting shall be shaded or screened so that no nuisance or traffic hazard shall be created

- by the source to adjacent residential areas or public highways;
5. The City of Lewiston reserves the right to select areas for the grouping or placement of signs and traffic directions;
 6. All traffic flow in parking areas shall be already marked with signs and/or surface directions at all times;
 7. All parking spaces shall be clearly marked.
- (b) Notwithstanding the requirements of section 31-35(A)(5)(a) of this chapter, where the city engineer determines that the existing subsurface drainage system is inadequate to dispose of additional surface run-off, the board of appeals may grant a conditional use permit temporarily waiving the blacktop wearing surface requirement of section 31-35(A)(5)(a)2 or the surface drainage system requirement of section 31-35(A)(5)(a)3, or both, provided the petitioner agrees in writing to comply with the above requirements within six (6) months of a determination by the city engineer that the subsurface drainage system is adequate to dispose of additional surface run-off.
- (c) Where off-street parking for more than six (6) vehicles is required or provided on a lot in an "R1," "R3," "R8" or transitional zone and vehicles are to be, or may be, parked within the area otherwise required to be kept open and unoccupied the following requirements for front, side and rear yards shall be met:
1. A continuous guard curb, rectangular in cross section, at least six (6) inches in height and permanently anchored shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street park-

ing and that part of the street or lot lines involved so that bumpers of vehicles cannot project beyond its face toward the street or lines involved, either above or below the impact surface;

2. Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in an "R1," "R3," "R8" or transitional zone, a chain link, picket or sapling fence shall be provided and maintained between such off-street parking and that part of the lot line involved.
- (d) Where off-street parking for more than six (6) vehicles is provided or required on a lot in any zone other than an "R1," "R3," "R8" or transitional zone, the following requirements shall be met:

Where vehicles are to be, or may be, parked within ten (10) feet of any street line, a continuous guard curb, rectangular in cross section, at least six (6) inches in height and permanently anchored shall be provided and maintained at least five (5) feet from the street lot line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that the bumper of a vehicle cannot project its face towards the street line involved, either above or below the impact surface.

- (6) The board of appeals may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of any such establishment.

- (7) Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind. The required parking areas shall be permanently available for use by patrons and employees of establishments providing such space.
- (8) Multiple dwellings may be specifically reserved for the elderly by stipulating such reservation in the application for a building permit. Such reservation shall then become a condition of the building permit. Dwellings with such reservation may be converted to another type of occupancy or use only when the parking requirements for the new type of occupancy or use are met.

(B) OFF-STREET LOADING REQUIREMENTS.

- (1) In those zones where off-street loading is required, the following minimum off-street loading spaces shall be provided and maintained in the case of new buildings and structures. In the cases of a change in the lawful use of the premises, either of which creates a need for an increase of more than twenty (20) per cent of the number of off-street loading spaces originally required by this section, more off-street loading facilities shall be provided and maintained on the basis of the adjusted needs, as determined by this section.

- (a) Office buildings and hotels with a gross floor area of more than one hundred thousand (100,000) square feet—Add one space.

Retail, wholesale and industrial operations with a gross floor area of more than five thousand (5,000) square feet:

- 5,001 to 40,000 square feet—1 Space
 40,001 to 100,000 square feet—2 Spaces
 100,001 to 160,000 square feet—3 Spaces
 160,001 to 240,000 square feet—4 Spaces
 240,001 to 320,000 square feet—5 Spaces
 320,001 to 400,000 square feet—6 Spaces
 Each 90,000 square feet over 400,000—1 additional space.

- (2) Each loading space shall have minimum dimensions of fifty (50) feet by fourteen (14) feet and may be located either within a building or outside and adjoining an opening in the building. Every part of such loading space shall be located completely off the street. In case trucks, trailers or other motor vehicles larger than the dimensions of the minimum loading space habitually serve the building in question, additional space shall be provided so that such vehicles shall park or stand completely off the street.
- (3) The provisions of this section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches or services, provided that they are in compliance with all applicable states and local traffic regulations.
- (4) Joint use of loading spaces by two (2) or more users may be authorized by the board of appeals, provided that such joint use will create no loading conflicts that would interfere with public safety and convenience.
- (5) All off-street loading spaces shall be on the same lot, either within or adjoining the building they are intended to serve.
- (6) Required loading spaces shall, in no case, be part of the area used to satisfy the off-street parking requirements of this chapter.
- (7) No off-street loading space shall be permitted in a front yard or on the side of a building abutting a street except when approved by the board of appeals as to show no contribution toward traffic congestion. (Code 1970, as amended, § 29-33; Ord. No. 80-20, 2-14-80; Ord. No. 80-28, 5-15-80; Ord. No. 80-31, 7-3-80; Ord. No. 82-16, 12-23-82)

Sec. 31-36. Earth removal.

