

Appendix B Zoning

ZONING*

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***Editor's note**—Local laws zoning or rezoning specific property or granting specific use permits are not included herein, but are on file in the village clerk's office. Also, the zoning map mentioned in this local law is not printed herein, but is kept on file in the office of the village.

Sec. 1. Purposes and interpretation.

A. Title: This Local Law of the Village of Lewiston shall be known and may be cited as "The Village of Lewiston, N.Y., Zoning Ordinance." The Local Law hereinafter will be referred to as the ordinance.

B. The purposes of this ordinance are to promote the health, safety, and general welfare of the community by regulating and restricting the location, construction and the use of buildings and structures and the use of land within the Village of Lewiston and for said purpose to divide the village into districts.

C. In interpreting, construing and applying the provisions of these ordinances, they shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity and general welfare of the public. It is not intended that these ordinances shall conflict, abrogate, or annul any other ordinance, rule or regulation of the Village of Lewiston, previously adopted or which may hereafter be adopted and not in conflict with these ordinances, nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties; however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this ordinance shall control.

D. The provisions and regulations of this local law, and interpretations thereof, shall be made in accordance with the objectives of the Village of Lewiston Comprehensive Master Plan (2004) and consistent with the policies and purposes of the Village of Lewiston adopted Local Waterfront Revitalization Program (1986) for the purposes of promoting the public health, safety, convenience, order, prosperity and general welfare of the community and protecting and enhancing the coastal resources of the community.

(Code 1978, app. B, § 1; L.L. No. 1-1973; L.L. No. 9-1989, § 1)

Sec. 2. Administration and enforcement.**A. Zoning officer.**

1. This ordinance shall be enforced by the zoning officer who shall be appointed by the board of trustees.
2. The zoning officer shall issue no zoning permits until all the provisions of this ordinance have been complied with.

B. Building permits.

1. No building, structure, or use thereof shall be erected, added to, or structurally altered until a permit therefor has been issued by the building inspector.
2. For the purpose of this ordinance, the excavating for a building or the moving of any building from one site to another site shall be deemed construction and a permit therefor required.

3. Application for building permits shall include three copies of a layout or plot plan drawn to scale and showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this ordinance, the building code, and provisions of the Education Law of the State of New York as applicable to plans for construction. A certified copy of the layout or plot plan shall be submitted to the zoning officer and leave the corner posts in for final issuance of permit.
4. One copy of such layout or plot plan, together with the permit, shall be returned to the applicant when approved by the building inspector, upon payment of such building permit fee as shall be established from time to time by the board of trustees.
5. Applications for building permits shall be made to the building inspector by the property owner or his duly authorized agent, on forms provided by the building inspector.
6. Any permit hereafter issued for the construction of a building shall be invalid if construction thereof is not commenced within six months of the date of issuance of the permit, or if said construction is commenced but has been abandoned for a period of six months, or if the entire construction authorized by said permit is not completed according to plans within one year of the date of issuance of said permit.
7. The following measures shall be followed within zone A of the flood hazard boundary map issued by the flood insurance administration for the Village of Lewiston:
 - a. Permit requirements. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the designated responsible person. No manmade 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, shall be commenced until a separate permit has been obtained from the designated responsible person for each change. No mobile home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the designated responsible person.
 - b. Application. To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the designated responsible person with a fee as determined by the board of trustees before the issuance of a permit will be considered. The applicant shall also submit a stormwater pollution prevention plan (SWPPP), if required by chapter 16, stormwater management, of the village Code, together with the recommendation of the stormwater management officer to approve, approve with modifications, or disapprove the SWPPP pursuant to section 16-4(b) of the village Code. Any SWPPP submitted pursuant to this subparagraph shall comply with the requirements of chapter 16, stormwater management, of the village Code.

- c. Review of applications. The building inspector is appointed as the "person" responsible for receiving applications and examining the plans and specifications for the proposed construction or development. After reviewing the application, the building inspector shall require any additional measures which are necessary to meet the minimum requirements of this document.
- d. The building inspector shall review proposed development to ensure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334[1344].
- e. The building inspector shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall:
 - (i) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (ii) Be constructed with materials and utility equipment resistant to flood damage; and
 - (iii) Be constructed by methods and practices that minimize flood damage, consistent with any stormwater pollution prevention plan (SWPPP) submitted pursuant to chapter 16, stormwater management, of the village Code.
- f. The building inspector shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:
 - (i) All such proposals are consistent with the need to minimize flood damage within the flood-prone area;
 - (ii) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (iii) Adequate drainage is provided to reduce exposure to flood hazards, consistent with any stormwater pollution prevention plan (SWPPP) approved by the village in accordance with chapter 16 of the village Code.
- g. The responsible person shall require within flood-prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and
- h. The responsible person shall require within flood-prone areas:
 - (i) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

- (ii) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- i. The responsible person shall require that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data.
- j. The responsible person shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state, or other source, until such other data has been provided by the administrator, as criteria for requiring that:
 - (i) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood level; and
 - (ii) All new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated or floodproofed to or above the base flood level.
- k. For the purpose of the determination of applicable flood insurance risk premium rates within zone A on a community's FHBM, the responsible person shall:
 - (i) Obtain, or require the applicant to furnish, the elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement;
 - (ii) Obtain, or require the applicant to furnish, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed; and
 - (iii) Maintain a record of all such information.
- l. The building inspector shall notify, in riverine situations, adjacent communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
- m. The building inspector shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- n. The building inspector shall require that all mobile homes to be placed within zone A on the community's flood hazard boundary map shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (i) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
 - (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;

- (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
- (iv) Any additions to the mobile home be similarly anchored.
- o. The flood hazard boundary map issued by the Federal Insurance Administration for this community, dated February 15, 1974, with panel numbers 36063322001, and any officially published revisions to this map, is adopted as the official map for the enforcement of this document. Zone A on this map delineates the area within which the requirements of this document will be enforced, said zone A being the special flood hazard area thereon.
- p. Definitions. Unless specifically defined below, words or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.

C. Definitions.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade 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.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from water of any source (see definition of flood).

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

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

Mobile home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers. The term includes but it is not limited to, the definition of "mobile home" as set forth in regulations governing the mobile home safety and construction standards program (24 CFR 3282.7(a)).

Person includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
- (2) Any alteration of a structure listed on the National Register of Historic Places.

Variance means a grant of relief by a community from the terms of a floodplain management regulation.

D. Building Code.

1. The New York State Uniform Fire Prevention and Building Code, as amended from time to time, is hereby declared to be the Building Code of the Village of Lewiston.
2. Compliance with the New York State Uniform Fire Prevention and Building Code shall be enforced by the Building Inspector who shall be appointed by the Board of Trustees.

E. Certificates of Occupancy.

1. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the building inspector, stating that the building or proposed use thereof complies with the provisions of this ordinance and the building code. This certificate must be posted in all business establishments.
2. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy (certificate of existing use, therefor) having first been issued by the building inspector.
3. Said certificates shall be issued to the applicant therefor within ten days after the erection or alteration shall have been approved as complying with the provisions of this ordinance and the building code, and the payment of such fee therefor as shall from time to time be established by the board of trustees.

4. The building inspector shall maintain a record of all certificates and copies thereof shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected upon payment of the established fee therefor.
5. Under such rules and regulations as may be established by the zoning board of appeals, a temporary certificate of occupancy for not more than 30 days for a part of a building may be issued by the building inspector.

F. Zoning board of appeals.

1. *Creation and appointment.* The zoning board of appeals is created consisting of five members.
2. *Organization.* The zoning board of appeals may prescribe such rules it deems necessary for the conduct of its affairs.
3. *Powers and duties.* The zoning board of appeals shall have all the powers and duties as set forth in Village Law §§ 712, 712-a and 712-b, as the same may be amended from time to time.
 - a. *Additional powers and duties.* In addition to the said powers and duties, the zoning board of appeals shall also hear and decide, or review and report, on all matters referred to it on which it is requested to pass under any provision of the village Code.
 - b. *Appeals.* All appeals and applications made to the zoning board of appeals shall be in writing and shall contain such information as is required by the Village Law and by this village Code.
 - c. *Fees.*
 - (i) In every matter brought before the zoning board of appeals for determination or action under the provisions of Village Law § 712-b, the applicant or appellant shall pay a filing fee, as established by the board of trustees, to the village at the time of submission of the application or appeal.
 - (ii) In the event an applicant or appellant requests a special meeting of the zoning board of appeals before its next regularly scheduled meeting date, the chairperson of said board shall cause a special meeting to be held, upon payment by the applicant or appellant of an additional fee, as established by the board of trustees, to the village.
 - (iii) In addition to the foregoing fees, in any matter brought before the zoning board of appeals which involves the sending or publishing of any notices, the actual costs shall be borne by the applicant or appealing party and shall be paid to the village prior to the hearing of such appeal.

(Code 1978, app. B, § 2; L.L. No. 1-1973; L.L. No. 4-1977, § 2; L.L. No. 3-1992, § 4; L.L. No. 04-2006; L.L. No. 04-2007, §§ 3—5)

Sec. 3. Establishment of districts.

The Village of Lewiston is hereby divided into the following types of zoning districts:

R-1 Districts: Low Density Residential Single-Family Districts

R-1a Districts: Medium Density Residential Single-Family Districts

R-2 Districts: Residential Two-Family Districts

R-3 Districts: Residential Multifamily Districts

R-4 Districts: Residential Multi-Family-Professional Office Districts

R-5 Districts: Residential Townhouse Districts

RB Districts: Restricted Business Districts

RB-2 District: Retail Business District

B-1 District: General Business District

O-P District: Open and Public District

W-D District: Waterfront Development District

(Code 1978, app. B, § 3; L.L. No. 1-1973; L.L. No. 6-1979, § 1; L.L. No. 9-1989, § 2)

Sec. 4. Zoning map.

Said zoning districts are bounded as shown on a map entitled "Zoning Map of the Village of Lewiston" adopted as part of this ordinance and certified by the village clerk-treasurer which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance.

(Code 1978, app. B, § 4; L.L. No. 1-1973)

Sec. 5. Interpretation of the district boundaries.

A. Where uncertainty exists with respect to the boundaries of any of the aforementioned districts as shown on this zoning map, the following rules shall apply:

1. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.
2. Where district boundaries are indicated as being approximately parallel to the center lines or right-of-way lines of streets or highways, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
3. Where the boundary of a district follows a body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the village unless otherwise indicated.
4. Where the boundary line of the district follows a railroad line, such boundary shall be deemed to be the boundary line of the railroad right-of-way nearest the district bounded.

5. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
6. Distances shown on the zoning map are perpendicular or radial distances from street lines measured back to the zone boundary line, which lines, in all cases where distances are given, are parallel to the street line.

(Code 1978, app. B, § 5; L.L. No. 1-1973)

Sec. 6. Application of regulations.

A. The provisions of this ordinance shall be deemed to be specific. Those matters for which there are no specific provisions in this ordinance shall be deemed to be prohibited.

B. Except as herein provided:

1. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the requirements set forth in the zoning schedule, section 8, and all other regulations herein specified for the district in which it is located.
2. No building shall hereafter be erected or altered:
 - a. To exceed the height;
 - b. To accommodate or house a greater number of families;
 - c. To occupy a greater percentage of lot areas; or
 - d. To have narrower or smaller rear yards, front yards, side yards, inner courts or outer courts;

than specified herein for the district in which such building is located.

(Code 1978, app. B, § 6; L.L. No. 1-1973)

Sec. 7. Definitions.

A. Except where specifically defined herein, all words used in this ordinance shall carry their customary meanings. For the purpose of interpreting, construing, and applying the provisions of this ordinance, the following definitions shall be observed.

1. *Accessory building*: A supplemental or subordinate building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.
2. *Accessory use*: A subordinate use, building, or structure customarily incidental to and located on the same lot occupied by the main use, building or structure.

2a. *Adult use business*: Is a commercial establishment where a "substantial portion" of the business includes an adult bookstore, adult eating or drinking establishment, adult theater, or other adult commercial establishment, or any combination thereof, as defined below:

- (a) An adult bookstore is a bookstore which has as a "substantial portion" of its stock-in-trade any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (2) Photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (b) An adult eating or drinking establishment is an eating or drinking establishment which regularly features any one or more of the following:
 - (1) Live performances which are characterized by an emphasis on "specified anatomical areas" or "specified sexual activities"; or
 - (2) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (3) Employees who, as part of their employment, regularly expose to patrons "specified anatomical areas"; and which is not customarily open to the general public during such features because it excludes minors by reason of age.
- (c) An adult theater is a theater which regularly features one or more of the following:
 - (1) Films, motion pictures, video cassettes, slides or similar photographic reproductions characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - (2) Live performances characterized by an emphasis on "specified anatomical areas" or "specified sexual activities"; and which is not customarily open the general public during such features because it excludes minors by reason of age.

An adult theater shall include commercial establishments where such materials or performances are viewed from individual enclosures.

- (d) An other adult commercial establishment is a facility-other than an adult bookstore, adult eating and drinking establishment, adult theater, commercial studio, or business or trade school-which features employees who, as part of their employment, regularly expose to patrons "specified anatomical areas" and which is not customarily open to the general public during such features because it excludes minors by reason of age.

For the purpose of defining adult-oriented establishments, "specified sexual activities" are: (i) human genitals in a state of sexual stimulation or arousal; (ii)

actual or simulated acts of human masturbation, sexual intercourse or sodomy, or (iii) fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast. "Specified anatomical areas" are (i) less than completely and opaquely concealed: (a) human genitals, pubic region, (b) human buttock, anus, or (c) female breast below a point immediately above the top of the areola, or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

For the purpose of determining whether a "substantial portion" of a business includes an adult bookstore, adult eating or drinking business, adult theater, or other adult commercial establishment, or combination thereof, the following factors shall be considered: (1) the amount of floor area and cellar space accessible to customers and allocated to such uses, and (2) the amount of floor area and cellar space accessible to customers and allocated to such uses compared with the total floor area and cellar space accessible to customers in the establishment.

For the purpose of determining whether a bookstore has a "substantial portion" of its stock in materials defined in paragraphs (a) (1) or (a) (2) hereof, the following factors shall be considered: (1) the amount of such stock accessible to customers compared with the total stock accessible to customers in the business, and (2) the amount of floor area and cellar space accessible to customers containing such stock, and (3) the amount of floor area and cellar space accessible to customers containing such stock compared with the total floor area and cellar space accessible to customers in the establishment.

3. *Alley*: A narrow service-way providing a secondary public access to abutting properties.
4. *Alterations*: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending a side or by increasing in height, or the moving from one location or position to another.
5. *Apartment building*: A building arranged, intended, or designed to be occupied by three or more families living independently of each other.
6. *Apartment, garden*: Any apartment building of three or less stories or floors above average finished grade.
7. *Apartment, high rise*: Any apartment building of four or more stories or floors above average finished grade.
8. *Apartment, town house*: An apartment building which is so designed and erected that no family or housekeeping unit is located above, below, attached and to the rear of, or attached and to the front of any other family or housekeeping unit and not over three stories above average finished grade.
9. *Architectural review commission*: A commission, established by the board of trustees of the Village of Lewiston, and empowered to review and make recommendations upon the appropriateness of exterior architectural, landscape and related features of buildings and sites.

10. *Area building*: The total area measured in a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.
11. *Auto court*: A building or group of buildings, whether detached or connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "auto court" includes buildings designated as tourist courts, motor lodges, motels and by similar applications.
12. *Basement*: A story partly underground and having more than one-half of its height above the average level of the finished grade at the front of the building.
- 12a. *Bed and breakfast residence*: Bed and breakfast residence means living quarters within a principal building for the temporary use of guests of the occupants of the premises, which living quarters shall not be a dwelling unit as herein defined and which are not rented or otherwise leased as separate dwelling units.
13. *Board of appeals*: The officially established Zoning Board of Appeals of the Village of Lewiston.
14. *Board of Trustees*: The Board of Trustees of the Village of Lewiston.
15. *Boat livery or marinas*: Riverside operation and premises for mooring, docking, renting, storing or servicing of boats; servicing shall include such supplies and accessories related to such operation as permitted by the board of trustees.
16. *Building*: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.
17. *Building, detached*: A building surrounded by open space on the same lot.
18. *Building height*: The vertical distance measured from the average elevation of the proposed finished grade of the roof for flat roofs, to the deckline of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
19. *Building inspector*: The officer of the Village of Lewiston charged with issuance of building permits and certificates of occupancy and with ensuring compliance with all building codes.
20. *Building line*: A line formed by the intersection of the ground surface and a vertical plane coinciding with the furthest projection of any eave, roof or rooflike portion of the structure. Yard requirements are measured from the building line.
21. *Building, principal*: A building in which is conducted the main or principal use of the lot on which it is situated.
22. *Cellar*: A story partly underground and having more than one-half of its clear height below the average level of the finished grade at the front of the building.

