

APPENDIX A – ZONING AND LAND USE CODE
ARTICLE X. CONDITIONAL USES

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Sec. 1. Conditional use permit.

- (a) A building, structure, or parcel of land may be employed for a conditional use if the use is specifically listed as a conditional use in the regulations governing the zoning district in which the use is proposed and, except as provided in subsection (b) hereof, a conditional use permit is approved by the board of appeals.
- (b) A building, structure or parcel of land may be employed for a conditional use if the use is specifically listed as a conditional use in the regulations governing the zoning district in which the use is proposed and, when the proposed development is a major development as defined in article XIII, subsection 3(a)(2), if a conditional use permit is approved by the planning board.

(Ord. No. 89-3, 4-7-89)

Sec. 2. Application.

Applications for conditional use permits shall be submitted to the office of the director of code enforcement. A nonrefundable application fee, as established from time to time by the city council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be on forms provided by the city for that purpose and shall contain the following information and documentation:

- (1) The applicant's name and address and his interest in the subject property;
- (2) The owner's name and address, if different than the applicant;
- (3) The address and map and lot number, as shown in the records of the office of the assessor, of the subject property;
- (4) The particular provision of this Code authorizing the proposed conditional use;
- (5) The zoning classification and present use of the subject property;
- (6) A general description of the proposed conditional use;
- (7) A drawing, which is substantially to scale, of the site, showing existing and proposed buildings, roads, drives, parking areas and utilities, the actual relationship of these facilities to each other and the boundaries of the parcel and the location of buildings or abutting lots which are within 50 feet of the property line of the site. Where development approval is required by article XIII of this Code, the drawing shall meet the requirements of article XIII, subsection 3(h)(3) of that article.

Sec. 3. Standards for conditional use permits.

A conditional use permit shall be granted by the board of appeals or planning board unless the board finds that the granting of the permit would violate one or more of the following standards:

- (1) Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally

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occur from such a use in the zoning district. The board may not find that this standard is satisfied unless it finds that:

- a. The size of the proposed use is comparable to surrounding uses; and
 - b. The amount and type of traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces are comparable to surrounding uses; and
 - c. The generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances is comparable to surrounding uses; and
 - d. The impact of the use on the quality and quantity of groundwater available to abutting properties is comparable to surrounding uses; and
 - e. Unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, do not aggravate adverse impacts upon surrounding properties.
- (2) Vehicular and pedestrian access to, into and within the site will be safe and will not be overburdened or create hazards because they are inadequate. The board may not find that this standard is satisfied unless it finds that:
- a. Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development.
 1. Adequate capacity means that:
 - (i) Intersections on major access routes to the site within one-half mile of any entrance road will function after development at a minimum at Level of Service C; or
 - (ii) If they are functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service.
 2. The board of appeals or planning board may approve a conditional use permit for an application not meeting this requirement if the applicant demonstrates that:
 - (i) A public agency has committed funds to construct the improvements necessary to bring the level of access to said standard, or
 - (ii) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to said standard and will guarantee the completion of the improvements within one year of approval of the permit.
 - b. The topography of the site shall permit the construction of all driveways, entrances or proposed streets to meet the standards of the City of Lewiston's Policy for the Design and Construction of Streets and Sidewalks.
 - c. Facilities are present to assure the safety of pedestrians passing by or

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through the site.

- (3) Municipal or other facilities serving the proposed use will not be overburdened or create hazards because they are inadequate. The board may not find that this standard is satisfied unless it finds that:
 - a. The capacity of sewerage and water supply systems is adequate to accommodate the proposed use;
 - b. The capacity of the storm drainage system is adequate to accommodate the proposed use; and
 - c. The ability of the fire department to provide necessary protection services to the site and development is adequate.
- (4) The soils on the proposed site shall have adequate capacity and stability to support all loadings, including fill, developed by the proposed use and the use will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water to the extent that a dangerous or unhealthy condition may result on the site or upon the land of abutters or the environment. In considering whether this standard is satisfied, the board shall take into account the elevation above sea level of the site and surrounding properties, its relation to flood plains, the slope and vegetation of the land and their effects on drainage.
- (5) The scale and design of the proposed structures with respect to materials, scale and massing shall be compatible with existing structures within 500 feet of the site in areas where the existing structures are of a similar scale and architectural treatment.

(Ord. No. 89-3, 4-7-89; Ord. No. 01-23, 2-7-02; Ord. No. 07-02, 3-22-07)

Sec. 4. Additional standards in shoreland areas.

For conditional use permit applications in shoreland areas, the board of appeals or planning board shall grant the application only if it finds that the proposed use:

- (1) Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- (2) Will conserve shoreland vegetation;
- (3) Will conserve visual points of access to waters as viewed from public facilities;
- (4) Will conserve actual points of public access to waters;
- (5) Will conserve natural beauty; and
- (6) Will avoid problems associated with floodplain development or use such as erosion, increased risk of flood damage to upstream properties or increased flood damage.

(Ord. No. 89-3, 4-7-89)

Sec. 5. Limitations on conditional use permits.

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No conditional use permit shall be valid for a period longer than six months from the date of issue, or such other time, up to two years, as was fixed when the permit was granted, unless the conditional use has been commenced or construction has actually begun within that period and is thereafter diligently pursued to completion. However, one or more extensions of said time, each not to exceed one year, may be granted by the board of appeals or planning board if the facts which supported the granting of the permit have not materially changed. A conditional use permit shall be deemed to authorize only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use is, for any reason, discontinued for a period of 12 consecutive months. In addition, a conditional use permit authorizes only the activity expressly described in the application. Any additions to buildings or structures, construction of new buildings or structures, or other enlargement, expansion or intensification of the use shall require the issuance of a new conditional use permit.

(Ord. No. 89-3, 4-7-89)

Sec. 6. Miscellaneous provisions.

The provisions relating to appeals contained in article IX, subsections 2(b)--(f) and sections 5, 6, 8 and 11 are also applicable to the administration of conditional use permit applications.