(A) EXEMPT OPERATIONS.

The removal of topsoil, sod, loam, peat or other organic materials and clay, sand, gravel, stone or other earth

materials in any of the following operations shall be exempt operations not requiring a conditional use permit.

- (1) Removal incidental to any lawfully permitted use of land or of a building or incidental to, and necessitated by, any building construction for which a building permit has lawfully been issued under this chapter prior to such earth removal.
- (2) Removal necessitated by the construction or installation of utilities or other engineering works for public service on such lot or in such way, or as may be necessitated in constructing ways.
- (3) Removal, grading or transforming from one part of a lot, tract or parcel of land to another part of the same lot, tract or parcel of land in the same ownership or removal for such at a rate not exceeding one hundred fifty (150) cubic yards per acre per year.
- (4) Removal incidental to the construction of driveways or private ways.

(B) MAJOR OPERATIONS (CONDITIONAL USE PERMIT REQUIRED).

- (1) Topsoil, sod, loam, peat or other organic materials, and clay, sand, gravel, stone or other earth products may be removed from locations where permitted under the terms of this chapter only after a conditional use permit for such operations has been issued by the board of appeals in accordance with the provisions of this chapter unless such removal will constitute an exempt operation as above described.
- (2) No permit for removal (including temporary structures accessory thereto) shall be granted unless the board of appeals finds that the operations conducted under such permit, subject to the conditions imposed thereby, will meet the special requirements specified in section 31-26 of this chapter, as well as the following specific requirements:
 - (a) Nuisance. That the proposed removal will not produce noise, dust or other effects observable at

the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property.

- (b) Surface damage. That the proposed removal will not result in transportation which will cause undue injury to the roadway surfaces.
- (c) Re-use of land. The board of appeals shall assure to its satisfaction that the proposed removal will not impair the subsequent usability of the area for the purpose permitted by this chapter, that the grades to be established within the area will permit vehicular access to the area and will permit the continuation of streets from abutting premises, and that the area may ultimately be developed compatibly with the neighboring land.
- (d) Land rehabilitation. Except in unusual circumstances, earth shall not be excavated to a level that will produce standing water. Every effort shall be made to maintain successful drainage of surface water. Backfilling shall be permitted with nonnoxious and noncombustible solids. Where an embankment must be left upon completion of [an] operation, it shall be graded to a slope not steeper than two (2) feet horizontal to one foot vertical. Banks shall be sodded or surfaced with soil [having] a quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three (3) inches or to a depth of that of the topsoil on land areas immediately surrounding, if less than three (3) inches. Such topsoil shall be planted with legumes, grasses or other vegetation which shall be maintained until well established. These measures shall be taken progressively as the use of such part of an operating pit is discontinued and shall not be postponed until final abandonment of the operation. All timbers, structures and the like shall be removed as the operation is terminated.
- (e) Setback. Operations authorized herein shall not be conducted closer than seventy-five (75) feet to the

boundary of an adjoining property. Excavation shall not be closer than one hundred (100) feet of the right-of-way line of any existing street, road or highway or one approved under applicable municipal ordinances, but not constructed, except where such excavation is necessary to establish the approved lines and grades of a street.