23. *Certificate of occupancy*: A certificate issued by the building inspector upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this ordinance and such adjustments thereto granted by the board of appeals.
24. *Church*: A building, institution or establishment defined as a church by the Internal Revenue Service.
25. *Club, private*: A nonprofit social organization whose premises are restricted to its members and their guests.
26. *Cluster development*: A development of residential lots for detached single-family dwellings, each of which may contain less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of open space as a part of the subdivision plan.
27. *Commercial or business*: Means and includes the purchase, sale or transaction involving the disposition of any article, substance, commodity or service, the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit and also includes business offices, sales display rooms and premises, motels and hotels.
28. *Court*: An unoccupied open space, other than a yard, which is bounded on at least three sides by the walls of a building situated on the same lot.
29. *Court, closed*: A court enclosed on all sides by exterior walls of a building, or by exterior walls and lot lines on which walls are allowable.
30. *Court, open*: A court extending to a street line or opening upon any front, side or rear yard.
- 30a. *Duplex*: (See Dwelling, two-family, condominium, town house and building.)
31. *Dwelling*: A building designed or used as the living quarters for one or more families. The terms "dwelling," "single-family dwelling," "two-family dwelling," "duplex," or "dwelling group" shall not be deemed to include auto court, rooming house, tourist home or motel.
32. *Dwelling, single-family*: A detached building designed for or occupied exclusively by one family.
33. *Dwelling, two-family*: A building designed for or occupied exclusively by two families living independently of each other.
34. *Dwelling, multi-family*: A dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities or both.

- 35. *Dwelling, multiple:* A building used or designed as a residence for three or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment flats, apartment hotels and group houses.
- 36. *Dwelling group:* A group of two or more single-family, two-family or multiple-family dwellings occupying a lot in one ownership and having any yard in common.
- 36a. *Dwelling, townhouse:* An attached building designed for, owned and occupied exclusively by one family, which building constitutes a group of dwellings on adjacent lots containing separate living units and having separate services or facilities.
- 37. *Dwelling unit:* A dwelling or portion thereof providing complete living facilities for one family.
- 38. *Family:* Two or more related persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.
- 39. *Fence:* An artificially constructed barrier of wood, masonry, stone, wire, metal, or any other manufactured material or combination of materials erected for the enclosure of yard areas.
- 40. *Flammable liquids:* Liquids having a flash point below 200 degrees Fahrenheit, closed cup tester. Class 1 flammable liquids (e.g., gasoline, ether, liquid petroleum gas) are those having a flash point below 25 degrees Fahrenheit. Class II flammable liquids are those having a flash point below 70 degrees Fahrenheit but not below 25 degrees Fahrenheit.
- 41. *Floor area of a building:* The sum of the gross horizontal areas of the several floors of a building; in residential districts only, cellar and basement floor areas not devoted to residential use are excluded. All dimensions shall be measured between exterior faces of walls.
- 42. *Funeral home:* Every place or premises devoted to or used in the care and preparation for burial of the body of a deceased person or maintained or held out to the public by advertising or otherwise as the office or place for the practice and/or the transaction of business by a funeral director or undertaker.
- 43. *Garage, private:* A garage used for storage purposes only and having a capacity of not more than four automobiles or not more than two automobiles per family housed in the building to which the garage is accessory, whichever is greater.
- 44. *Garage, public:* Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
- 45. *Gasoline station or filling station:* Any area of land, including structures thereon, that is exclusively used for the sale of gasoline or any other motor vehicle fuel and oil and

other lubricating substances, but which may or may not include facilities for lubricating, washing, or otherwise servicing motor vehicles as the only permitted accessory uses.

46. *Grade, established:* The elevation of the center line of the streets as officially established by the village.
47. *Grade, finished:* The completed surfaces of lawns, walks, drives, and roads brought to grades as shown on official plans, plots, or designs relating thereto.
48. *Hedge:* A natural barrier erected or planted for the enclosure of yard areas.
49. *Home occupation:* An occupation or profession which is customarily carried on in a dwelling unit by a member of the family residing therein, is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and which conforms to the following additional conditions:
 - a. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
 - b. Not more than one person outside the family shall be employed in the home occupation.
 - c. No offensive noise, vibration, smoke, dust, odors, heat, glare, radiation or other objectionable substances or conditions shall be produced.
 - d. There shall be no exterior display, no exterior sign except as permitted for residences, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

In particular, a home occupation includes dressmaking, professional office of a physician, dentist, lawyer, engineer, architect, realtor, accountant, or the like, and teaching limited to a single pupil at a time. Day care centers, nursery schools, beauty salons or barber shops are not included as home occupations.

50. *Hospital:* Unless otherwise specified, the term "hospital" shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.
51. *Reserved.*
52. *Junkyard:* A lot, land or structure, or part thereof, used for the collecting, storage or sale of waste, scrap or discarded material; or for the collecting, dismantling, storing or salvaging of machinery or vehicles and for the sale of parts thereof.
53. *Kennel, dog:* A structure or area used for the harboring of more than three dogs that are more than two months old.

- 54. *Launderette*: A business premises equipped with individual clothes washing, clothes drying and/or dry cleaning machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or apartment hotel or auto court.
- 55. *Lot*: Land occupied or capable of being occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this ordinance, having not less than the minimum area and width required by this ordinance for a lot in the district in which land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition for the issuance of a building permit for a building on such land.
- 56. *Lot, corner*: A parcel of land at the junction of and fronting on two or more intersecting streets.
- 57. *Lot, depth of*: A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.
- 58. *Lot, interior*: A lot other than a corner lot.
- 59. *Lot, through*: An interior lot having frontage on two parallel or near parallel streets.
- 60. *Lot, width of*: The mean width measured at right angles to its depth.
- 61. *Lots, back-to-back*: Lots or portions of lots which are on opposite sides of the same rear line common to both.
- 62. *Reserved*.
- 63. *Motel*: A building or group of buildings, whether detached or connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor lodges, auto courts and by similar appellations.
- 64. *Reserved*.
- 65. *Nonconforming use*: Use of a building or land that does not conform to the regulations as to use for the district in which it is situated.
- 66. *Open space*: An unoccupied space open to the sky on the same lot with the building.
- 67. *Parking space*: The area required for parking one automobile, which in this ordinance is held to be an area nine feet wide by 20 feet long, not including passageways.
- 67a. *Permit*: (See Zoning Permit).
- 68. *Planned unit development*: A primarily residential development consisting of several types of dwelling structures, open space, and commercial area planned and developed as a single neighborhood project. This ordinance does not establish any regulations for this type of development. No development of this type shall be approved and/or

constructed unless an ordinance governing the approval, planning, design, construction, use and other regulations for such development shall have been adopted by the board of trustees subsequent to required public hearings.

69. *Planning commission:* The Village of Lewiston Planning Commission.

70. *Recreational equipment:*

- a. "Boats" and "boat trailers" shall include boats, floats and rafts plus the normal equipment necessary to transport same on the highway. The size and weight of such boat and/or boat trailer shall not be such as to require special highway movement permits when drawn by a stock passenger automobile.
- b. To be used to describe vehicles such as snowmobiles, all-terrain vehicles, air cushion vehicles, and other similar recreational equipment.

70a. *Recreational vehicle:* A recreational vehicle is a vehicular-type structure, primarily designed as temporary living quarters for recreation, camping, or travel use which either has its own motive power or is mounted on or drawn by another vehicle which is self powered. With allowances for engineering variations the basic entities are:

- a. A "travel trailer" is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a stock passenger automobile; primarily designed and constructed to provide temporary living quarters for recreation, camping, or travel use.
- b. A "camping trailer" is a vehicular portable structure mounted on wheels, constructed with collapsible partial side walls of fabric, plastic, or other pliable material for folding compactly while being drawn by another vehicle, and when unfolded at the site or location, providing temporary living quarters; and whose primary design is for recreation, camping, or travel use.
- c. A "truck camper" is a portable structure, designed to be loaded onto, or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreation, camping, or travel use.
- d. A "motor home" is a structure built on and made an integral part of a self-propelled motor vehicle chassis other than a passenger car chassis, and primarily designed to provide temporary living quarters for recreation, camping, and travel use.

71. *Residential hotel:* A dwelling occupied by permanent guests only and not by transients. It may include restaurants, newsstands and other accessory services primarily for servicing its occupants and only incidentally the public.

72. *Sign:* Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public. Further definitions related to signs are included herein, in section 13, sign regulations.

73. *Site plan*: A plan of a lot or subdivision on which is shown topography, location of buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and hearings, any tree over four-inch caliper or 20 feet in height, and any other information deemed necessary by the planning commission.
74. *Story, half*: A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite walls are not more than two feet above the floor of such story.
75. *Story, height of*: The vertical distance from the top surface of a floor to the top surface of the floor next above. The height of the topmost story, or in the case of a single-story building, is the distance from the top surface of the floor to the top surface of the ceiling joists or trusses.
76. *Street*: A public or private right-of-way which affords the principal means of access to abutting properties.
77. *Street line*: The dividing line between the street right-of-way and the lot.
78. *Structure*: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
79. *Structural alterations*: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, rafters or joists.
80. *Subdivision, submittal of*: See Land Subdivision Regulations of the Village of Lewiston.
81. *Swimming pool*: Any body of water or receptacle for water having a depth at any point greater than three feet and constructed in or above ground on private or public property for swimming or bathing.
82. *Temporary use*: An activity conducted for a specific limited period of time which may not otherwise be permitted by the provisions of the ordinance. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work.
83. *Theater*: A building especially adapted to present drama, operas, motion pictures, lectures, etc.
84. *Tourist home*: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.
85. *Use*: The specific purposes for which land or building is designed, arranged, intended or for which it is or may be occupied or maintained.
86. *Valuation, full*: The value for which the building would have been expected to sell on the real estate market.
87. *Variance*: A modification of the regulations of this ordinance, granted by the zoning board of appeals, pursuant to the provisions of this ordinance.
88. *Veterinary hospital*: Unless otherwise specified, the term "veterinary hospital" shall be deemed to include animal hospital, animal clinic and any other place for the diagnosis,

treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment and other care of animal ailments. The term "veterinary hospital" does not include boarding kennels or similar facilities.

89. *Village board*: The Board of Trustees of the Village of Lewiston.
90. *Yard*: An unoccupied space open to the sky, on the same lot with a building or structure.
91. *Yard, front*: An open space on the same lot with a building between the front building line of the building and the front line of the lot and extending the full width of the lot. The depth of the front yard shall be measured between the front building line closest to the street and the street line, at right angles to the street line.
92. *Yard, rear*: An open space on the same lot with a building between the rear line of the building and the rear line of the lot and extending the full width of the lot. The depth of the rear lot shall be measured between the rear line of the lot and the rear line of the building, at right angles to the rear lot line.
93. *Yard, side*: An open space on the same lot with a building situated between the building and the side line of the lot and extending from the front yard to the rear yard. The width of the side yard shall be measured between the side line of the lot and the side of the building, at right angles to the side lot line.
94. *Zoning board*: The officially established Zoning Board of Appeals of the Village of Lewiston.
95. *Zoning officer*: The officer of the Village of Lewiston charged with the issuance of zoning permits and with ensuring the conformity of the uses permitted and all other requirements under this ordinance for the zone in which a building or land is located or to be located.
96. *Zoning permit*: A permit issued by the zoning officer stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this ordinance for the zone in which it is located or is to be located.

B. Scope and meaning of certain words and terms:

1. Unless the context clearly indicates the contrary, words used in the present tense include the future, the singular number includes the plural and the plural the singular.
2. The word "person" includes a profit or nonprofit corporation, company, partnership, association, cooperative, organization or individual.
3. The word "shall" is mandatory and not discretionary; the word "may" is permissive.
4. The word "use" and the word "used" refer to any purpose for which a lot or land or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use; and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made

available or offered for use or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same. The term "permitted use" shall not be deemed to include any nonconforming use.

(Code 1978, app. B, § 7; L.L. No. 1-1973; L.L. No. 2-1973, §§ 1, 3; L.L. No. 2-1979, § 1; L.L. No. 6-1979, § 3; L.L. No. 3-1984, § 1; L.L. No. 11-1984, § 2; L.L. No. 13-1984, § 2; L.L. No. 02-2000)

Sec. 8. Zoning schedule.

The schedule of area, lot and bulk requirements enclosed herein is made part of this ordinance. The regulations included in said schedule are hereby established as minimum regulations of this ordinance. Municipal facilities deemed necessary and appropriate by the village board are hereby exempted from such area and bulk requirements.

Zone District	Use	Minimum Lot Size		Yards, Principal Building			Yards Accessory Building		Maximum Building Height		Maximum Building Coverage	
		Area (sq. ft. or acres)	Width (feet)	Front and Side Front (feet)	Each Side (feet)	Rear (feet)	Side (feet)	Rear (feet)	Principal (feet)	Accessory (feet)	Principal % of Lot	Accessory % of Rear Yard
R-1	Single-family dwellings	22,000 sq. ft.	125	40	27	40	15	20	30	15	30	20
	***Cluster residential	5 acres		—	—	—	—	—	—	—	—	
	Religious, public and quasi public	22,000 sq. ft.	125									
	*Public utility uses	22,000 sq. ft.	125	40	27	40	15	20	—	—	—	
R-1a	Single-family dwellings	6,500 sq. ft.	66	20	10	20	5	10	30	15	30	20
	***Cluster residential	5 acres		—	—	—	—	—	—	—	—	
	Religious, public and quasi public	22,000 sq. ft.	125									
	Public utility uses	22,000 sq. ft.	125	40	27	40	15	20	—	—	—	
R-2	Single-family dwellings	6,500 sq. ft.	66	20	10	20	5	10	30	15	30	20
	Two-family dwellings	8,500 sq. ft.	66	20	10	20	5	10	30	15	30	20
	***Cluster residential	5 acres		—	—	—	—	—	—	—	—	
	Religious, public and quasi public	10,000 sq. ft.	80	30	10	30	5	10	35	30	30	20
	*Public utility uses	10,000 sq. ft.	80	30	10	30	5	10	—	—	—	
	*Private clubs	10,000 sq. ft.	80	30	10	30	5	10	30	15	30	20
	Hospitals, philanthropic, charitable	2 acres	200	40	40	40	15	20	35	30	20	20
RB-2	Retail and service establishments	—	—	—	—	15	10	10	35	20	50	—
R-3	Single-family dwellings	6,000 sq. ft.	66	20	10	20	5	10	30	15	30	20
	Two-family dwellings	8,000 sq. ft.	66	20	10	20	5	10	30	15	30	20
	***Apartment or townhouse developments	1 ac/2,000 dwellings	150	40	40	40	15	20	35	15	30	20

Zone District	Use	Minimum Lot Size		Yards, Principal Building			Yards Accessory Building		Maximum Building Height		Maximum Building Coverage	
		Area (sq. ft. or acres)	Width (feet)	Front and Side Front (feet)	Each Side (feet)	Rear (feet)	Side (feet)	Rear (feet)	Principal (feet)	Accessory (feet)	Principal % of Lot	Accessory % of Rear Yard
	***Cluster residential	5 acres	60	20	10	20	5	10	30	15	30	20
	Religious, public and quasi public	10,000 sq. ft.	80	30	10	30	5	10	36	30	30	20
	*Public utility uses	10,000 sq. ft.	80	30	10	30	5	10	—	—	—	
	*Tourist homes	8,000 sq. ft.	66	20	10	20	5	10	30	15	30	20
	Hospital, Philanthropic, Charitable	2 acres	200	40	40	40	15	20	35	30	20	20
R-4	(All uses set forth in R-3 with same numerical restrictions in balance of schedule.)											
	*, ***Professional offices											
R-5	Single-family dwellings	22,000 sq. ft.	125	40	27	40	15	20	30	15	30	20
	*, ***Townhouse residential dwellings	½ ac/1,000 dwellings	150 parcel 20 lot	(As determined to be necessary by board of trustees upon issuance of permit)								
***RB	Retail and service establishments	—	—	—	—**	15	10	10	35	20	50	
	*Public utility uses	—	—	—	—**	15	10	10	—	—	50	
	Hospitals, philanthropic and charitable activity	—	—	—	—**	15	10	10	35	20	50	
	*Private clubs	—	—	—	15**	15	10	10	35	20	50	
	*Restaurants	—	—	—	—**	15	10	10	35	20	50	
	*Banks and funeral homes	—	—	—	—**	15	10	10	35	20	50	
	*Townhouses	—	—	—	15**	15	10	10	35	20		*
***B-1	Retail and service establishments	—	—	—	—**	15	10	10	35	20	50	
	*Public utility uses	—	—	—	—**	15	10	10	-	-	50	
	Hospitals, philanthropic and charitable activity						10	10	35	20	50	
	*Private clubs	—	—	—	15**	15	10	10	35	20	50	

Zone District	Use	Minimum Lot Size		Yards, Principal Building			Yards Accessory Building		Maximum Building Height		Maximum Building Coverage	
		Area (sq. ft. or acres)	Width (feet)	Front and Side Front (feet)	Each Side (feet)	Rear (feet)	Side (feet)	Rear (feet)	Principal (feet)	Accessory (feet)	Principal % of Lot	Accessory % of Rear Yard
	*Gasoline stations and motor vehicle repair shops	10,000 sq. ft.	100	—	15**	15	10	10	18	18	50	
	*Hotels and motels	—	—	—	—	—	—	—	—	—	—	
	*Townhouses	—	—	—	15**	15	10	10	35	20	50	
W-D	Uses dependent upon proximity, access or utilization of water	10,000 sq. ft.	75	10	15	15	15	15	35	20	50	(As determined by village board)
	Uses enhanced by waterfront location			(Waterside—40 ft.)			(Waterside—40 ft.)					