- (f) Screening. Appropriate screening shall be provided in accordance with the mobile home park regulations, section 31-33(E)(7) of this chapter to screen the site of digging operations from any public right-of-way and from any dwelling within two hundred and fifty (250) feet of the property line of the excavation site.
- (g) Safety fencing. Any operation which results in, or produces during operation, collections of water or slopes steeper than prescribed above shall be subject to the following safety requirements:
 - (1) Collections of water occupying an area greater than four hundred (400) square feet or deeper than two (2) feet shall be barred by fence or some similar barrier of at least five (5) feet in height;
 - (2) Access to slopes steeper than prescribed herein should be barred by a fence at the top of said slope and at the bottom if removal is not actively in progress. Every effort shall be made to avoid dangerous banks by reducing the slope during the operation of the pit.
- (h) Performance guarantee. The board of appeals shall require a performance guarantee, the amount to be determined by the board of appeals, with the advice of the city engineer, sufficient to guarantee conformity with the provisions of the grant of approval.

(C) CONDITIONS OF PERMIT.

In granting a permit hereunder, the board of appeals shall impose reasonable conditions specially designed to safeguard the neighborhood and the City of Lewiston, which

may include, but not be limited to, the items hereinafter stated:

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

(D) APPLICATION FOR CONDITIONAL USE PERMITS.

- (1) Procedure for applying for the required conditional use permit shall be as specified in section 31-21 of this chapter with the following additional information reflected in the application:
 - (a) A plan of the land involved, prepared by a registered land surveyor or registered professional engineer, showing topography by five (5) foot contours within one hundred (100) feet of the proposed excavation;
 - (b) A plan of the land showing the final grading by five (5) foot contours to be established after completion of the excavation;
 - (c) A proposed form of bond to be used.

(E) EXISTING OPERATIONS.

An earth removal operation in lawful operation on any premises on the effective date of this chapter [November 30, 1972] is exempt from the provisions of this section and section 31-4 of this chapter.

(F) PERMITS IN PROPOSED SUBDIVISIONS.

It is the intention of this chapter that the removal of earth materials from any parcel of land for which a preliminary or final subdivision plan has been proposed shall be allowed only in the same manner as removal from other parcels of land in the City of Lewiston. Consequently, tentative or final approval of a subdivision plan by the planning board shall not be construed as authorizing the removal of material from the premises even though in connection with the construction of streets shown on the plan. (Code 1970, as amended, § 29-34)

Sec. 31-37. Display signs. *(Also see 7-2 Sec. 1908.1)***(A) [PROHIBITED UNLESS AUTHORIZED.]**

No display sign shall be permitted except as specified herein.

(B) [SIGNS PERMITTED IN ALL ZONES.]

In all zones the following display signs are permitted:

- (1) A temporary single real estate sign not over six (6) square feet in area attached to a building or detached and located in the front yard relating to the sale, rental or leasing of the premises, provided that no such signs are located within ten (10) feet of any lot line;
- (2) Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of the premises or other noncommercial identification;
- (3) Flags or insignia of any government;
- (4) Legal notices, identification, informational or directional signs erected or required by governmental bodies;

- (5) Signs not exceeding twelve (12) square feet in area per side, bearing only the identification of, and information concerning the occupant of premises used for charitable, educational or philanthropic purposes;
- (6) Integral, decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
- (7) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
- (8) Memorial signs or tablets, names of buildings and date of erection, when cut into masonry, bronze or other noncombustible material;
- (9) Signs, along major traffic arteries and collectors (as described in section 31-20(C)(1), not exceeding fifteen (15) square feet in area, directing and guiding traffic to historical or recreational sites, but bearing no advertising matter. The number of such signs per site is limited to one per street;
- (10) One illuminated malt beverage display sign in addition to one other illuminated or nonilluminated display sign for any retail grocery store provided that such store uses no other exterior display signs on the lot;
- (11) Signs not exceeding thirty-two (32) square feet in area per side, identifying a church.

(C) APARTMENT ZONE.

In the Apartment Zone, the following types of signs shall be considered necessary to the proposed uses of the premises on which they are located, provided that the illumination, if any, shall be a nonflashing light.

- (1) A single-faced sign not exceeding a display area of sixteen (16) square feet or a double-faced sign not exceeding a display area of eight (8) square feet per side describing an apartment house or nonresidential building, structure and use.

- (2) A maximum of two (2) detached signs located in any front yard describing farm produce raised or produced on the premises. The display area of each sign shall not exceed sixteen (16) square feet, except that a single, double-faced sign may be erected with a display area not to exceed sixteen (16) square feet on each side.
- (3) No billboards permitted.
- (4) Signs, not exceeding six (6) square feet in area directing and guiding traffic to historical or recreational signs, but bearing no advertising matter. The number of such signs per site is limited to one per street.
- (5) Such signs may be located on any part of the premises, except that:
 - (a) Detached signs shall not extend to an elevation greater than twenty (20) feet above the level of the ground upon which they are erected.
 - (b) Projecting signs shall not extend more than five (5) feet over the street line or nearer than two (2) feet to the curbline.
 - (c) Attached signs or supporting structures shall not extend above the level of a flat roof or levels of the eaves on other types of roofs.
- (6) Illuminated signs describing a nonresidential building, structure and use shall be illuminated only during the normal hours of business.

(D) RESIDENTIAL ZONES: "1," "3" and "8"; INSTITUTIONAL AND AGRICULTURAL ZONES.

In all residential zones, apartment, institutional and agricultural zones, the following signs shall be considered necessary to the proposed use of the premises on which they are located. Such signs shall be permitted provided that illumination, if any, shall be shielded, nonflashing incandescent light, and that no part shall be animated.

- (1) A single sign not over fifteen (15) square feet in area describing an apartment house or a conforming,

nonresidential building, structure and use, provided that no such sign is located within ten (10) feet of any lot line.

- (2) A maximum of two (2) detached signs located in any front yard describing farm produce raised or produced on the premises. The display area of each sign shall not exceed sixteen (16) square feet, except that a single, double-faced sign may be erected with a display area not to exceed sixteen (16) square feet on each side.
- (3) No billboards permitted.
- (4) Signs, not exceeding six (6) square feet in area directing and guiding traffic to historical or recreational sites, but bearing no advertising matter. The number of such signs per site is limited to one per street.

(E) TRANSITIONAL ZONE.

In the transitional zone the following types of signs shall be considered necessary to the principal use of the premises on which they are located, provided that the illumination, if any, shall be a nonflashing light.

- (1) Attached, detached or projected signs, single or double-faced, identifying uses or services rendered on the premises, provided that no single faced sign shall exceed a display area of thirty (30) square feet and no double-faced sign shall exceed a display area of fifteen (15) square feet on either face. Detached signs shall not extend to an elevation greater than twenty (20) feet above the level of the ground upon which they are erected. Projecting signs shall not extend over property lines. No attached sign or supporting structure shall extend above the level of a flat roof or levels of the eaves on other types of roofs.
- (2) Such signs may be located on any part of the premises, except that no sign shall be constructed or oriented in such a manner as to face an adjoining lot in a residential zone, and no sign shall be constructed

in the rear yard or side yard of the premises, the rear property lines or side property lines of which abuts a lot in a residential zone.

- (3) No billboards permitted.
- (4) Signs not exceeding eight (8) square feet in area, directing and guiding traffic to historical or recreational sites, but bearing no advertising matter. The number of such signs per site is limited to one per street.

(F) COMMERCIAL ZONE.

In the commercial zone the following types of signs shall be considered necessary to the principal use of the premises on which they are located, provided that the illumination, if any, shall be on a nonflashing light.

- (1) Attached, detached or projected signs, single or double-faced, identifying uses or goods sold or services rendered on the premises aggregating four (4) square feet of area for every foot of street frontage to a maximum of three hundred fifty (350) square feet of observable signage for each premises, except that for shopping centers developed under a single ownership said signs may aggregate not more than two (2) square feet for each foot of street frontage. Detached signs shall not extend to an elevation greater than twenty (20) feet above the level of the grounds upon which they are erected. Projecting signs shall not extend more than five (5) feet beyond the street line except where additional projection is required to accommodate mounting hardware in which case a sign may project up to six (6) feet over the street line. In no case shall this allowance for mounting be interpreted to permit a larger sign face than would otherwise be permitted. No attached sign or supporting structure shall extend more than ten (10) feet above the level of flat roof or levels of the eaves of the other types of roof. The term "observable signage" means the maximum square footage of signs which may be seen from any point, whether on the property

where the signs are located, adjacent property, or any street.

- (2) Such signs may be located on any part of the premises, except that no sign shall be constructed or oriented in such a manner as to face an adjoining lot in a residential zone, and no sign shall be constructed in the rear yard or side yard of the premises, the rear property lines or side property lines of which abuts a lot in a residential zone.
- (3) Signs, not exceeding ten (10) square feet in area, directing and guiding traffic to historical or recreational sites, but bearing no advertising matter. The number of such signs per site is limited to one per street.