*Special use permit required.

**Where abutting any other district, side yards are required equal to the minimum required in the abutting district if greater.

***Development plan required.

Note: All parcels of land located in the above districts are subject to the restrictions and regulations of the Nondevelopment District [see Section 10A7] where a part or all of the parcel contains an area having a natural slope of 20 percent or greater. (Code 1978, app. B, § 8; L.L. No. 1-1973; L.L. No. 6-1979, § 9; L.L. No. 8-1983; L.L. No. 3-1984, § 3; L.L. No. 3-1987, § 3; L.L. No. 9-1987, § 1; L.L. No. 1-1991, § 1; L.L. No. 01-2005)

Sec. 9. District regulations.

A. *R-1 District: Low Density Residential Single-Family District.*

R-1a District: Medium Density Residential Single-Family District.

1. *Permitted principal uses.*
 - a. Single-family dwellings.
 - b. Single-family cluster residential developments subject to the requirements and procedures of section 10R.
 - c. Churches and other similar places of worship, parish houses, convents and other such facilities of recognized religious groups.
 - d. Municipal parks, playgrounds and recreation areas deemed necessary and appropriate by the village board.
 - e. Public buildings.
 2. *Permitted accessory uses.*
 - a. Private garages.
 - b. Home occupation and other customary accessory uses that are clearly incidental to the principal use and do not include any activity commonly conducted as a business. There shall be no external evidence of such use except an announcement or professional sign not over two square feet in area.
 - c. Other customary residential structures such as private swimming pools, fireplaces, trellises, lampposts and animal shelters for domestic pets of the household.
 - d. Signs in accordance with section 13.
 - e. Parking in accordance with section 12.
 3. *Uses permitted with a special use permit subject to the requirements of section 11.*
 - a. Public utility uses.
 - b. Certain limited personal service.
 - c. Private clubs.
 - d. Hospitals, philanthropic and charitable institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two acres in area, nor shall any part of such use be permitted within 20 feet of any street line or lot line.
 - e. In R-1a Districts only—Bed and breakfast residences.
- B. *R-2 District: Residential Two-Family District.*
1. *Permitted principal uses.*
 - a. All uses permitted in R-1 and R-1a Districts, section 9A, part 1, subject to all the restrictions specified therein.

- b. Two-family dwellings.
- c. Townhouses.
- 2. *Permitted accessory uses.*
 - a. All accessory uses permitted in R-1 and R-1a Districts, section 9A, Part 2, subject to all restrictions specified therein.
- 3. *Uses permitted with a special use permit subject to the regulations of section 11.*
 - a. Public utility uses.
 - b. Certain limited personal services.
 - c. Private clubs.
 - d. Hospitals, philanthropic and charitable institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two acres in area, nor shall any part of such use be permitted within 20 feet of any street line or lot line.
 - e. Reserved.
 - f. Bed and breakfast residences.

C. *R-3 District: Residential Multifamily District.*

- 1. *Permitted principal uses.*
 - a. All uses permitted in R-2 districts, section 9B, part 1, subject to all the restrictions specified therein.
 - b. Garden apartments and town house apartments, subject to the requirements and procedures of section 10R.
 - c. Clubs and lodges, excepting such clubs and lodges the chief activity of which is a service customarily carried on as a business or primarily for gain. In conjunction with such club or lodge, a dining room may be operated provided it is incidental to the activities of said club or lodge and is conducted for the benefit of the members thereof only, and further provided that no signs be displayed advertising such activity.
 - d. Fraternity and sorority houses.
 - e. Hospitals, philanthropic and charitable institutions and similar uses. No such use, however, shall be established or permitted on a parcel of land less than two acres in area, nor shall any part of such use be permitted within 20 feet of any street line or lot line.
- 2. *Permitted accessory uses.*
 - a. All accessory uses permitted in R-1a districts, section 9A, part 2, subject to all restrictions specified therein.

3. *Uses permitted with a special use permit subject to the regulations of section 11.*
 - a. Public utility uses.
 - b. Tourist homes.

D. B District: General Business District.

1. *Permitted principal uses subject to the requirements of section 10R.*
 - a. Retail business establishments which are clearly of a community service character, such as, but not limited to the following:
 - i. Stores selling groceries, meats, baked goods and other such food items.
 - ii. Drugstores.
 - iii. Stationery, tobacco and newspaper stores, luncheonettes, and confectionery stores.
 - iv. Hardware, radio and television stores.
 - v. Clothing, accessory and jewelry stores.
 - vi. Restaurants and drinking places provided all service and on-premises consumption take place within an enclosed building except, that after notification by registered or certified mail of all owners of abutting property and subsequent acceptance in writing by said property owners, and subject to the recommendation by the planning commission and subject to all conditions imposed by said commission, service and consumption may also take place in completely defined outdoor cafe areas.
 - vii. Churches, libraries and other public and quasi-public buildings.
 - b. Personal service establishments which are clearly of a community character, such as, but not limited to the following:
 - i. Barber[shops] and beauty shops.
 - ii. Professional and craft studios.
 - iii. Tailor shops, dry cleaning pickup stations and self-service laundries.
 - iv. Business and professional offices, banks and financial institutions.
 - v. Funeral homes.
 - vi. Establishments servicing goods such as those permitted under part 1.a. of section 9D.
 - vii. Public utility offices and substations.
 - c. Equipment sales and service.
 - d. Commercial recreation uses such as bowling alleys.
 - e. Theaters and places of public assembly.
 - f. Wholesale businesses such as wholesale tobacconists, candy stores and the like, which, within the opinion of the board of trustees, will not be detrimental to or endanger public safety.

- g. Other business uses which, in the opinion of the board of appeals, are similar in nature and scale to those permitted above.
 - h. Combined uses of single bedroom apartments with the permitted uses set forth above in paragraph 1. a. and b.
2. *Permitted accessory uses.*
- a. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.
 - b. Dwelling units, accessory to the principal business use, provided said units are:
 - i. Located in the principal building.
 - ii. In compliance with the area and yard requirements of the R-3 district, except side yard requirements which shall be waived when the dwelling units are above the first floor and the first floor is used commercially.
3. *Uses permitted with a special use permit subject to the regulations of section 11.*
- a. Public utility uses.
 - b. Hospitals, philanthropic and charitable institutions.
 - c. Automobile sales and service.
 - d. Shops for custom work or making articles or products to be sold at retail on the premises.
 - e. Private clubs.
 - f. Hotels and motels.
 - g. Gasoline stations.
 - h. Motor vehicle repair shops.
 - i. Combined uses of gasoline stations with convenience food stores which use is permitted only in that portion of the B-1 district bounded on the north by Cayuga Street; on the south by Seneca Street; on the west by 8th Street and on the west side of Portage Road and excluding any portion of the bowling alley property TM#101.15-1-06 which lies within the boundary area.
 - j. Bed and breakfast residences.
 - k. Reserved.

E. *RB District: Restricted Business District.*

1. *Permitted principal uses subject to the requirements of section 10R.*
- a. Personal service and retail establishments which are of a community character such as, but not limited to, the following:
 - 1. Barber[shops] and beauty shops.
 - 2. Professional and craft studios.
 - 3. Tailor and dressmaking shops.

4. Business and professional offices.
5. Public utility offices.
6. Florists, galleries, clothing and accessory shops; stores selling gifts, stationery, books and jewelry.
- b. Other business uses which, in the opinion of the zoning board of appeals, are similar in nature and scale to those permitted above.
2. *Permitted accessory uses and substations.*
 - a. All accessory uses permitted in the B district, section 9D, part 2.
3. *Uses permitted with a special use permit subject to the regulations of section 11.*
 - a. Public utility uses.
 - b. Hospitals, philanthropic and charitable institutions.
 - c. Private clubs.
 - d. Restaurants.
 - e. Banks and funeral homes.
 - f. Bed and breakfast residences.

F. O-P District: Open and Public District.

1. The intent of the district is to delineate publicly owned and/or open areas.
2. Lands owned by the village may, at the discretion of the village, be leased for the purpose of establishing senior citizen community facilities. At such time, the height and bulk of buildings to be erected, the area of yards and other open spaces and the population density limitations will be determined by the board of trustees together with such other regulations deemed necessary. As a procedural matter, the board of trustees will treat any consideration as if it were a special use permit and follow such procedures as outlined in the law.
3. No use, structure or accessory use or structure shall be undertaken along the shoreline that will contribute to flooding and erosion or inhibit public control efforts, permanently reduce existing access, substantially reduce public vistas or jeopardize coastal resources in accordance with the adopted local waterfront revitalization program for the Village of Lewiston.

G. R-4 District: Residential Multi-Family-Professional Office District.

1. *Permitted principal uses.*
 - a. All uses permitted in R-3 districts, section 9C, part 1, subject to all the restrictions specified therein.
2. *Permitted accessory uses.*
 - a. All accessory uses permitted in R-3 districts, section 9C, part 2, subject to all restrictions specified therein.

3. *Uses permitted with a special use permit subject to the procedures and regulations of section 10R and section 11.*

- a. All uses set forth in R-3 districts, section 9C, part 3, subject to all restrictions specified therein.
- b. Professional offices or the combined use of professional offices with dwelling units.

H. *R-5 District: Residential Townhouse District.*

1. *Permitted principal uses.*

- a. All uses permitted in R-1 districts, section 9A, part 1, subject to all the restrictions specified therein.

2. *Permitted accessory uses.*

- a. All accessory uses permitted in R-1a districts, section 9A, part 2, subject to all restrictions specified therein.

3. *Uses permitted with a special use permit subject to the procedures and regulations of section 10R and section 11.*

- a. Townhouse dwellings.

I. *W-D District: Waterfront Development District.*

1. *Permitted principal uses subject to the requirements of section 10R.*

- a. Uses which depend on proximity, access and/or utilization of the water including, but not limited to, the following:
 1. Boat liveries and marinas.
 2. Boat and boating accessories service, repair, sales and rental.
 3. Fishing and tackle equipment and supplies sales.
 4. Flood and erosion protection structures.
- b. Uses which are enhanced by a waterfront location and proximity to water-dependent uses including, but not limited to, the following:
 1. Tourist facilities (restrooms, snackbars, information areas, cultural and recreation facilities).
 2. Restaurants and eating establishments.
 3. Hotels and motels.
 4. Bed and breakfast residences, tourist homes.
 5. Retail and service facilities complementary to the above uses.
- c. Other water-related uses which, in the opinion of the zoning board of appeals, are similar in nature to those permitted above and are consistent with the adopted Village of Lewiston Local Waterfront Revitalization Program.

2. *Permitted accessory uses.*

- a. Parking areas in accordance with section 12.
- b. Temporary boat and boating equipment storage.
- c. Signs in accordance with section 13.
- d. Other accessory uses incidental to those permitted above.

J. *RB-2 District: Retail Business District.*

1. *Permitted principal use is subject to the requirements of section 10R.*

- a. Retail business and personal service establishments as follows provided that such uses promote or enhance the continuity of use as a retail shopping area, promotion of pedestrian traffic and enhancement of aesthetic qualities of the area:
 1. Stores selling groceries, meats, baked goods and other foods.
 2. Drug stores.
 3. Stationary, tobacco, newspaper stores, luncheonettes and confectionery stores.
 4. Hardware, radio and television stores.
 5. Clothing, accessory and jewelry stores.
 6. Restaurants and drinking places.
 7. Barber and beauty shops.
 8. Professional and craft studios.
 9. Professional offices which provide legal, medical, architectural, accounting or real estate services.
 10. Tailor shops, and dry cleaning pick-up stations.
- b. Other retail business and personal services establishments which, in the opinion of the board of trustees, are similar in nature to those permitted above and are consistent with the promotion of pedestrian traffic and enhancement of the aesthetic quality of the district.

2. *Permitted accessory uses.* All accessory uses as are permitted in B districts, provided that they do not adversely affect the purpose set forth in paragraph 1.a.

3. *Uses permitted with a special use permit subject to the regulations of section 11.*

- a. Apartments when such use is combined with retail and personal service establishments as set forth in paragraph 1.
- b. Repair and service when such use is auxiliary to a retail use as set forth in paragraph 1.
- c. Business offices when such use is combined with retail business and personal service establishments as described in paragraph 1.

- d. Banks and financial institutions.
- e. Hotels and inns when such use will provide enhancement of pedestrian traffic.
- f. Bed and breakfast style establishments when such use is a secondary use of the premises.
- g. Theaters and places of public assembly.
- h. Public buildings.
- i. Private clubs when such use is a secondary use to the principal types of uses as set forth in paragraph 1.
- j. Shops for custom work or making of articles or products to be sold at retail on the premises.
- k. Other uses which, in the opinion of the board of trustees are similar in nature to those permitted above and are consistent with the promotion or enhancement of the district uses as a shopping area, promotion of pedestrian traffic and enhancement of aesthetic quality of the district.

(Code 1978, app. B, § 9; L.L. No. 9-1973, §§ 1—3; L.L. No. 3-1977, § 2; L.L. No. 6-1979, § 1; L.L. No. 7-1983, §§ 1, 2; L.L. No. 8-1983, §§ 1, 2; L.L. No. 3-1984, § 2; L.L. No. 11-1984, § 1; L.L. No. 13-1984, §§ 3—6; L.L. No. 5-1986, § 1; L.L. No. 3-1987, §§ 1, 2; Ord. No. 3-1987, §§ 4, 5; L.L. No. 4-1987, § 1; L.L. No. 9-1989, §§ 3—5; L.L. No. 2-1991, § 1; L.L. No. 6-1991, §§ 2—5; L.L. No. 11-1991, § 1)

Sec. 10. General provisions and permitted modifications.

A. Preservation of natural features.

- 1. No structure other than bridges shall be built within 50 feet of a stream carrying water on an average of six months of the year except in the case of the Niagara River nor on land subject to periodic overflow.
- 2. Structures on parcels abutting on the Niagara River must be in conformity with the requirements of federal and state laws and international treaties.
- 3. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale, or for use other than on the premises from which the topsoil shall be taken except in connection with the construction or alteration of a building in such premises and excavation or grading incidental thereto, provided such stripping, excavation or otherwise removal of topsoil complies with chapter 16, stormwater management, of the village Code.
- 4. As to any area of land having an area of more than one acre from which topsoil has been removed or covered over by fill, such area shall be seeded to provide an effective cover crop within the first growing season following the start of said operation, provided that any such seeding and topsoil removal or coverage over by fill shall comply with chapter 16, stormwater management, of the village Code.

5. Existing natural features such as trees, brooks, drainage channels and view/vistas shall be retained. Whenever such features interfere with the proposed uses of such property, retention of the maximum amount of such features consistent with the use of the property shall be required. No use shall be undertaken which eliminates or substantially reduces the view/vista of an existing property due to height, bulk or orientation of structure.
6. The existing Niagara escarpment shall not be breached, excavated, blasted or otherwise altered or damaged.
7. For the purpose of preserving the natural features in all areas in the Village of Lewiston having natural slopes of not less than 20 percent, i.e., a vertical rise in ground elevation of 20 feet within a horizontal distance of 100 feet, no development permitted by the district within which such slope occurs shall be permitted on such slope until the requirements and procedures set forth in this local law and section 10R have been complied with.

B. Lot and yard regulations and modifications.

1. No lot shall have erected upon it more than one principal building.
2. No yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered to provide a yard or open space for any other building.
3. All yards, open space, off-street parking, and required landscaping must be contained within the zone in which the use is permitted.
4. Where a district boundary line divides a lot which is in single or joint ownership of record at the time such line is adopted, the regulations of the less restricted district shall apply to the portion of such lot lying within the less restricted district and the regulations of the more restricted district shall apply to that portion of the lot lying within the more restricted district.
5. When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this ordinance either with respect to any existing structures or use and any proposed structures or use.
6. No lot shall be so reduced in area that any required open space will be smaller than prescribed in the regulations for the district in which said lot is located. Whenever such reduction in lot area occurs, any building located on said lot shall not thereafter be used until such building is altered, reconstructed, or relocated, so as to comply with the area and yard requirements applicable thereto.
7. Any lot separately owned and recorded on the tax map of the Village of Lewiston at the time of enactment of this ordinance which has a width of less than the prescribed

number of feet permitted in an applicable district may be used as a building lot if it shall have sufficient area to permit the required front and rear yard setbacks within such district and in accordance with section 10, subsection B 10.

8. Any lot in a subdivision heretofore approved by the planning commission at the time of enactment of this ordinance which contains lots having a width of less than the prescribed number of feet permitted by this ordinance may be sold and a residence constructed thereon, notwithstanding the provisions of the ordinance.
9. Notwithstanding the limitations imposed by the foregoing or any other provisions of this ordinance, the board of appeals may permit erection of a dwelling on any lot, separately owned or under contract of sale and containing at the time of passage of this ordinance an area, width or depth smaller than that required for a one-family dwelling provided the lot and proposed dwelling comply with the pre-existing ordinance.
10. In the case of lots which comply with the provisions for modification of size under paragraph 9, the combined total side yard requirements as specified in the schedule shall be reduced by six inches for each foot by which a lot is less than the minimum lot width requirement specified in the schedule for the zone in which located. In any case, the side yard area shall be reduced to not less than 50 percent of the requirement of the schedule.
11. Terraces: A paved surface shall not be considered a part of the building in the determination of yard sizes, provided, however, that such surface is unroofed and without walls, parapets, or other form of enclosure. Such surface, however, may have an open guard railing not over three feet high, and shall not project into any yard to a point closer than four feet from any lot line.
12. Corner lots: On every corner lot in a residential district there shall be provided on the side street a side yard equal in depth to that required for the front yard depth of the side street.

C. Accessory building.

1. An accessory building attached to a principal building shall comply in all respects with the yard requirements of this ordinance for the principal building.
2. Detached accessory buildings shall comply in all respects with the yard requirements for accessory buildings specified in the zoning schedule, section 8.
3. For the purpose of regulating the locations of accessory buildings on corner lots and on lots extending through between two parallel streets, all portions of a corner lot or a through lot which fronts on a public street shall be subject to the front yard requirements of the zone district in which said corner lot or through lot is located.
4. Accessory buildings, including but not limited to, private garage and house trailer, shall not be placed within a required front yard. Undue hardship cases shall be treated by the zoning board of appeals as a variance request.

D. Street frontage.

1. Every principal building shall be built upon a lot with frontage upon a public street improved to meet the village's requirements.
2. Where a building lot has frontage on a street which is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.

E. Height modifications and exceptions.

1. In any district any principal building may be erected to a height in excess of that specified for the district provided such front, side, and rear yard is increased one foot for each one foot of such additional height and with the approval of the zoning board of appeals. Prior to such approval, the building plan shall be submitted to the fire chief for his recommendation as regards fire prevention, safety, alarms and fighting.
2. The height limitation of this ordinance shall not apply to church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulkheads and similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve and shall not exceed in cross-sectional area 20 percent of the ground floor area of the building.
3. The provisions of this ordinance shall not apply to prevent the erection above the building height limit of parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five feet.

F. Visibility at intersections.

1. At all street intersections, no obstructions to vision such as a wall, fence or hedge exceeding 30 inches in height above the established grade of the street or the property line, except a single post or tree, shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between points along such street lot lines 30 feet distant from their point of intersection.
2. At such intersections, no tree shall be planted or allowed to remain between the said pavement or roadbed and the street lines of adjoining lots, whose lower or lowest limbs shall be within eight feet of the ground; and no signs of greater area than four square feet shall be erected, maintained or used within 200 feet of such intersections, measured on the street or lot line.

G. Fences, walls or hedges.

1. *Permit required.* It shall be unlawful for any person to erect, construct, relocate, or maintain a fence or hedge in any district without first having obtained a permit from the zoning board of appeals if said fence is in excess of the following specifications:
 - a. On a front lot —four feet in height;

- b. On a side lot line in a front yard—four feet in height;
 - c. On a side lot line in a side or rear yard—six feet in height;
 - d. On a rear lot line—six feet in height.
2. *Application.* Applicant shall file an application for a building permit accompanied by a drawing or sketch showing location and detail of general construction. The applicant shall also furnish a signed statement by all abutting property owners saying that they agree to the construction and have no objections.
 3. *Refusal.* In the event the applicant cannot secure the consent of all abutting property owners, then he shall have the right to call for a public hearing before the zoning board of appeals in the usual manner. The board shall have the power to approve the application, basing their decision on the merits of the case.
 4. *Measure.* The height of a fence, wall or hedge shall be measured from the ground level at the base of the fence, wall or hedge.
 5. *Appearance.* All support portions of a fence, including vertical supports, if visible, shall be placed on and face the interior of the property upon which the fence is erected.

These restrictions shall not be applied so as to restrict the erection, alteration, or reconstruction of fences used in connection with farms except insofar as such fences might affect the public safety.

These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

H. *Swimming pools.*

1. No swimming pool shall be constructed, installed or maintained on any premises within the village except in compliance with all the provisions contained in the Code.
2. The term "swimming pool" or "pool" as used in this article shall mean any body of water or receptacle for water, having a depth at any point greater than two feet, constructed, installed, or maintained in or above ground for swimming, bathing or immersion therein.
3. No person shall construct, install, enlarge or alter a swimming pool without having first applied for and secured approval of the issuance of a permit from the building inspector on such form as he may prescribe. Such application shall be accompanied by plans and specifications with sufficient detail to establish that it will be constructed in accordance with the requirements of the Code and shall include the following:
 - a. Pool dimensions, depths, volume in gallons, the distance of the pool from all lot lines, existing and proposed structures, if any.
 - b. Location and type of pool fencing and means used to prevent unauthorized access to the pool.

4. Fencing of swimming pools.
 - a. All swimming pools shall be completely enclosed by a fence. All fence openings, or points of entry into the pool area enclosure shall be equipped with gates. The fence and gates shall be a minimum of four feet in height above the grade level and shall be permanent construction of suitable quality, strength and durability to prevent entry into the swimming pool area. All gates shall be equipped with self-closing and self-latching devices for keeping the gate securely closed and locked at all times, when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.
 - b. In the case of aboveground swimming pools which have fencing or other suitable barriers as a part of their construction which would prevent access, additional fencing will not be required provided that the ladder or gates have a means of preventing access to the pool (i.e., a foldup affair or some means of preventing the use of the ladder to gain access to the pool).
5. Location of swimming pools filters and other mechanical devices.
 - a. No swimming pool shall be located within the required front yard.
 - b. No portion of the swimming pool shall be located at a distance less than five feet from any property line.
 - c. Filter pumps and other mechanical devices used in connection with a swimming pool shall be located at least five feet away from the property line and be so constructed as to not interfere with comfort, repose, health, peace or safety of occupants of adjoining premises.
6. If not otherwise provided for in the building code, the electrical installation providing power to the recirculation system shall be circuited through a ground-fault connector in operating condition.
7. If the use of any swimming pool shall be abandoned or permanently discontinued, the owner, in the case of an in ground pool, shall completely fill the pool and return the surface of the ground to its original grade and approximately to the same condition as existed before the pool was constructed, and in the case of an aboveground pool, the owner shall disassemble and remove the pool and return the surface of the ground to its original grade and approximately the same condition as existed before the pool was constructed.
8. The building inspector may inspect all swimming pools to determine whether or not the provisions of this Code regarding health, sanitation and safety applicable thereto are being met and may enter the premises for the purposes of determining compliance therewith.

I. *Moving of buildings.* The moving of any building from any place to a new site within any use district shall be deemed to be an erection or construction and as such, shall be subject to all provisions of the building code and zoning ordinance. Permits shall be granted only by the

zoning board of appeals, after public hearing. A surety bond in an amount satisfactory to the village board of trustees or the superintendent of public works shall be furnished by the applicant to indemnify and save harmless the said Village of Lewiston from damages.

J. *Surface waters and grading.* No improvement on any plot or lot shall be made in such a way as to cause or permit surface water to overflow onto any public highway or abutting property in such manner as to interfere with the natural drainage of the land. A drain, ditch or swale of sufficient size where required shall be provided between abutting properties to carry surface water in the direction of natural drainage of the land.

K. *Storage of flammable liquids.* The storage of flammable liquids shall be entirely underground in storage tanks approved by the New York State Board of Fire Underwriters and having a pipe layout satisfactory to the building inspector. Safety containers shall be used within any building or structure in which flammable liquids are handled.

L. *Clean-up requirements.* No person shall permit uncut grass, weeds, brush, rubble, trees, etc., abandoned scrap of any nature, machinery, building material or other such debris on real property.

- (a) The property owner shall be responsible to have grass, bushes, shrubs, trees, cut and trimmed to conform to the character of the surrounding homes and businesses.

M. *Dumping.* Dumping of refuse, waste material and other substances is prohibited in all districts in the village except for the purpose of filling to establish grades for which a permit must be obtained from the village board, provided that any such filling is consistent with the provisions of article IV, storm sewers, of chapter 20 of the village Code, and chapter 16, stormwater management, of the village Code.

N. *Nonoperating motor vehicles.* The dismantling, storage, or salvaging of motor vehicles not in legally operable condition shall not be permitted except within an enclosed building or within a licensed junkyard, and shall in no case be permitted within a required front yard.

O. *Unsafe buildings.*

1. A building or structure or any part thereof that may be or shall at any time hereafter become dangerous or unsafe shall, unless made safe and secure, be taken down and removed.
2. No building damaged by fire or any other cause to the extent of more than 50 percent of its full valuation shall be repaired or rebuilt except in conformity with the regulations of this ordinance.
3. If the building inspector shall determine that any building or other structure shall be unsafe or dangerous to person or property, he shall serve or cause to be served a written notice upon the owners and occupants thereof or such of them whose identity and whereabouts can be determined, and if such person shall within 30 days of a written notice fail to comply with the requirements of the notice, the village board shall be advised of the facts in the case and shall have the power to take appropriate action to compel compliance, including demolition in compliance with the Local Law of the

Village of Lewiston thereof, the cost of which shall be a lien on the property superior to any other lien and which shall be recovered in the same manner and at the same time as village and county taxes.

4. Except so far as may be necessary for the safety of life or property, nothing in this ordinance shall require the removal, alteration or abandonment of, nor prevent the continuance of, the use and occupancy of a lawfully existing building.

P. Special regulations applicable to all residential districts.

1. No use which is noxious or offensive by reason of refuse, matter, dust, odor, smoke, gas, fumes, noise, vibrations, unreasonable use of lights or nighttime operations shall be permitted.
2. No accessory structure exceeding 15 feet in height, except when specifically stated in the schedule, shall be permitted.
3. Any owner of camping and recreational equipment may park or store such equipment on private residential property subject to the following conditions:

- a. At no time shall such parked or stored camping and recreational equipment be occupied or used for living, sleeping, or housekeeping purposes.
- b. If the camping and recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front building line of the lot. The requirements of this sub-paragraph may be waived by action of the village board who may issue a conditional parking permit provided, however, a request for such conditional permit is supported by evidence presented to the board by the owner of the property upon which said exception is requested showing that, because of topography, or some other physical condition, enforcement of this section would create an unusual and undue hardship.
- c. Notwithstanding the provisions of sub-paragraph b., camping and recreational equipment may be parked anywhere on the premises for loading and unloading purposes, for a period of not more than 48 hours, so long as such parking for loading or unloading purposes does not obstruct the view of driveway vehicular and pedestrian traffic of adjoining or abutting properties.
- d. All recreational equipment must be kept in good repair and be licensed during some portion of the current year.
- e. The parking or storage of an unoccupied mobile home, being a movable or portable dwelling, constructed to be towed on its own chassis and connected to utilities and designed without a permanent foundation for year round living is specifically prohibited.
- f. The board of trustees by resolution adopted at a stated meeting shall fix the time and place of an information meeting on the proposed conditional parking permit and cause notice thereof to be given by publication.

- g. Fee for conditional parking permit shall be as established by the board of trustees.
 - h. If conditions under which the conditional parking permit was issued are not adhered to, the board of trustees shall notify the permit holder of such noncompliance by registered letter. If the permit holder fails to correct the noncompliance within ten days, the board of trustees may rescind the permit.
 - i. No front yard shall be used for the storage of boats, camping trailers, utility trailers, motorized camping vans or similar vehicles except as provided by this ordinance.
- 4. Not more than one commercial vehicle shall be parked out-of-doors overnight or on Sunday in conjunction with a dwelling unit in any residential district. No vehicle for commercial display purposes shall be stored in any residential district at any time.
 - 5. In any residential district, no accessory building shall be erected in any required yard, except that accessory buildings may occupy in the aggregate up to 20 percent of a required rear yard.
 - 6. The servicing, maintenance, experimentation, adjustment, or other such manner of work upon a motor vehicle or other such noise-producing activity conducted in connection with or through the use of motor vehicles shall not be permitted except for such activity conducted by the owner or his employees upon the owner's premises in cases of emergency.
 - 7. In a residential district, there shall be no outside storage of any unregistered and/or unlicensed motor vehicle for a period longer than 30 days in any calendar year providing that such unregistered and/or unlicensed motor vehicle, notwithstanding the year in which the same shall have been manufactured, is at all times while being so stored kept in such condition and maintained with such equipment that it will meet the minimum requirements to pass the New York State Motor Vehicle Inspection standards as provided by the Vehicle and Traffic Law of the State of New York and all rules and regulations promulgated by the commissioner of motor vehicles for the periodic inspection of motor vehicles in the State of New York and as the same may be amended from time to time. This section shall not apply to an owner of such unregistered and/or unlicensed motor vehicle who is a member of the armed forces while serving on active duty.

There shall be no outside storage in a residence district of motor vehicle parts at any time.
 - 8. Kennels for the keeping of and breeding of dogs or other animals as an accessory use shall not be in any front yard and shall be set back from all property lines a minimum distance of 50 feet.
 - 9. In residential districts, the number of motor vehicles for which parking space may be provided as accessory to an authorized use shall not exceed the following:
 - a. In R-1 and R-2 districts, two motor vehicles, and for each 5,000 square feet by which the lot exceeds 5,000 square feet, space for one additional motor vehicle may be provided.

b. In an R-3 District, two motor vehicles for a one-family or two-family dwelling.

Q. Special regulations applicable to all business and industrial districts.

1. *Business district manufacture or repair.* The number of persons engaged in the manufacture of articles or the fabrication of goods or articles shall not exceed two in any establishment in a B district. The individual and total horsepower of machinery used for such purposes in any such establishment shall not exceed ten h.p. and 20 h.p., respectively. Manufacture shall be limited to that incidental to retail sale on the premises. Motors operated by other than electrical power will require review and recommendation of the village planning commission.
2. *Automobile service equipment.* All garage and filling station pumps, lubricating or other automobile devices shall be located at least 20 feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least 35 feet distant from any street line or lot line. No public garage for more than five motor vehicles shall have any entrance or exit for such vehicles within 50 feet of a residential district, any school, any church, or any institution for the residence, training or treatment of children or handicapped persons.
3. *Outdoor display.* Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this ordinance.
4. *Side yard and rear yard transition.* Where a lot in a business or industrial district abuts a lot in a residential district, there shall be provided along such abutting line a yard equal in width and depth to that required in the residential district, which yard shall be maintained by the owner as a landscaped buffer area.
5. *Front yard transition.* Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as business or industrial, the front yard depth in the business or industrial district shall be equal to the required front yard depth of the residential district for a distance of 50 feet into the business or industrial district.
6. *Business entrances on residential streets.* Where a residential district is bounded by a portion of a B-1 district, or a B-2 district, any side street extending through such residential district into such B-1 or B-2 district shall not be used for any business purposes, except as herein set forth. The business structures erected in either of such business districts shall face and open upon the street set aside for that particular business district, except that show windows in such business structure may be built and exposed upon said street within the area set aside as part of either of said business district and an entrance may be made at the corner. Other entrances thereto must face the business street, except that entrances may be made from such residential street to the upper stories of such business structure.