(G) INDUSTRIAL ZONE.

In the industrial zone the following types of signs shall be considered necessary to the principal use of the premises on which they are located, provided that the illumination, if any, shall be a nonflashing light.

- (1) Attached, detached or projecting signs identifying uses or articles produced or services rendered on the premises shall be permitted. Such signs may be located on any part of the premises, except that no sign shall be constructed or oriented in such a manner as to face an adjoining lot in a residential zone, and no sign shall be constructed in the rear yard or side yard of any premises, the rear property line or side property line of which abuts a lot in a residential zone.
- (2) Signs, not exceeding ten (10) square feet in area, directing and guiding traffic to historical or recreational sites, but bearing no advertising matter. The number of such signs per site is limited to one per street.

(H) BILLBOARDS.

- (1) Billboards are permitted in the industrial zone.

- (2) Billboards are permitted in the commercial zone, except that no freestanding billboards shall be located on the ground, and no billboard shall be located on or above any roof unless authorized by the board of appeals through the building inspector.
- (3) No billboards in either zone shall be constructed or oriented in such a manner as to face an adjoining lot in a residential zone.
- (4) No freestanding billboard in any district shall be located closer than forty (40) feet to any residential zone unless and/or authorized by the board of appeals.

(I) COMPLIANCE WITH ALL LOCAL, STATE AND FEDERAL REGULATIONS.

All display signs and billboards shall comply with all applicable local, state and federal regulations. (See Building Code.)

(J) RESOURCE PROTECTION ZONE.

In the Resource Protection Zone, display signs shall be permitted as in the residential, apartment and agricultural zones (see (D) above), except that where the Resource Protection Zone abuts an Industrial or Commercial Zone and where an Industrial or Commercial Zone existed at the time of this chapter's adoption, display signs shall be permitted as in the Industrial or Commercial Zone, whichever pertains.

(K) CENTRAL BUSINESS DISTRICT AND URBAN COMMERCIAL ZONES.

- (1) Scope. No sign is permitted in the Central Business District or Urban Commercial Zones, except as provided by this section. Upon application, the city council may permit the display of temporary signs on public property.
- (2) Definitions. For the purpose of this subsection, the following definitions apply:

Aggregate sign area means the sum total of sign area as provided for in this section, excluding directory, temporary, or public service signs.

Awning sign means a sign mounted on a temporary overhanging shelter perpendicular to the face of a building.

Directory sign means a sign listing only the names and locations of principal businesses, services, activities or individuals.

Ground sign means a freestanding sign not mounted on a building, but does not include trailer-mounted signs.

Marquee sign means a sign mounted on or suspended from a permanent overhanging shelter perpendicular to the face of a building.

Off-premise[s] sign means a sign referring to persons, products, businesses, services or activities not on the premises where the sign is located.

Projecting sign means a sign mounted on and extending out more than fifteen (15) inches from the face of a building, but not including awning, canopy, marquee or wall signs.

Public service sign means a sign referring to directions, instructions, public convenience or facilities, including but not limited to restrooms and telephones.

Sign means any structure, device, display or illustration visible from a public way and designed or used to advertise, inform or direct, including signs located inside a window other than show window displays and signs incidental thereto.

Sign area means the area within the boundary of a sign face, but not including structural support. Where sign copy is separately mounted on a surface other than a sign face, or where sign copy is freehanging,

the area within the smallest imaginary four-sided figure surrounding each unit of sign copy.

Street line means the line dividing the lot from the street.

Temporary sign means a sign whose existence is limited by this subsection.

Wall sign means a sign mounted on and parallel to the face of a building.

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

- (3) Aggregate sign area. Aggregate sign area per premises may not exceed fifty (50) square feet or four (4) square feet for each linear foot of street frontage up to a maximum of three hundred (300) square feet, whichever is larger, except that:
- (a) For single occupant buildings of three (3) to four (4) stories in height, maximum aggregate sign area may be increased to three hundred and seventy-five (375) square feet.
 - (b) For single occupant buildings of greater than four (4) stories in height, maximum aggregate sign area may be increased to four hundred and fifty (450) square feet.
 - (c) For multiple-faced signs, the area of each face is included in the computation of the aggregate sign area.

For buildings with frontage on more than one street, the aggregate sign area per building face shall not exceed that permitted by the applicable street frontage.

- (4) Permitted signs. In the Central Business District and Urban Commercial Zones, the following types of signs shall be considered necessary to the principal use of the premises on which they are located, provided they are maintained in a safe, neat and clean condition.

- 31-37
- (a) Display signs as provided in section ~~29-35~~(B), signs permitted in all zones, of this chapter.
- (b) Permanent signs, including:
1. Awning signs;
 2. One exterior directory sign per street level entrance, provided that no individual listing shall exceed one square foot in area;
 3. Single-faced or multiple-faced ground signs, provided no permanent ground sign shall be lower than four (4) feet above grade and no permanent ground sign or structural support may extend higher than twenty (20) feet above grade;
 4. Single-faced or multiple-faced marquee signs, provided no marquee sign or structural support shall extend higher than the second story windowsills, unless the walls are covered by a windowless facade;
 5. Single-faced or multiple-faced projecting signs, provided no projecting sign may extend higher than the second story windowsills or fifteen (15) feet above grade, whichever is higher, lower than ten (10) feet above grade, farther than six (6) feet beyond a street line, or nearer than five (5) feet from any other lot line;
 6. Wall signs, provided no wall sign or structural support may cover any portion of a visible window or window detail above the first story;
 7. Window signs, provided that the area of a permanent window sign may not exceed twenty-five (25) percent of the area of the window on which it is mounted or in which it is located.
- (c) Temporary signs, including:
1. Single-faced or multiple-faced ground signs, provided they are removed within twelve (12) hours of the time they are erected;

2. Window signs, provided they are removed within forty-five (45) days of the date they are erected except that signs that cover less than one-third of the height of the window, must be removed within ninety (90) days of the date they are erected;

3. Signs pertaining to the sale or lease of the premises or a portion of the premises may remain in place up to thirty (30) days after the sale or lease of the premises or portion of the premises.
- (5) Special requirements. For the purposes of this section, the following special requirements apply:
 - (a) The area of registered commercial trademarks, logos, slogans, and distinguishing background, except those that are part of the name of a business franchise, may not exceed fifty (50) percent of the area of the sign;
 - (b) The only off-premise[s] signs permitted are temporary window signs;
 - (c) Signs referring to persons, products, businesses, services, or activities no longer occupying the premises must be removed within forty-five (45) days of the date occupation ceases;
 - (d) No part of any sign may extend above the level of a flat roof or the eaves of any other type of roof;
 - (e) Any sign illumination must be nonflashing, except that flashing digital time and temperature signs are permitted;
 - (f) Rotating signs must rotate on a vertical axis at a rate not exceeding seven (7) revolutions per minute.
- (6) Nonconforming signs. Signs not conforming to the provisions of this section on the date of its enactment shall be considered nonconforming signs.
 - (a) Nonconforming signs may continue to exist if they are maintained in a safe, neat and clean condition.
 - (b) Nonconforming signs that fall within the provisions of subsection 31-37(K)(5)(a) and (b) must be brought into conformity with the provisions of this subsection within four (4) years of its date of enactment.
 - (c) Any nonconforming sign that is altered, relocated or replaced must be made to conform with the

provisions of this subsection at the time of the alteration, relocation or replacement.

- (7) Special provisions for buildings with public canopies. The following special provisions shall apply only to those buildings where public canopies have been erected over the sidewalk:
- (a) Permitted signs.
1. Single-faced or multi-faced projecting signs attached to the building and located under a canopy, provided no projecting sign may extend higher than ten (10) feet above grade, lower than seven and one-half (7½) feet above grade, farther than three (3) feet beyond a building face or nearer than five (5) feet from any other lot line.
 2. Single-faced nonilluminated signs may be attached to, and centered on, the front lower truss member of public canopies provided these special requirements are met:
 - a. Signs shall be limited to one per establishment with a maximum of one sign per twenty-five (25) linear feet of canopy section. Where there are two (2) or more establishments within a twenty-five-foot section of canopy, sign area coverage may be proportionately divided;
 - b. All signs shall be five (5) feet long and eighteen (18) inches high;
 - c. All signs shall be constructed of five eighths (5/8) inch thick exterior plywood or equivalent durable, weather-resistant material.
 - d. All signs shall be installed by means of brackets attached to the horizontal truss member; drilling holes into or welding brackets onto truss members shall not be permitted;
 - e. Sign copy shall be limited to identification only; product advertising shall not be permitted;
 - f. The sign owner shall sign an agreement with the city relative to attachment procedures, maintenance responsibilities and liabilities;
 - g. Sign design shall be approved by the department of development.