7. *Adult use businesses.*

- a. No adult use business shall be located within 1,000 feet of a park, school, day care center, library or religious or cultural activity.
- b. No adult business shall be located within 1,000 feet of any other business, agricultural or residential zone boundary.
- c. Such distances shall be measured in a straight line without regard to intervening structures, topography and zoning.
- d. Said business shall not be permitted as a home occupation, and a special-use permit shall be obtained for all adult use businesses.
- e. A special use permit shall be obtained for all adult use businesses subject to the regulations of section 11.

R. *Development plan procedures and regulations.*

1. *Purpose.* The purpose of the development plan regulations is to encourage flexibility in the design and the development of land in order to promote its most appropriate use; to facilitate the adequate and economical provisions of streets, utilities and public spaces and to preserve the natural and scenic qualities of open areas. The procedure is intended to permit regulation of the location of structures and improve circulation facilities and other site qualities and to ensure the application of adequate standards relating to public health, safety and welfare and convenience both in the use and occupancy in buildings and facilities.
2. *Applicability.*
 - a. No single-family cluster residential development or garden apartment or town house apartment nor any other building constituting a part thereof shall be erected, altered, restored or have its exterior architectural features changed without first having followed the procedures contained in this section and had its development plan approved as provided for herein.
 - b. No building located in the business or restricted business district or in an area defined in section 10A7 shall be erected, altered, restored or have its exterior architectural features changed without first having followed the procedures contained in this section and having had its development plan approved as provided herein.
 - i. A change in color of the building, or trim as the case may be, shall not be considered a change in architectural feature, provided that the change in color shall be of a singular color and uniformly applied to the surface of the building.
3. *Application.*
 - a. *Preliminary development plan—First submission.* The owner shall submit a preliminary development plan to the planning commission for review, which shall include the following information:
 - i. Proposed site plan, showing building locations, land use areas, traffic circulation, parking, pedestrian walks, and landscaping.

- ii. Proposed construction sequence for buildings, parking and landscaping.
- iii. A stormwater pollution prevention plan (SWPPP), if required by chapter 16, stormwater management, of the village Code, together with the recommendation of the stormwater management officer to approve, approve with modifications, or disapprove the SWPPP pursuant to section 16-4(b) of the village Code.

The planning commission shall review the preliminary development plan with the owner and shall prepare general recommendations with regard to the plan. The planning commission shall then send a copy of its recommendations to the owner indicating its approval in principle and any specific changes required, or its disapproval.

- b. *Development plan—Second submission.* The owner shall submit a plan to the planning commission which plan shall be prepared by an architect, landscape architect, engineer, land surveyor or planner, and shall include the following information:
 - i. Survey showing exterior features of the property including contours, buildings, structures, large tree trunk diameter, trees, utilities, rights-of-way and land-use.
 - ii. Site plan showing building locations, land use areas, traffic circulation, parking, pedestrian walks, landscaping and trading.
 - iii. Preliminary drawings for buildings delineated to be constructed in the current phase, including floor plans, exterior elevations in sections and architectural renderings as required for proper review.
 - iv. Preliminary engineering plans, including street improvements, drainage systems, public utility extensions, and feasibility studies of any anticipated problems which might arise due to the proposed development as required by the planning commission.
 - v. Construction sequence and time schedule for completion of each phase of the development plan.
 - vi. Such other information as may be required or requested to indicate that the plan complies with the regulations and standards contained herein.
 - vii. A stormwater pollution prevention plan (SWPPP), if required by chapter 16, stormwater management, of the village Code together with the recommendation of the stormwater management officer to approve, approve with modifications, or disapprove the SWPPP pursuant to section 16-4(b) of the village Code.
- 4. *Standards for review.* In making a determination, the following standards shall be utilized:
 - a. *General standards.*
 - i. The development plan shall be consistent with the regulations in paragraph 5.

- ii. The uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under another use.
 - iii. The proposed development is in conformance with the general intent of the comprehensive master plan and consistent with the policies and purpose of the Village of Lewiston Local Waterfront Revitalization Program.
 - iv. The planned development shall provide for an effective and unified treatment of the development possibilities on the project site making appropriate provisions for the preservation of scenic features and amenities of the site and the surrounding areas.
 - v. The planned development shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site.
 - vi. Existing and proposed utility services are adequate for the proposed development.
 - vii. Each phase of the proposed development, as it is proposed to be completed, complies with the standard necessary for creating and sustaining a desirable and stable environment; and all phases can be completed within three years of approval of the development.
- b. *Design standards.*
- i. All buildings in the layout and design shall be an integral part of the development and have convenient access to and from adjacent uses and blocks.
 - ii. Individual buildings shall be related to each other in design, masses, materials, placement and connections to provide a visually and physically integrated development.
 - iii. Treatment of the sides and rear of all buildings within the planned development group shall be comparable in amenity and appearance to the treatment given to street frontage of these same buildings.
 - iv. The design of buildings and the parking facilities shall take advantage of the topography of the project site where appropriate to provide separate levels of access.
 - v. All buildings and walls shall be so oriented as to ensure adequate light and air exposure to the rooms within.
 - vi. All buildings shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities wherever possible and shall be so oriented as to preserve visual and audible privacy between adjacent buildings.
 - vii. All buildings shall be arranged as to be accessible to emergency vehicles.

c. *Landscape design standards.*

- i. Landscape treatment for plazas, roads, paths, service and parking areas shall be designed as an integral part of a coordinated landscape design for the entire project area.
- ii. Primary landscape treatment shall consist of shrubs, ground cover, and street trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape materials selected shall be appropriate to the growing conditions of the village's environment.
- iii. Whenever appropriate, existing trees shall be conserved and integrated into the landscape design plan.
- iv. All streets bordering the project areas shall be planted at appropriate intervals with street trees.

d. *Circulation system design standards.*

- i. Existing and proposed streets are suitable and adequate to carry anticipated traffic within, and in the vicinity of the proposed development.
- ii. There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space.
- iii. Roads, pedestrian walks and open space shall be designed as integral parts of an overall site design. They shall be properly related to existing and proposed buildings, and appropriately landscaped.
- iv. Buildings and vehicular circulation open spaces shall be arranged so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic.
- v. Landscaped, paved and comfortably graded pedestrian walks shall be provided along the lines of the most intense use, particularly from building entrances to streets, parking areas and adjacent buildings.
- vi. Materials and design of paving, lighting fixtures, retaining walls, fences, curbs, benches, etc., shall be of good appearance, easily maintained, and indicative of their function.

e. *Parking and loading design standards.*

- i. Parking facilities shall be landscaped and screened from public view to the extent necessary to eliminate unsightliness and monotony of parked cars.
- ii. Pedestrian connections between parking areas and buildings shall be via special pedestrian walkways.
- iii. Parking facilities shall be designed with careful regard to orderly arrangement, topography, landscaping, ease of access, and shall be developed as an integral part of an overall site design.

- iv. Any loading facility shall be screened from public view to the extent necessary to eliminate unsightliness.

f. *Stormwater standards.*

- i. All development shall be designed in accordance with the design standards in section 16-6 of the village Code.
- ii. If the development plan is accompanied by a stormwater pollution prevention plan (SWPPP) pursuant to section 10(R)(3) of this Ordinance, then such development plan and SWPPP shall comply with the requirements of chapter 16, stormwater management, of the village Code.

5. *Regulations.*

a. *Specific regulations for cluster residential development.*

- i. The provision for cluster residential developments is intended and designed to provide a means for the development of large tracts of land on a unit basis, by allowing greater flexibility and overall residential site design and building location than the conventional single lot method provided in other sections of this law.
- ii. Permitted uses: Single-family residences.
- iii. Minimum site size: Five acres with a 30 percent green space requirement.

b. *Specific regulations for garden apartments and town house apartment developments.*

- i. Apartment structures shall not exceed a density of 16 dwelling units per net acre of lot area, street area not included.
- ii. Driveways for ingress and egress for apartment developments shall connect with other than minor streets wherever possible; shall not be located within 200 feet or within one-half the length of the block, whichever is the lesser distance, of an existing street intersection and shall have a pavement width of at least 22 feet except where they are within a parking area, in which case they shall be not less than 25 feet in width.
- iii. The minimum yard requirements of the schedule (section 8) apply only to the entire tract, and no buildings shall be located within such yard areas.
- iv. The minimum distance between buildings in an apartment development shall be 25 feet except that no wall containing an entrance to an apartment shall be closer to another apartment building than 50 feet.
- v. The width of any outer court upon which windows from a living room, bedroom, or dining room open shall be not less than the height of any opposing wall forming said court. The depth of an outer court formed by walls on three sides shall be not greater than 1½ times the width.

- vi. The width of any outer court shall be not less than two-thirds the height of any opposing wall forming said court, and the depth shall not be greater than $1\frac{1}{2}$ times the width.
 - vii. The least dimension of an inner court shall be not less than the full height of the walls enclosing such court, but not less than 50 feet.
 - viii. An open and unobstructed passageway shall be provided at the grade level of each inner court. Such passageway shall have a cross-section area and sufficient headroom to permit the passage of firefighting equipment and shall be continuous from the inner court to a yard or an unobstructed open area between buildings.
 - ix. Parking areas may be located in any yard other than the required front yard but not closer than ten feet to any property line and shall comply with all other requirements of the regulations applicable to all zones in this ordinance.
 - x. Every apartment building shall have a minimum setback of 15 feet from all interior roads, driveways, and parking areas.
 - xi. Every apartment development shall be provided with garbage and refuse storage and collection areas screened from view, and away from the fronts of apartment buildings.
 - xii. In addition to any storage area within individual apartment dwelling units, 200 cubic feet of storage area shall be provided for each dwelling unit in a convenient, centrally located area in the basement or ground floor or elsewhere, where personal belongings and effects may be stored under lock and separated from the belongings and effects of other occupants.
 - xiii. A wall of an apartment structure or parallel walls of adjacent apartment structures shall not continue in the same plane for a horizontal length of more than 75 feet without an offset of at least four feet.
 - xiv. Each apartment development shall provide a playground area or areas at a standard of 500 square feet for each ten dwelling units. Outdoor play equipment shall be installed in each playground in sufficient amount and variety to service the occupants of the development.
 - xv. The entire area of an apartment development not improved for driveways, parking area or covered by building or walkways shall be attractively landscaped and properly maintained at all times.
- c. *Special regulations applicable to the business and restricted business districts.*
- i. Business district manufacture or repair. The number of persons engaged in the manufacture of articles or the fabrication of goods or articles shall not exceed two in any establishment in a B district. The individual and total horsepower of machinery used for such purposes in any such establishment shall not exceed ten horsepower and 20 horsepower, respectively. Manufac-

ture shall be limited to that incidental to retail sale on the premises. Motors operated by other than electrical power will require review and recommendation of the village planning commission.

- ii. Automobile service equipment. All garage and filling station pumps, lubricating or other automobile devices shall be located at least 20 feet from any street line or highway right-of-way. All fuel, oil or other flammable substances shall be stored at least 35 feet distant from any street line or lot line. No public garage for more than five motor vehicles shall have any entrance or exit for such vehicles within 50 feet of a residential district, any school, any church, or any institution for the residence, training or treatment of children or handicapped persons.
- iii. Outdoor display. Business structures or uses shall not display goods for sale purposes or coin-operated vending machines of any type in any location which would infringe upon the required yard areas specified in this ordinance.
- iv. Side and rear yard transition. Where a lot in a business or restricted business district abuts a lot in a residential district, there shall be provided along such abutting line a yard equal in width and depth to that required in the residential district, which yard shall be maintained by the owner as a landscaped buffer area.
- v. Front yard transition. Where the frontage on one side of a street between two intersecting streets is zoned partly as residential and partly as business or restricted business district, the front yard depth in the business or restricted business district shall be equal to the required front yard depth of the residential district for a distance of 50 feet into the business or restricted business district.
- vi. Business entrances on residential streets. Where a residential district is bounded by a portion of a business or restricted business district, any side street extending through such residential district into such business or restricted business district shall not be used for any business purposes, except as herein set forth. The business structures erected in either of such business or restricted business districts shall face and open upon the street set aside for that particular district, except that show windows in such business structures may be built and exposed upon said street within the area set aside as part of either of said business or restricted business district and an entrance may be made at the corner. Entrances thereto must face the business street, except that entrances may be made from such residential street to the upper stories of such business structures.
- vii. A review of a development plan for land located in a restricted business district shall take into consideration that the intent of the district is to serve as a buffer zone between the business and residential zones but to be as compatible as possible with the residential zones on which it borders. In

addition to the general purposes concerning development plans, all activities occurring or to occur shall be restricted so as to reduce inconvenience to residential zones.

- d. *Special regulations for combined uses of single-bedroom apartments with principal uses set forth in paragraphs 1a and 1b of section 9d.*
 - i. Total maximum area coverage: Total principal building coverage shall not exceed 20 percent of the total parcel area.
 - ii. Buildings, number: The number of principal buildings may be more than one.
 - iii. Building area coverage: Each principal building shall have an area of ground coverage of not less than 2,000 square feet nor more than 5,000 square feet.
 - iv. Building height: The height of buildings shall not exceed two stories in height plus roof structure.
 - v. Apartment density: Not more than 8 apartments per acre or fraction thereof shall be permitted.
 - vi. The uses permitted in paragraph 1 of section 9D with the exception of offices shall be limited to the ground floor.
 - vii. Apartments:
 - (a) Area: Each apartment shall have not less than 600 nor more than 1,000 square feet of usable area.
 - (b) Shall be limited to the second story.
 - (c) Shall be limited to one-bedroom apartments.
 - (d) No apartment shall be permitted in any one building unless combined with commercial and/or offices in the use of the total building.
- e. *General regulations.*
 - i. Subground level: Only accessory uses such as heating, laundry and storage shall be permitted in areas below ground level.
 - ii. All other requirements of this law shall be applicable to the development plan.
 - iii. Land use: Proposed land uses shall not adversely affect surrounding development.
 - iv. Such regulations contained in the subdivision regulations of the village as the planning commission may find applicable to the development plan.
 - v. The proposed site or lot to be developed shall set aside 30 percent of the site or lot to be devoted to seeding, planting, retention of tree cover, or other landscaping; this area shall be used for no other purpose.

- vi. All processes shall take place within an enclosed building; storage out-of-doors, if permitted, shall be shielded from view from the street and adjacent off-street parking area by fencing, landscaping or other appropriate measures.
- vii. Truck loading and unloading areas shall be provided in sufficient amount to permit the transfer of goods and materials in other than a public street, off-street parking area, or front yard; a landscaping screen of no less than six feet in height shall be required where off-street loading and unloading areas abut residential uses, so that such operation shall be shielded from view from such residences.
- viii. If, in parking areas, dividing isles are proposed, there shall be provided for the planting of one tree of a type acceptable to the village for each ten vehicle spaces; the parking area shall be illuminated by nonglare lighting standards focused downward to avoid back light.
- ix. Any vibration, glare, heat or noises resulting from the use of the premises shall not be evident beyond the property line.
- x. Any use of the premises shall not result in the dissemination of noxious dust, smoke, gas, chemicals or odors into the air.

6. *Approvals.*

- a. The planning commission may, in its discretion, waive any of the requirements in paragraph 3 except that the application shall be in writing and shall provide information concerning the proposed development sufficient for the planning commission to make a determination, and the stormwater requirements of subparagraphs (a)(iii) and (b)(vii) of paragraph 3 shall not be waived.
- b. The planning commission shall recommend approval or disapproval of, or take alternative action relative to, the development plans within 45 days of their submission to the planning commission, unless the period is extended by mutual consent of the commission and the applicant.
- c. The planning commission may in its discretion hold a public hearing on the development plan.
- d. If the development plan is proposed to be completed in phases, separate approvals of each phase of development may be given.
- e. Any recommendation of the planning commission regarding a development plan shall be subject to review by the village board of trustees. The board of trustees, may in its discretion, at the next regular board of trustees meeting following the recommendation by the planning commission of a development plan and its filing with the board of trustees, confirm, reverse or modify said determination in part or whole. In taking any action to reverse or modify the recommendation of the

planning commission, the board of trustees may cause the public hearing to be held concerning the development plan and may make further determinations upon the plan thereafter.