3. Temporary signs, banners, decorations. Upon approval of the city council, temporary signs, banners, flags and other decorations may be attached to or suspended from public canopies when in relation to a special event.
4. Displaced signs.
 - a. Notwithstanding the requirements of section 31-37 (K) if an existing projection sign is physically displaced by the installation of a public canopy, it may be reinstalled above the public canopy at the minimum elevation necessary to accommodate said sign.
 - b. Reinstallation of projection signs, as described in section 31-37 (K) (7) (a) 4 a and b, must be completed within one hundred eighty (180) days of the date of installation of the public canopy affecting such signs.

(L) OFFICIAL BUSINESS DIRECTORY SIGNS.

(1) Definitions.

Nonresident: A legal resident of a municipality other than the City of Lewiston;

Official business directory sign: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A., Sections 1901–1925, as amended, to indicate to the traveling, nonresident public the route and distance to qualifying uses;

Qualifying uses: Uses located within the City of Lewiston and identified in section 31-37(L)(2) of this chapter.

(2) Qualifying uses.

- (a) The following uses are qualifying uses, provided they are located at least one hundred (100) feet from the following streets or parts thereof, as measured along the shortest straight line between the property line of the parcel upon which said use is located and the street lot line: (i) Lisbon Street: Main Street to Lisbon town line; (ii) Sabattus Street: Main Street to Sabattus

town line; (iii) Main Street: Androscoggin River to Greene town line:

1. Traveler information center, except those facilities of which the primary activity is the provision of commercial travel services;
2. High schools and colleges;
3. Airports;
4. Cultural facilities and historic monuments;
5. Arenas;
6. Outdoor recreational facilities;
7. Public accommodations and commercial businesses, the majority of whose users are tourists or the traveling, nonresident public;
8. Pick-your-own retail agricultural operations in which the gross income that can be attributed solely to pick-your-own sales exceeds twenty-five hundred dollars (\$2,500.00) per year. "Pick-your-own," as used in this section, shall mean the direct harvesting of the agricultural product by the retail customer.

- (b) Uses with existing, off-premises signs that have been, or will be, removed pursuant to 23 M.R.S.A., Sections 1901–1925, as amended, provided that such signage is owned and maintained by the affected use for a continuous period of at least twelve (12) months prior to said removal.

(3) Location.

- (a) An official business directory sign may be installed in any zone except the Central Business District (CBD) Zone.
- (b) In the Central Business District (CBD) Zone, only signs located therein on December 31, 1982, may be replaced, pursuant to section 31-37(L)(2)(b).

(4) Additional requirements.

- (a) Official business directory signs shall be installed and maintained in accordance with the requirements of the Maine Traveler Information Act, 23 M.R.S.A., Sec-

tions 1901—1925, as amended, and any other regulations adopted pursuant to said statutes.

(b) Notwithstanding the requirements of section 31-37(L)(4) above, the following additional requirements shall apply:

1. The minimum distance between official business directory sign posts shall be at least three hundred (300) feet as measured along the shortest straight line;
2. An official business directory sign may be installed only upon issuance of a permit pursuant to section 7-8(k) of this Code, and approval by the police and fire departments;
3. No official business directory sign shall be placed closer than two hundred (200) feet from the property line of a commercial business offering directly competing goods or services;
4. An official business directory sign shall be located no closer than two hundred (200) feet or further than twenty-five hundred (2,500) feet from an intersection where a change in direction as indicated on said sign is required;
5. No more than three (3) official business directory signs may be attached to an individual sign post assembly. Subject to the requirements of sections 31-37(L)(4)(b)(3) and 31-37(L)(4)(b)(4) above, no new sign post assembly shall be installed until existing sign post assemblies suitable for any newly proposed official business directory sign contain the maximum number of permitted signs.