- f. Any approval of the development plan shall be invalid if construction or activity contemplated thereunder is not commenced within six months of the date of approval, or if the entire development plan as approved, is not completed within one year of the date of approval, unless the same is extended by the planning commission or board of trustees as the case may be.
- g. No building permit may be issued until the plan with all supporting documentation has been filed and approved by resolution of the planning commission or the board of trustees as the case may be.
- h. No development plan shall be approved unless in compliance with the provisions of chapter 16, stormwater management, of the village Code.

7. *Miscellaneous provisions.*

- a. The planning commission or the village board may require that a performance bond to guarantee the completion of any one or more of the requirements set forth in the approval be furnished and filed with the village, said performance bond running to the benefit of the Village of Lewiston.
- b. From time to time the planning commission may review the development plan to ascertain that the requirements of these regulations are being complied with. If, in its determination, it finds that the development plan is not being complied with, the planning commission may order a recession of the plan approved. The recession shall become effective 20 days after written notice to the owner and posting upon the premises unless within that time the village board reaffirms its approval of the development plan by a three-fourths vote. The planning commission may in its discretion extend the effective date of the recession of approval and may also withdraw its order prior to the effective date of termination. The village board shall have the right at any time to rescind its approval should it find noncompliance with the development plan. On the effective date of an order rescinding a plan approval, any building permit and/or certificate of occupancy heretofore issued with respect to the plan shall be automatically revoked and terminated.
- c. In the event that the zoning officer finds that the construction is not in accordance with the approved building and site plans and the requirements of this law are not being substantially complied with, the building and/or certificate of occupancy permit shall be cancelled or terminated until the requirements are complied with.
- d. The planning commission shall refer the application to the historic preservation commission acting in its capacity as the architectural advisory board as set forth in section 15-103(h) of the village Code for its review and recommendations.

S. Special regulations applicable to the waterfront district.

1. Any yard in the waterfront district which faces the Niagara River shall have a minimum setback of 40 feet for nonwater dependent uses. Such setback shall apply to both principal and accessory buildings.
2. Any yard in the waterfront district which faces the Niagara River shall have a setback for water dependent uses as determined by the board of trustees based upon the intended water-dependent use and the provisions of the Village of Lewiston's Local Waterfront Revitalization Program. Water-dependent uses are those uses described in subparagraph a. of section 9.I.1.
3. A front yard setback may be reduced to a distance as approved by the board of trustees when the waterside setback of 40 feet applies.

(Code 1978, app. B, § 10; L.L. No. 1-1973; L.L. No. 1-1973; L.L. No. 2-1973, § 1; L.L. No. 6-1979, §§ 2, 10; L.L. No. 8-1979, § 4; L.L. No. 4-1980, § 1; L.L. No. 1-1981, § 1; L.L. No. 2-1983, §§ 1—3; L.L. No. 1-1984, § 1; L.L. No. 5-1984, § 1; L.L. No. 8-1984, § 1; L.L. No. 9-1984, § 1; L.L. No. 5-1989, § 3; L.L. No. 9-1989, §§ 6, 7; L.L. No. 7-1990, § 1; L.L. No. 1-1991, § 2; L.L. No. 14-1985, § 2; L.L. No. 1-2000; L.L. No. 02-2002; L.L. No. 01-2005; L.L. No. 04-2007, §§ 6—13)

Sec. 11. Uses requiring a special use permit.

A. General provisions.

1. The special uses for which conformance to standards are required shall be deemed to be permitted uses in their respective district, subject to the satisfaction of the requirements and standards as determined by the board of trustees in addition to all of the requirements of this ordinance.
2. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

B. Plan approval.

1. A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special use permit and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this ordinance, and to enable the village engineer to ascertain the adequacy of the existing facilities, such as sewers, storm drains, roads, etc., for the use requested by the applicant.
2. The board of trustees shall submit such application to the planning commission and the zoning board of appeals for recommendation. The planning commission and the zoning board of appeals shall review the application and within 30 days after the receipt of such application, make a written report to the board of trustees setting forth its findings and recommendations concerning the application. In making its recommendations, the planning commission may suggest any revision to the site plan or

other plans as will, in its opinion, cause the proposed use to be in substantial conformance with the comprehensive plan and its principles of land use and development.

3. The board of trustees shall conduct a public hearing on all applications for a special use permit in accordance with the procedures and requirements established elsewhere in this ordinance and in the Village Law of the State of New York. The applicant or his duly authorized agent shall be present and be authorized to accept or reject such modifications to the application as may be proposed by the board of trustees.
4. Within a reasonable time from the date of such public hearing, the board of trustees shall either approve or disapprove the application so heard. No special use shall be permitted unless the plan submitted therefor shall have been first approved by a majority vote of the full board of trustees.
 - a. If an application is approved by the board of trustees, the building inspector shall be furnished with a copy of the approving resolution of the board and he shall issue the permit applied for in accordance with the conditions imposed by the board of trustees.
 - b. If any application is disapproved by the board of trustees, the reasons for such denial shall be set forth in the board's resolution and a copy of such resolution shall be transmitted to the building inspector. The building inspector shall deny the application accordingly by providing the applicant with a copy of the board's reasons for disapproval.
 - c. The building inspector shall transmit one copy of all approved and denied applications to the planning commission and one copy of all approved applications to the tax assessor.

C. Expiration.

1. A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than three months for any reason.
2. A special use permit shall expire on the December 31 of any calendar year where the special use has not been conducted for a period of eight months during such calendar year.
3. The determination as to whether a special use is being conducted shall be determined based upon the average intensity of operations of similar uses within the village or, if there be none, upon a comparison with similar uses in areas outside the village. Where such use is observed to fall below the average level of operations, such use shall be deemed to have ceased.

D. Standards applicable to all special uses.

1. The location and size of the use, the nature and intensity of the operation involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the

orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.

E. Whereas the necessity for certain specific uses is recognized and at the same time appreciating the fact that they or any one of them may be, or become, inimical to the public health, safety, and general welfare of the community if located without consideration to the existing conditions and surroundings, the following standards and proceedings are hereby established which are intended to provide the board of trustees with a guide for the purpose of reviewing certain uses not otherwise permitted in this appendix.

F. The village board, the planning commission and the zoning board retains the right to inspect the site after start-up to ascertain that the conditions of the special use permit are adhered to. If the conditions are not adhered to, the board of trustees shall notify the permit holder of such noncompliance by registered or certified letter. If the permit holder fails to correct the noncompliance within ten days, the board of trustees may rescind the special use permit.

1. Public utilities. Public utility uses may be permitted in any district with a special use permit. No special use permit shall be issued unless the board of appeals shall determine that:
 - a. The proposed installation in a specific location is necessary and convenient for the efficiency of the public utility system or the satisfactory and convenient provision of service by the utility to the neighborhood or area in which the particular use is to be located.
 - b. The design of any building in connection with such facility conforms to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights of the zone in which it is located.
 - c. Adequate and attractive fences and other safety devices will be provided.
 - d. A buffer strip ten feet in width shall be provided around the perimeter of the property.
 - e. Adequate off-street parking shall be provided.
 - f. All of the area, yard and building coverage requirements of the respective zone will be met.
2. Gasoline stations and motor vehicle repair shops. Gasoline service stations may be permitted in such districts as specified in section 9 of this ordinance provided that the following standards are observed:
 - a. The existing four gasoline stations shall be permitted to continue to operate at their present locations but no further permits for construction of new gasoline stations will be issued except as follows:
 - i. In the event the owner of an existing gasoline station shall divest himself of the ownership of said station or in the event that a change in oil company or

brand takes place, but the station is intended to remain in business under new ownership and purveying products of the same or a different oil company or brand, the special use permit shall remain in force, except that the design for any change, alteration or modification to existing buildings, signs, pumps or other facilities shall be submitted to the planning commission and the zoning board for review and recommendation as to the conformance with the existing special use permit.

- ii. In the event a gasoline station goes out of business in that it does not conduct sales in the usual course of business for a period of three months, and the special use permit is deemed to have expired pursuant to paragraph C, a replacement gasoline station will be permitted, provided the new location is consented to by the board of trustees. The board of trustees shall first submit such application to the planning commission for its recommendations.
- b. In addition to the information required in the special permit application, the site plan submitted shall also show the number and location of fuel tanks to be installed, the dimensions, and capacity of each storage tank, the number and location of pumps to be installed and the type of structure and accessory buildings to be constructed.
- c. The area and yard specifications for motor vehicle service stations are identified in the schedule of this ordinance.
- d. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- e. Any repair of motor vehicles shall be performed in a fully enclosed building and no motor vehicle shall be offered for sale on the site. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- f. No vehicles shall be permitted to be standing or parked on the premises of a motor vehicle service station other than those serviced or used by the employees in the indirect or direct operation of the establishment.
- g. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- h. No motor vehicle service station or public garage shall be located within 500 feet of any public entrance to a church, school, library, hospital, charitable institution, or place of public assembly. Such distance shall be measured in a straight line from said public entrance to the lot line nearest said entrance along the street line.
- i. Where a motor vehicle service station abuts a residential zone, it shall be screened by a buffer area no less than ten feet in depth composed of densely-

planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the board of appeals, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six feet above finished grade at the highest point of the station. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery becomes decayed and fails to provide an adequate screen, the building inspector may direct the property owner to replace said shrubs.

- j. All fuel pumps shall be located at least 20 feet from any street or property line and shall be adequately maintained and properly supervised.
 - k. In addition to the sign requirements for business uses in the business district, each motor vehicle service station shall be permitted to have one stationary, nonmoving, free-standing or pylon sign setting forth the name of the station and for the principal products sold on the premises, including special company or brand name, insignia or emblem, provided that such sign shall not exceed 20 square feet in area on either of two sides and shall be hung within the property line and no less than ten feet nor more than 25 feet above the ground.
 - l. Service stations may also exhibit one temporary sign located no less than ten feet inside the property line and specifically setting forth special seasonal servicing of automobiles, provided that such sign does not exceed seven square feet in area.
- 3. Reserved.
 - 4. Reserved.
 - 5. Reserved.
- 5a. Bed and breakfast residences. Principal buildings may be used as a bed and breakfast residence in such districts as specified in section 9 of this Local Law provided that the additional following standards and requirements are met:
- a. The quarters to be utilized by the guests or the occupants of the premises shall not be permitted in any accessory structure.
 - b. The principal building in which the use is permitted shall be occupied by the owners as their principal residence.
 - c. The use by guests shall be temporary only.
 - d. Serving of meals to paying guests shall be limited to breakfast.
 - e. One off-street parking space shall be provided for each room or rooms designated a living quarter in addition to the parking spaces for the off-street parking spaces for the residence.
 - f. The standards for review as set forth in section 10R4 shall be considered as additional standards that may be considered by the board of trustees in considering the request for granting of the special use permit.

- g. The standards and regulations governing this permitted use shall not be construed to exclude the requirement of further conditions and standards as determined by the board of trustees to be necessary and to be met upon the granting of such permit.
- h. The permit issued hereunder shall be for a one-year period, from the date of its issuance, and may be renewed for one-year periods upon such conditions as determined by the board of trustees.
- i. Application for a permit or renewal of a permit shall be accompanied by the applicable fee and a certification to the board of trustees that the premises are in compliance with all applicable New York State health and building codes for the intended use.
- j. If not otherwise required by the Village Law, smoke detecting units as required by chapter 8 of the village Code shall be required.

(Code 1978, app. B, § 11; L.L. No. 1-1973; L.L. No. 9-1973, § 3; L.L. No. 6-1979, § 4; L.L. No. 2-1981, §§ 1, 2; L.L. No. 7-1983, § 3; L.L. No. 3-1984, § 4; L.L. No. 13-1984, § 7; L.L. No. 6-1991, § 1; L.L. No. 2-1993, §§ 1, 2)

Sec. 12. Parking requirements.

A. Requirements by usage.

- 1. In all districts every industrial, business, institutional, recreational, residential, or any other use shall provide at the time any building or structure is erected, enlarged, or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable sections of this ordinance unless otherwise recommended by the village planning commission. All such space shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner.
- 2. Whenever there is a change in use, or an increase in floor area, or other unit of measurement, and such change and such increase create a need for an increase of more than ten percent in the number of required off-street parking spaces, as determined by the requirements in this section, additional off-street parking spaces shall be provided in accordance with this section for that addition or change in use.
- 3. None of the off-street parking facilities as required in the ordinance shall be required for any existing building use, unless there is an increase in floor area exceeding 35 percent of the existing floor area on the effective date of this ordinance.
- 4. Access drives or walkways to any business or industrial district through any residential district shall not be permitted as this would constitute an illegal use of residential zoned land.
- 5. In stadiums, churches, and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for purposes of the parking standards.

6. The minimum number of off-street parking facilities required shall be as set forth in the following:
- a. Auditorium—One for each five seats.
 - b. Automobile or machine sales and service—One for each 300 square feet of floor area.
 - c. Banks, business and professional offices—One for each 200 square feet of floor area.
 - d. Bowling alleys—Five for each alley plus the necessary space as set forth in this section for affiliated uses such as bars, restaurants, or other commercial uses.
 - e. Churches—One for each five seats in places of worship.
 - f. Assembly halls without fixed seats; exhibition halls, except church assembly rooms in conjunction with auditorium— One for each 100 square feet of floor area used for assembly or dancing.
 - g. Dwellings—Two for each family or dwelling unit.
 - h. Funeral home, mortuaries—One for each four seats in the auditorium.
 - i. Hospitals—One for each three beds.
 - j. Roominghouses, lodginghouses—One for each two bedrooms.
 - k. Libraries, museums, or galleries—One for each 600 square feet of floor area.
 - l. Manufacturing plants, research or testing laboratories, bottling plants—One for each 300 square feet of floor area.
 - m. Medical and dental clinics or offices—One for each 200 square feet of floor area.
 - n. Motels and hotels—One for each living or sleeping unit.
 - o. Restaurants, cafe and nightclubs—One for each 200 square feet of floor area.
 - p. Retail stores, shops, etc.—One for each 150 square feet of floor area.
 - q. Sanitariums, convalescent homes, homes for the aged, children's homes—One for each three beds.
 - r. Theaters, assembly halls, other than schools—One for each five seats.
 - s. Wholesale establishments or warehouses—One for each 3,000 square feet of floor area.
 - t. In the case of a use not specifically mentioned above, the requirements for off-street facilities to which said use is similar shall be set forth by the building inspector.

B. Requirements of off-street parking.

1. The size of off-street parking space shall be nine feet wide by 20 feet long for all side parking or eight feet wide by 23 feet long for all parallel parking.

2. Off-street parking facilities shall be located as hereinafter specified. Where distance is specified, such distance shall be measured from the nearest point of the parking facility to the nearest point of the building or use such facility is required to serve. Off-street parking spaces shall be allowed in required yards except where specifically prohibited by this ordinance.
 - a. Multi-unit dwellings, not more than 200 feet from the building they are required to serve.
 - b. For uses located in the business and restricted business district and for hospitals, sanitariums, convalescent, nursing, and rest homes; homes for the aged, retirement homes, private clubs, lodges, and offices; not more than 100 feet from the building they are required to serve.
 - c. For uses other than those specified above, not more than 300 feet from the building they are intended to serve.
3. Necessary passageways and driveways for entrance and exits to parking spaces shall be provided.
4. All parking areas, passageways, and driveways (except where provided in connection with one-family residences) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the building inspector.
5. The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.
6. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
7. Off-street parking areas located in commercial zones and which provide parking for 20 or more vehicles shall be provided with shade trees of a type approved by the building inspector and located not greater than 60 feet on center.
8. Such parking areas shall not be used for any purpose other than the accessory parking of vehicles. In no case shall the storage, service or dismantling of vehicles be permitted in such areas.

C. Loading spaces.

1. Loading spaces shall be provided and maintained on the same premises with every building, structure, or part thereof, erected, occupied, enlarged or intended to be used, involving the receipt or distribution by vehicles, of material or merchandise.

2. Such space shall be adequate for standing, loading, and unloading services, in order to avoid undue interference with use of public transportation.
3. Loading and unloading space shall not be occupied or considered as any part of the required off-street parking.
4. All business districts shall include a ten-foot by 25-foot loading space with a 14-foot height clearance, for every 20,000 square feet or fraction thereof of building floor or land use for the above-mentioned purposes.

(Code 1978, app. B, § 12; L.L. No. 1-1973; L.L. No. 3-1977, § 1; L.L. No. 6-1979, § 5)

Sec. 13. Sign regulations.

A. Intent and applicability.

1. The purpose of this section is to protect the public health, welfare and safety by regulating existing and proposed outdoor advertising and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and protect the physical appearance of the community. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce the adverse effects of signage on natural beauty and on the general environment of the community as a whole.
2. No sign shall be erected, placed or altered at any place in the Village of Lewiston except as provided by this chapter and only after a permit has been issued in compliance with the provisions of this chapter, unless expressly stated otherwise.
3. No sign for which a permit has been issued hereunder shall be moved, altered, changed, enlarged or reconstructed without a new permit having first been issued therefor in accordance with the provisions of this chapter.

B. Definitions.

1. The term "sign" shall mean any material, structure or device, or part thereof, composed of lettered, or pictorial matter, or upon which lettered or pictorial matter is placed when used or located out-of-doors or outside or on the exterior of any building including window display area, for display of an advertisement, announcement, notice, directional matter or name, and includes frames, billboards, sign boards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public.
2. The "face area" of a sign shall be the surface devoted to the conveying of the message exclusive of the structure to support it properly, trim and framing device and any appurtenances required by building codes. In the case of open sign structures not having a solid surface or a sign not otherwise inscribed in a definitive area, the area

of the sign shall be taken as the area required to circumscribe all letters and devices exclusive of supports using the product of the greatest horizontal dimensions and the greatest vertical dimension required to fully enclose the sign.

Free-standing signs shall have parallel faces and only one display face shall be measured in determining total sign area.

3. The term "erect" shall mean to build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign, and shall also include the painting of exterior wall signs.
4. The term "front" or "face" of a building shall mean the outer surface of a building, which is visible from any private or public street or highway.
5. The term "illuminated sign" shall mean any sign illuminated by electricity, gas or other artificial light, including reflective or phosphorescent light.
6. The term "lighting device" shall mean any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.
7. The term "projecting sign" shall mean any sign which is wholly dependent upon a building for support and which projects more than eight inches from such building.
8. The term "free-standing sign" shall mean any sign resting upon or attached to the ground by means of an integral base or one or more poles or standards. Free-standing signs include both pole signs and ground signs.
9. The term "wall sign" shall mean any sign which is wholly dependent upon a building for support and which projects less than eight inches from such building.

Additional definitions:

The term "window sign" shall mean any sign in, on or near a window surface designed to be viewed from the exterior of the premises.

- (a) Temporary window sign - A window sign designed to advertise a special event.
- (b) Permanent window sign - A window sign designed to advertise the enterprise therein.

Directional sign—A sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property; including signs marking entrances, parking areas, one-way driveways, rest rooms, pickup and delivery areas, and handicap areas.

Flashing sign—A moving, animated or illuminated sign on which any artificial or reflected light is not maintained stationary and constant in intensity or color at all times when in use. A revolving illuminated sign shall be considered a flashing sign.

Private sale sign—A temporary sign advertising the sale of personal property at house sales, garage sales, rummage sales and the like.

Real estate sign—A temporary sign pertaining to the sale or lease of the premises, or a portion of the premises on which the sign is located.

Temporary sign—A sign which is designed to announce a special event or activity, erected on any premises which is intended to be removed upon the conclusion of the special event or activity.

Warning sign—Signs limited to message of warning, danger or caution.

Awning/Canopy sign—A drawing, printing or other configuration, printed on or attached to an awning or canopy, which purports to indicate the nature or name of, or to publicize, any service, any organization or any commercial enterprises.

Roof sign—A sign that is mounted upon the roof or extending above the roofline of a building.

Awning—A roof-like covering of canvas or other flexible materials, which extends from the wall of a building.

Business establishment—A mercantile building or portion thereof, in which a business operation is conducted.

Canopy—A roof-like covering of metal or other rigid material, which extends from the wall of a building.

Enterprise—Any activity having an address located within the Village of Lewiston.

Finished ground level—The natural surface of the ground, or surface of the ground after completion of any change in contour.

Window glass area—The total glass area of all windows located on the same building side and floor as a window sign, excluding any windows within a door frame.

C. Prohibited signs. The following prohibitions shall apply to all districts in the Village of Lewiston:

1. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity.
2. No illuminated sign or lighting device shall be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
3. No sign shall attempt or appear to attempt to direct the movement of traffic or imitate or resemble any official sign, signal or device.
4. No sign shall be erected in such a manner as to prevent the driver of a vehicle from having a clear and unobstructed view of any official sign or entrance or exit roadway or intersection or approaching or merging traffic.

5. No sign shall be attached to a vehicle parking either in the right-of-way or on private property so as to be visible from the street, which sign is designed to advertise or otherwise direct attention to a business establishment.
6. No signs shall be placed on the roof of any building.
7. Except as permitted and regulated under section 13F of appendix B, no sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners, or other similar moving, fluttering or revolving devices, except a business premises, during business hours only, shall be permitted to have such a device for decorative or informational purposes only, and not for advertising or attracting attention, and shall be limited to one in number and shall not exceed 3 × 5 feet. The said devices, as well as strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign.
8. No combination of window signs in a window of a building shall occupy more than 30 percent of the area of said window.
9. No off-premises signs shall be permitted.
10. No sign which is obsolete or not in a good state of repair or not securely affixed to a building or substantial structure shall be permitted.
11. No exterior sign using neon gas as a means of illumination and/or decoration shall be permitted.
12. No sign shall be erected in such manner as to obstruct free egress from a window, door or fire escape or so to become a menace to life, health or property.
13. No sign, banner or material of any sort shall be suspended across any public street, sidewalk or parking lot or any driveway without a special permit issued by resolution of the board of trustees.
14. No sign shall be erected in the Village of Lewiston unless it is specifically permitted under this section. If a sign is not specifically permitted in this section it shall constitute a prohibited sign.

D. Permitted signs.

1. *Permitted in all districts; no sign permit required.* The following signs are permitted in all districts and no sign permit shall be required to erect such sign:
 - a. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which sign shall not exceed six square feet in area, provided such sign is erected or displayed not less than five feet inside the property line. This sign must be removed from the premises within seven days after the property is sold or leased. Not more than one sign shall be permitted for each street contiguous to the premises, but in no case shall there be more than two signs on the premises.
 - b. Official signs, notices or direction devices erected or maintained by federal, state, county or local government or an agency thereof.

- c. In residential districts, signs denoting the name and address of the occupants of the premises, which shall not exceed two square feet in area on any one side.
2. *Permitted in all districts; sign permit required.* The following signs are permitted in all districts and a sign permit shall be required prior to erecting such sign:
 - a. Professional nameplates that shall not exceed two square feet in area on either of two sides.
 - b. In all districts, except residential districts, signs denoting the name and address of the occupants of the premises, which shall not exceed two square feet in area on any one side.
 - c. Signs denoting the architect, engineer, or contractor placed on the premises where construction, repair, or renovation is in progress, which signs shall not exceed 32 square feet in area. This sign must be removed from the premises within seven days after such construction, repair, or renovation is completed.
 - d. Parking lot markers, directional signs, entrances and exit signs and other such signs which are erected on the premises which shall not exceed two square feet in area on any one side and shall not contain any advertising of the use on the premises.
 - e. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, social clubs or societies, which signs or bulletin boards shall not exceed a total of 16 square feet in area, measuring one face of each sign and shall be located on the premises of such institutions, provided such signs or bulletin boards are erected or displayed not less than five feet from inside the property line.
 - f. One sign not larger than six square feet as advertising for a real estate apartment or townhouse development on the premises.
 - g. Where a commercial enterprise is located in a business or R-4 district, any signs permitted in those districts shall be reduced in square footage by the square footage of signs erected under this section.
3. *Permitted in business districts; sign permit required.* The following signs are permitted in all Business districts and a sign permit shall be required prior to erecting such sign:
 - a. Each separate enterprise shall be permitted to erect any two of the following four types of signs, but not two of the same type:
 1. A wall sign.
 2. A projecting sign.
 3. An awning/canopy sign.
 4. Permanent window signs.
 1. *Wall signs.* The size of the wall sign, or in the case of more than one enterprise in one building, the total combined size of each wall sign, shall be no greater than one square foot for each one lineal foot of wall

space upon which the surface of the sign is to be erected, provided that no wall sign, or total combined size of each wall sign, shall exceed 40 square feet in area and shall not be placed closer than two feet to the ends of the building.

Where two or more enterprises occupy the same physical space or are located in such proximity, one to the other, that it is necessary to pass through one enterprise to reach the other, the combined total wall signage shall not be greater than that permitted for a single enterprise.

Where two or more enterprises occupy the same building but not the same area, the size of sign permitted for each enterprise shall be proportional based upon their respective portion of the total lineal frontage to the total lineal frontage.

Where a building fronts on two public streets, one additional sign of any category, except freestanding, may be erected, subject to the following provisions:

- (a) The total area of the combination of signs shall be not greater than 1½ times the maximum area otherwise permitted.
 - (b) No individual sign shall be larger in dimension than otherwise permitted in this chapter.
2. *Projecting signs.* A projecting sign shall not exceed two square feet in face area for a single face and shall be subject to the following:
- (a) No part of the sign shall be less than eight feet above finish grade.
 - (b) It shall have no more than two faces, and in no case shall the largest dimension exceed three feet.
 - (c) The edge of the sign farthest from the building wall shall be not more than 36 inches distant from said wall.
 - (d) It shall not project into a public right-of-way without prior written consent.
3. *Awning / canopy signs.* The size of an awning/canopy sign, if a wall sign is not also used, shall be limited in the same manner as a wall sign. If a wall sign is also used, the awning/canopy sign shall not exceed 12 square feet.

An enterprise may place signage upon only one awning/canopy if the building contains more than one awning/canopy. Where an awning/canopy covers more than one enterprise, each separate enterprise shall be entitled to identify itself thereon.

All awnings/canopies, if artificial illumination is present, shall be opaque.

4. *Window signs.* The total area of all permanent window signs shall not exceed 20 percent of the window glass area of the affected window. In calculating the amount of window coverage, the actual area of each

sign shall be used so long as any such sign is located within four feet of the window. In no event however, shall any combination of permanent and temporary window signs cover more than 30 percent of any given window nor exceed 12 square feet.

If the sign is a neon sign it shall not exceed ten percent of the window glass area and shall be informational only, such as "open," "closed," "entrance," "office," etc. In no event shall any window contain therein more than one neon sign.

- b. Each property, regardless of the number of enterprises located thereon, shall be limited to one free-standing sign having not more than two faces. Such sign shall not exceed 40 square feet in area on any one side. The height of a ground sign shall not exceed eight feet. The maximum height of a pole sign shall not exceed 15 feet above ground, nor shall the lowest portion be closer than eight feet to the ground except for the pole supporting the sign. No free-standing sign shall be placed nearer any street right-of-way or lot line than ten feet. As an alternative to a free-standing sign, a sandwich sign may be erected provided it is placed upon private property only and is not higher than three feet nor wider than three feet.

The sign shall be square or rectangular with the longer side of the sign parallel to finished grade level, and its length shall not be more than twice that of the shorter side.

No free-standing sign shall be erected or maintained nearer the building facade than three feet, or nearer the sidewalk surface than eight feet, and must be placed so as not to obstruct pedestrian passage on the sidewalk.

- c. Said signs are to be used solely for the purpose of identifying the business, occupants and address of the premises on which the sign is erected. Such sign may use generic words when identifying the type of establishment. In addition to the proprietary name and address, each sign may not have more than five words. Any awning/canopy sign shall contain only the name of the enterprise and street number of the enterprise.

4. *Permitted in nondevelopment (N) district.*

- a. No signs shall be erected in any N district except monuments, historic markers, or other public information or directory devices erected by a public agency, unless approval of the board of trustees is obtained after recommendations of the planning commission.

5. *Permitted in R-4 districts; sign permit required.* The following signs are permitted in all R-4 districts and a sign permit shall be required prior to erecting such sign:
- a. Each property, regardless of the number of enterprises located thereon, shall be permitted to erect one wall sign. In addition thereto, each property may have either one projecting sign, one awning/canopy sign or one free-standing sign. No window signs shall be permitted.
 1. The size of the wall sign shall be no greater than 12 square feet.

Where a property fronts on two public streets, one additional wall sign may be erected, subject to the following provisions:

 - (a) The total area of any combination of signs shall be not greater than 1½ times the maximum area otherwise permitted.
 - (b) No individual sign shall be larger in dimension than otherwise permitted in this chapter.
 2. A projecting sign shall not exceed two square feet in face area for a single face and shall be subject to the following:
 - (a) No part of a sign shall be less than eight feet above finish grade.
 - (b) It shall have no more than two faces, and in no case shall the largest dimension exceed three feet.
 - (c) The edge of the sign farthest from the building wall shall be not more than 36 inches distant from said wall.
 - (d) It shall not project into a public right-of-way without prior written consent.
 3. An awning/canopy sign shall not exceed six square feet. All awnings/canopies, if artificial illumination is present, shall be opaque.
 4. A free-standing sign, having not more than two faces, shall not exceed 12 square feet in area on any one side. The height of the ground sign shall not exceed eight feet. The maximum height of a pole sign shall not exceed 15 feet above ground, nor shall the lowest portion be closer than eight feet to the ground except for the pole supporting the sign. No free-standing sign shall be placed nearer any street right-of-way or lot line than ten feet.

The sign shall be square or rectangular with the longer side of the sign parallel to finished grade level, and its length shall not be more than twice that of the shorter side.

No free-standing sign shall be erected or maintained nearer the building facade than three feet, or nearer the sidewalk surface than eight feet, and must be placed so as not to obstruct pedestrian passage on the sidewalk.
 - b. Said signs are to be used solely for the purpose of identifying the business(es), occupants and address of the premises on which the sign is erected. Such sign may use generic words when identifying the type of establishment. In addition to

the proprietary name and address, each sign may have not more than five words. An awning/canopy sign shall contain only the name of the enterprise(s) and street number of the enterprise.

E. Temporary signs.

1. The dimensions of any temporary sign, its placement and the message or wording thereon shall be regulated, unless otherwise noted, by the provisions of this section 13.
2. The following signs shall be permitted in all districts on a temporary basis without the necessity for obtaining a permit:
 - (a) One nonilluminated construction sign not exceeding 30 square feet in area per face, located at least 15 feet from any property line, may be erected on the construction site of any dwelling or other development. Any such sign shall be removed within six months of its erection, 14 days of completion of the construction or upon total occupancy, whichever comes first.
 - (b) One nonilluminated home improvement or remodeling contractor sign not exceeding six square feet per face, located at least 15 feet from any property line, may be erected on the project site. Any such sign shall be removed within two months of its erection or within seven days of completion of the project, whichever comes first.
 - (c) One nonilluminated real estate sign not exceeding six square feet in area per face, located at least five feet from all property lines and not more than four feet in height. Such sign shall be removed within five days after the time of the contract of sale or lease.
 - (d) Private sale signs not exceeding four square feet may be displayed for a period not to exceed three days.
 - (e) Warning signs. If intended to remain in place more than five days, placement shall require a permit from the building inspector.
3. The following signs shall be permitted in all business districts on a temporary basis without the necessity for obtaining a permit:

Signs designed to advertise a special event or nonprofit activities may be displayed for a period of not more than 21 days prior to and seven days after the advertised event and shall be limited in size to 30 percent of the window glass area. In no event shall the combined window coverage of permanent and temporary window signs be more than 30 percent of any given window.
4. The following signs may be permitted on a temporary basis after obtaining a temporary sign permit:
 - (a) A charitable or not-for-profit educational, professional or service organization. The sign shall be no greater in dimension than 20 square feet and shall be located only on the premises where the event advertised is located.

- (b) A newly established or located business establishment awaiting the approval of a permanent sign permit.
 - (c) An existing business which has lost the use of an earlier, legal, existing sign by reason of accident or other unanticipated event beyond the control of the owner of the business.
 - (d) A newly constructed multiple residence or commercial development, announcing the availability of leases or sales.
5. Each application for a temporary sign permit shall be made on the form provided and describe the manner in which the proposed sign is to be erected. Such permit may be granted by the building inspector only to the proprietor of the enterprise where the proposed sign is to be erected.
6. A temporary sign permit, if granted, shall be effective for period not to exceed 30 days from the date of issue. The permit may be extended once for an added period not to exceed 30 days upon written application setting forth the special circumstances requiring the extension.
7. Each applicant except those excluded by this chapter shall be required to pay a fee as established by the board of trustees. An additional fee shall be charged if an extension is granted.