(5) Number of signs.

- (a) Uses as identified in section 31-37(L)(2)(a) shall be limited to a maximum of two (2) official business directory signs.
- (b) Uses as identified in section 31-37(L)(2)(b) shall be limited to the number of sign faces that have been or will be removed pursuant to 23 M.R.S.A., Sections 1901—1925, as amended.

(Code 1970, as amended, § 29-35; Ord. No. 79-19, 10-4-79; Ord. No. 79-30, 11-15-79; Ord. No. 81-15, 6-5-81; Ord. No. 81-23, 12-10-81; Ord. No. 83-6, 6-3-83; Ord. No. 84-15, 12-20-84)

CODE COMPARATIVE TABLE

Ordinance Number	Effective Date	Section	Section this Code
86-18	11-21-86		31-18(D), (E)
86-19	12- 5-86		25-4(c)(2)
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86-21	1-16-87		13-45
87-1	2-20-87		20-8(a)(3)
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87-7	3-17-87	Rpld	21-31—21-34, 21-66—21-72, 21-81—21-85
87-8	3-17-87		25-1, 25-2, 25-22(d)(1), 25-23(b)(6)
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STATUTORY REFERENCE TABLE

M.R.S.A. Title	Section	Disposition
	7701—8501	Ch. 17, Art. III (note), 17-22(4), 17-22(9), 17-22(15)
23	1151	26-12
	2802	Ch. 26, Art. III (note)
	2851	24-12
	3351—3359	Ch. 2, Art. II (note)
	3601	24-9
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	2392	11-32, 17-22(15)
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	2441	Ch. 30 (note), 30-4
	2452	17-22(15)
26	733	17-22(12), 17-22(14)
	773	17-22(1)— (3), 17-22(10)
	964(2)(c)	2-7
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	109	16-1
28	702	17-131
	752	17-22(10)
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M.R.S.A. Title	Section	Disposition
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	947	26-10
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	1917	2-517, 2-552, 2-567
	2101	Ch. 17, Art. IV (note)
	2151	Ch. 26 (note), Ch. 26, Art. III, Div. 3 (note)
	2151(2)	Ch. 20 (note)
	2151(2)(a)	Ch. 24 (note)
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	2151(2)(e)	27-16
	2151(3)	Ch. 28 (note), 17-22, 17-22(22)

STATUTORY REFERENCE TABLE

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	2151(5)	Ch. 12, Art. II (note), Ch. 17 (note), 17-22(11), 17-22(16), 17-22(17), 17-22(20)
	2152	2-303
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81. **Temporary Traffic Control Zone**—an area of a highway where road user conditions are changed because of a work zone or incident by the use of temporary traffic control devices, flaggers, police, or other authorized personnel.
82. **Traffic**—pedestrians, bicyclists, ridden or herded animals, vehicles, streetcars, and other conveyances either singularly or together while using any highway for purposes of travel.
83. **Traffic Control Devices**—all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, pedestrian facility, or bicycle path by authority of a public agency having jurisdiction.
84. **Traffic Control Signal (Traffic Signal)**—any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.
85. **Train**—one or more locomotives coupled, with or without cars, that operates on rails or tracks and to which all other traffic must yield the right-of-way by law at highway-rail grade crossings.
86. **Transverse Markings**—pavement markings that are generally placed perpendicular and across the flow of traffic such as shoulder markings, word and symbol markings, stop lines, crosswalk lines, speed measurement markings, parking space markings, and others.
87. **Traveled Way**—the portion of the roadway for the movement of vehicles, exclusive of the shoulders, berms, sidewalks, and parking lanes.
88. **Urban Street**—a type of street normally characterized by relatively low speeds, wide ranges of traffic volumes, narrower lanes, frequent intersections and driveways, significant pedestrian traffic, and more businesses and houses.
89. **Vehicle**—every device in, upon, or by which any person or property can be transported or drawn upon a highway, except trains and light rail transit operating in exclusive or semiexclusive alignments. Light rail transit operating in a mixed-use alignment, to which other traffic is not required to yield the right-of-way by law, is a vehicle.
90. **Warning Sign**—a sign that gives notice to road users of a situation that might not be readily apparent.