F. Permit procedures. Except for such signs as are specified in section 13D.1, no sign shall be erected without first obtaining a permit in accordance with the provisions of this law.

1. *Application.* Application for a sign permit shall be made to the building inspector through the village clerk-treasurer upon prescribed forms and shall contain the following information:
- a. Name, address and telephone number of the applicant.
 - b. Location of the building, structure, or land to which, or upon which, the sign is to be erected.
 - c. Scale drawings including dimensions showing: Lettering and/or pictorial content of sign; construction details; position of lighting or other extraneous devices; a location plan showing the position of the sign on any building or land, and its position in relation to nearby building, structures, or existing signs, and to any private or public street or highway.
 - d. Written consent of the owner of the building, structure or land to which or upon the sign is to be erected, in the event the applicant is not the owner thereof.
 - e. A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.
2. *Building inspector's review.* Upon receipt of a properly completed application, the building inspector shall review said application and, if he deems necessary, the

premises upon which the proposed sign is to be erected. Upon making such review the building inspector shall forward the application together with any comments or recommendations he may find appropriate to the planning commission.

3. *Planning commission review.* Upon receipt of the application from the building inspector, the planning commission shall review said application not later than its next regularly scheduled meeting. The applicant shall attend such meeting but the failure to attend shall not prevent the commission from approving or disapproving the application. If the commission determines that additional information is required to make its determination, the applicant shall submit same. The commission, upon receiving the required information shall make a determination approving or disapproving the application and notify the building inspector of its determination.

In determining the acceptability of any proposed sign, the village planning commission shall apply the following criteria:

- (a) The sign, as proposed, will not be detrimental to the subject premises and other property in the immediate area.
 - (b) The sign, as proposed, will not create a hazard.
 - (c) The sign, as proposed, will not interfere with the use of public lands or highways.
 - (d) The sign, as proposed, is in harmony with the purpose of this section and the zoning district in which the sign will be located.
 - (e) The sign, as proposed, shall be in aesthetic and architectural harmony with the subject premise and other signs and buildings in the immediate area.
4. *Issuance of permit.* Upon receiving notice of the determination of the commission approving an application, the building inspector shall cause to be issued a sign permit. If the sign authorized under such permit has not been completed within six months from the date of issuance of the permit, the permit shall become null and void but may be reviewed within ten days from the expiration thereof upon a showing of good cause and upon payment of an additional fee as required.
 5. *Disapproval of permit.* Upon receiving notice of the determination of the commission disapproving an application, the building inspector shall cause to be issued a notice to the applicant of the disapproval and that the applicant has the right to appeal the planning commission's determination and/or apply for a variance to the zoning board of appeals.
 7. *Fee.* A fee established by the board of trustees shall be paid upon issuance of a permit for such sign to the village clerk-treasurer.

G. *Revocation of permit and removal of certain signs.*

1. *General conditions.*
 - a. All signs must be kept clean, neatly painted, and free from all hazards, such as but not limited to faulty wiring, loose fastenings and must be maintained at all times in such tidy and safe condition so as not to be detrimental to the public

health and safety. Any sign found unsafe or insecure, or a menace to the public shall be suitably repaired or removed. Any illuminated sign shall bear the Underwriters' label and shall be designed so as to protect adjoining or nearby property and/or street from direct glare, nuisance or hazardous interference of any kind.

- b. Any sign existing on or after the effective date of these regulations which no longer advertises a business, product or service no longer conducted or available, on the premises upon which the sign is located or the purpose for which the sign was designed is no longer effective, shall be removed by the owner of the premises upon which such sign is located after written notice as provided herein.
2. *Enforcement.* In the event of a violation of any of the foregoing general conditions, the zoning officer shall give written notice to the named owner of the sign and/or the named owner of the land on which the sign is located, either to conform or to remove such sign within 30 days of such notice. Upon failure to comply with such notice the zoning officer shall revoke the sign permit and may remove or repair such sign, assessing all incurred costs and expenses against the owner and add the expense of removal to the next taxes assessed to the property. The zoning officer may cause any sign which is a source of immediate peril to persons or property to be removed summarily and without notice. The remedies herein shall not be considered exclusive but in addition to any other remedy available to the village.

H. *Nonconforming signs.*

1. *[Discontinuance and removal].* Any nonconforming sign existing at the time of the adoption of this section shall be discontinued, and the sign and the structural components shall be removed as follows:
 - (1) If such sign is in violation of this section in effect prior to February 21, 1994, within 90 days.
 - (2) If such sign is in conformity with this section in effect prior to February 21, 1994, on February 21, 1999.
2. *Replacement.* A nonconforming sign which is destroyed or which is damaged to an extent in excess of 50 percent of its original construction cost shall not be replaced except by a sign which conforms to the regulations of this Local Law.
3. *Alteration.* Any sign which existed on the effective date of this local law shall not be enlarged, structurally altered or relocated, except in accordance with the provisions of this part. A sign will lose its legal nonconforming status if the sign is altered in any way in structure, size or verbiage, relocated or replaced.
4. *Maintenance and repair.* Nothing in this section shall relieve the owner or user of a legal nonconforming sign or the owner of the property upon which the sign is located from complying with the provisions of this section regarding safety, maintenance and

repair of signs, provided that any repainting, cleaning or other routine maintenance or repair of the sign or sign structure shall not be deemed to modify the sign in any way. (Code 1978, app. B, § 13; L.L. No. 1-1973; L.L. No. 2-1978, § 1; L.L. No. 2-1994, § 1; L.L. No. 3-1994, §§ 1—4, 3-21-1994)

Sec. 14. Nonconforming uses and buildings.

A. Continuance. Except as otherwise provided in this ordinance, the lawful use of land or buildings existing at the date of the adoption of this ordinance may be continued although such use or building does not conform to the regulations specified by this ordinance for the zone in which such land or building is located; provided, however:

1. That no nonconforming lot shall be further reduced in size.
2. That no nonconforming building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
3. That no nonconforming use may be expanded.

B. Unsafe structures. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

C. Alterations. A nonconforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost 50 percent of the full valuation of the building unless said building is changed to a conforming use.

D. Construction approved prior to adoption of this ordinance. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within eight months of the date of such permit, and which entire building shall be completed according to such plans as filed within one year from date of this ordinance.

E. Extension. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this ordinance shall not be deemed the extension of such nonconforming use. No nonconforming use shall be extended to displace a conforming use.

F. Temporary buildings for construction purposes. A temporary building for construction purposes incidental to residential development may be erected and maintained in a residential district for a period not exceeding one year.

G. Restoration. No building damaged by fire or other cause to the extent of more than 50 percent of its full valuation shall be repaired or rebuilt except in conformity with the regulations of this ordinance.

H. Discontinuance. Whenever a nonconforming use has been discontinued for a period of six months, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this ordinance.

I. Changes. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to a use of the same or higher classification, and such use thereafter shall not be changed to a lower classification.

J. District changes. Whenever the boundaries of a district shall become changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein.

K. Notwithstanding any other provisions of this ordinance, any automobile wrecking yard or other junkyard and any billboard, advertising structure or nonconforming sign in existence in any residential district at the date of enactment of this ordinance shall, at the expiration of three years from such date, become a prohibited and unlawful use and shall be discontinued. Provided, however, that lawfully existing signs accessory to a nonconforming business or industrial building shall not be subject to this subdivision.

L. Those uses existing at the date of the adoption of this ordinance which would otherwise be permitted only with a special use permit may be required to meet certain regulations as set forth in section 11, "Uses requiring special use permits," for the particular use.

M. Any building which is nonconforming due to insufficient yard distances or lot area shall not be considered a nonconforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this ordinance. The use of any such nonconforming building may be changed to any other permitted use so long as the yard or lot area requirements are no greater.

(Code 1978, app. B, § 14; L.L. No. 1-1973)

Sec. 15. Violations; penalties for offenses; remedies.

A. Upon his own investigation or receipt of information or complaint, and where a violation of this law is determined to exist, the zoning officer/building inspector shall serve notice by certified mail, return receipt requested, on the owner, agent or contractor of the building, structure or lot where such violation has been committed or shall exist, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or shall exist, and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure or lot in which any such violation shall exist.

B. Such notice, in form approved by the village attorney, shall direct the removal or correction of such violation within ten days after service of the notice.

C. In such cases where the removal of the violation within ten days would be manifestly impossible, in the determination of the building inspector, the building inspector shall apply to the board of trustees for a determination as to a reasonable period of time within which such violation shall be removed.

D. Notice of violation.

1. A person who fails to comply with a notice of violation shall be guilty of a separate and distinct violation from the violations contained in the notice.
2. Upon the failure to comply with a violation notice the building inspector/zoning officer shall be authorized to commence a civil proceeding against the person so notified and seek the civil penalty hereinafter set forth.
3. Notwithstanding any provision to the contrary contained in this section 15, upon the building inspector/zoning officer's determination that a violation of this law exists, he is authorized, in his discretion, and prior to sending a notice of violation set forth in paragraph A, prepare and serve, or cause to be served, upon said person, an appearance ticket charging an offense of this law before an appropriate court of law.

E. Any owner, contractor, lessee, tenant, agent of other person who uses or maintains, or causes to be used or maintained, any building, structure or lot or any part thereof in the village for any purpose other than the uses permitted therefor in this law, or who erects, enlarges, alters or maintains, or causes to be erected, enlarged, altered or maintained, any building, or any part thereof in the village except in conformity with the provisions of this law, or who uses or maintains, or causes to be used or maintained, any building or any part thereof in the village which has been erected, enlarged or altered other than in conformity with the provisions of this law, or who otherwise violates, or causes to be violated, any provision of this law shall thereby be guilty of a violation pursuant to the penal law, and, upon conviction shall be subject to a fine not less than \$10.00 nor more than \$250.00 for each such violation. Each day that a violation of or failure to comply with any provision of this enactment or any regulation promulgated hereunder by the board of trustees occurs shall constitute a separate and distinct violation.

F. If any person fails to abate any said violation of this law within ten days after service of the notice set forth in paragraph A, said person shall be subject to a civil penalty of \$50.00 for each and every day that said violation continues, recoverable by a suit brought by the village, and to be retained by it.

G. The remedies provided for herein shall be cumulative, and shall be in addition to any other remedies provided for by law, whether by legal process or otherwise, which may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure, or lot, or to prevent any illegal acts, conduct, business or use in or about such premises.

H. In addition, and not in substitution for, the remedies provided for herein, the building inspector may refer an incident of noncompliance with the notice of violation to the village board for further action. Upon failure of a responsible person to comply with the notice of violation, the village board may direct correction of the violation at the expense of the village and may appropriate funds therefor and all costs for such corrections shall constitute a lien upon the subject property and shall draw interest equal to interest on delinquent taxes, and may be collected in the same manner as delinquent taxes.

I. The building inspector shall submit a written report to the village board, not later than 12:00 noon of the day on which the first monthly meeting is held covering the calendar month preceding the report, containing not less than: The address of and date of each investigation or inspection initiated by him; address of each alleged violation concerning which information or complaints have been received by him; date of such receipt; nature of each violation found or complained of, if any; date of correction notice issued; dates of each reinspection; date of filing of request for arrest warrant with prosecutor having jurisdiction; disposition of each case closed; and status report of each case referred under paragraphs C and G. Such report shall include cumulative annual totals of inspections and investigations initiated, information or complaints received, violation notices for correction with breakdown of such violation by appropriate category, corrections confirmed upon reinspection warrant requests filed and convictions obtained.

(Code 1978, app. B, § 15; L.L. No. 1-1973; L.L. No. 7-1973, § 1; L.L. No. 5-1992, § 1; L.L. No. 6-1992)

Sec. 16. Amendments.

A. The board of trustees may from time to time on its own motion, or on petition, or on recommendation of the planning commission or the board of appeals, amend, supplement or repeal the regulations and provisions of this ordinance, attached schedules, or official zoning maps after public notice and hearing in accordance with the Laws of the State of New York applicable thereto.

B. Whenever the board of trustees amends, supplements or repeals any regulations or provisions of this ordinance, it shall first submit such proposed change to the planning commission for recommendation.

C. The board of trustees by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given as required by law.

D. In case of a protest against such change signed by the owners of 20 percent or more, either of the area of the land included in such proposed change, or of that immediately adjacent extending 300 feet from the street frontage of such opposite land, such amendment or change shall not become effective except by the favorable vote of at least three-quarters of all members of the board of trustees.

E. Whenever any petition for an amendment, supplement or change of the zoning or regulations herein contained or subsequently established shall have been denied by the board of trustees, then no new petition including the text and/or map covering the same property or the same property and additional property shall be filed with or considered by the board of trustees until one year shall have elapsed from the date of the filing of the first petition.

A written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any state park or parkway shall be given to the regional state park

commission having jurisdiction over such state park or parkway, the Niagara County Development and Planning Board and Erie and Niagara County Regional Planning Board at least ten days prior to the date of such public hearing.

(Code 1978, app. B, § 16; L.L. No. 1-1973)

Sec. 17. Validity.

The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision thereof.

(Code 1978, app. B, § 17; L.L. No. 1-1973)

Sec. 18. Repealer.

A. All prior zoning ordinances of the Village of Lewiston, New York, regulating or restricting buildings, the use of lands, yards, and bulk particularly "Ordinance 81—zoning ordinance," adopted on October 3, 1966, and all amendments thereto, are hereby repealed and declared to be of no effect.

(Code 1978, app. B, § 18; L.L. No. 1-1973)

Sec. 19. Effective date.

This ordinance shall take effect ten days after publication and posting as required by law, except that it shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the village clerk-treasurer.

(Code 1978, app. B, § 19; L.L. No. 1-1973)

Appendix C Guidelines for Notification and Review

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs Are in Effect

I. Purposes of Guidelines

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government (City of Little Falls) whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. Definitions

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.
- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:

1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
 3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. Notification Procedure

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the City as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Waterfront Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. Local Government Review Procedure

- A. Upon receipt of notification from a state agency, the City of Little Falls will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the City with whatever additional information is available which will assist the City to evaluate the proposed action.
- B. If the City cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.

- C. If the City does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the City notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V. below shall apply. The City shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the City shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. Resolution of Conflicts

- A. The following procedure applies whenever the City has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - 1. Upon receipt of notification from the City that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and City representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.
 - 2. If the discussion between the City and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the City shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
 - 3. If the consultation between the City and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the City and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
 - 4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and the City.
 - 5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
 - 6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

**PROCEDURAL GUIDELINES FOR COORDINATING
NYS DEPARTMENT OF STATE (DOS) & LWRP
CONSISTENCY REVIEW OF FEDERAL AGENCY
ACTIONS**

DIRECT ACTIONS

1. After acknowledging the receipt, of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be .about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully .concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any .differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss : (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal :policies .
3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal ;reviewer for DOS, whichever is later, the program coordinator will notify Dc>S of the reasons why a proposed action may be. inconsistent or consistent With local coastal policies. .

- 5 After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.
- 6 If DOS does not fully, concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" to the applicant
- 7 A copy of DOS' concurrence" or objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

- 1 Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
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- 3 The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
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Appendix B - Zoning

ZONING*

- Sec. 1. Purposes and interpretation.
- Sec. 2. Administration and enforcement.
- Sec. 3. Establishment of districts.
- Sec. 4. Zoning map.
- Sec. 5. Interpretation of the district boundaries.
- Sec. 6. Application of regulations.
- Sec. 7. Definitions.
- Sec. 8. Zoning schedule.
- Sec. 9. District regulations.
- Sec. 10. General provisions and permitted modifications.
- Sec. 11. Uses requiring a special use permit.
- Sec. 12. Parking requirements.
- Sec. 13. Sign regulations.
- Sec. 14. Nonconforming uses and buildings.
- Sec. 15. Violations; penalties for offenses; remedies.
- Sec. 16. Amendments.
- Sec. 17. Validity.
- Sec. 18. Repealer.
- Sec. 19. Effective date.

***Editor's note**—Local laws zoning or rezoning specific property or granting specific use permits are not included herein, but are on file in the village clerk's office. Also, the zoning map mentioned in this local law is not printed herein, but is kept on file in the office of the village. <http://www.nccedev.com/content/village-lewiston#Zoning Map & Ordinance>

Appendix C - Guidelines for Notification and Review

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