

# ATTACHMENT A

CITY OF LOWELL

LAND DEVELOPMENT CODE

Underlined red text = proposed new language

~~Crossed out text~~ = proposed to be removed

Highlighted green = code references for updating

## CITY OF LOWELL LAND DEVELOPMENT CODE 2006 REVISION Lowell Revised Code Title 9

ARTICLE 9.1      CONTENTS

Page  
TC-1

**ADMINISTRATIVE PROVISIONS****9.1-1**

Section 9.101	Title	9.1-1
Section 9.102	Purpose	9.1-1
Section 9.103	Compliance Standards	9.1-1
Section 9.104	Associated Regulations	9.1-2
Section 9.105	Interpretation	9.1-2
Section 9.106	Validity	9.1-3
Section 9.107	Administration	9.1-3
Section 9.108	Enforcement	9.1-4
Section 9.109	Fees	9.1-5
Section 9.190	Definitions	9.1-6

**ARTICLE 9.2****APPLICATION PROCEDURES****9.2-1**

Section 9.201	Pre-Application Consultation	9.2-1
Section 9.202	Pre-Application Conference	9.2-1
Section 9.203	Application Procedure	9.2-1
Section 9.204	Application Site Plan	9.2-3
Section 9.205	Record File	9.2-4
Section 9.209	Building Permits	9.2-5
Section 9.210	Land Divisions	9.2-6
Section 9.211	Property Line Adjustments	9.2-6
Section 9.220	Subdivision or Partition Tentative Plan	9.2-8
Section 9.230	Subdivision or Partition Plat	9.2-15
Section 9.240	Filing of Plat	9.2-18
Section 9.241	Replatting	9.2-19
Section 9.242	Expedited Land Divisions	9.2-19
Section 9.250	Site Plan Review	9.2-20
Section 9.251	Conditional Uses	9.2-22
Section 9.252	Variances	9.2-25
Section 9.253	Amendments	9.2-27
Section 9.254	Annexations	9.2-29
Section 9.255	Vacations	9.2-32

**ARTICLE 9.3****DECISION PROCESS****9.3-1**

Section 9.301	Basis for Decision	9.3-1
Section 9.302	Form of Decision	9.3-1

**CONTENTS (Continued)****PAGE**

Section 9.303	Type of Decisions	9.3-1
Section 9.304	Notification	9.3-3
Section 9.305	Limited Land Use Review Procedures	9.3-6
Section 9.306	Quasi-judicial Public Hearing Procedures	9.3-7
Section 9.307	Legislative Public Hearing Procedures	9.3-9
Section 9.308	Decision	9.3-11
Section 9.309	Appeal Provisions	9.3-12
Section 9.310	Revocation	9.3-14

**ARTICLE 9.4****ZONING DISTRICTS****9.4-1**

Section 9.401	Classification of Zoning Districts	9.4-1
Section 9.402	Classification of Overlay Districts	9.4-1

Section 9.403	Location of Zoning District	9.4-1
Section 9.404	Zoning Maps	9.4-1
Section 9.405	Zone District Boundaries	9.4-1
Section 9.406	Zoning of Annexed Areas	9.4-2
Section 9.407	Similar Use Authorization	9.4-2
Section 9.408	Nonconforming Uses	9.4-2
Section 9.410	Primary Zoning Districts	9.4-4
Section 9.411	Single-family Residential District R-1	9.4-4
Section 9.412	Multiple-Family / Residential District R-3	9.4-6
Section 9.420	Commercial Districts	9.4-8
Section 9.421	Commercial District - C-1	9.4-8
Section 9.422	Downtown Commercial District – C-2	9.4-10
Section 9.430	Industrial Districts	9.4-12
Section 9.432	Light Industrial District – I-1	9.4-12
Section 9.440	Other Land Use Districts	9.4-14
Section 9.441	Public Land District - PL	9.4-14
Section 9.450	Overlay Districts	9.4-16
Section 9.451	Application, Overlay District	9.4-16
Section 9.460	Planned Development Overlay-District - PD	9.4-16
Section 9.461	PD Development Standards	9.4-17
Section 9.462	PD Conceptual Plan	9.4-19
Section 9.463	PD Development Plan	9.4-20
Section 9.464	PD Decision and Findings	9.4-22
Section 9.465	Official PD Development Plan	9.4-23
Section 9.466	Proposed Changes in Approved PD Plans	9.4-23
Section 9.467	PD Plan Expiration	9.4-24

**ARTICLE 9.5****GENERAL DEVELOPMENT STANDARDS****9.5-1**

Section 9.501	Development Standards Matrix	9.5-1
Section 9.502	Development Standards	9.5-1
Section 9.503	Plan Conformance	9.5-1
Section 9.504	Height Standards	9.5-1
Section 9.505	Building Height Exceptions	9.5-1
Section 9.506	Building Projection Exceptions	9.5-1
Section 9.507	Lot Size	9.5-1
Section 9.508	Lot Size Exceptions	9.5-2

<b>CONTENTS (Continued)</b>		<b>PAGE</b>
Section 9.509	Yard Setbacks	9.5-2
Section 9.510	Yard Setback Exceptions	9.5-2
Section 9.511	Drainageway Setbacks	9.5-2
Section 9.512	Commercial & Industrial Setbacks	9.5-2
Section 9.513	Parking	9.5-3
Section 9.514	Off-Street Parking Requirements	9.5-6
Section 9.515	Transportation Standards	9.5-7
Section 9.516	Access	9.5-7
Section 9.517	Streets	9.5-8
Section 9.518	Sidewalks	9.5-10
Section 9.519	Bikeways	9.5-11
Section 9.520	Storm Drainage	9.5-11
Section 9.521	Water	9.5-13
Section 9.522	Sanitary Sewers	9.5-14
Section 9.523	Utilities	9.5-14
Section 9.524	Easements	9.5-15
Section 9.525	Blocks	9.5-15
Section 9.526	Building Sites	9.5-16
Section 9.527	Grading	9.5-16
Section 9.528	Landscaping	9.5-17
Section 9.529	Exterior Lighting	9.5-18
Section 9.530	Signs	9.5-19
<b>ARTICLE 9.6</b>		
<b>SPECIAL DEVELOPMENT STANDARDS</b>		<b>9.6-1</b>
Section 9.601	Special Development Standards, General	9.6-1
Section 9.610	Wetlands Development Standards	9.6-1
Section 9.620	Flood Hazard (FH) Development	9.6-3
Section 9.621	FH Purpose	9.6-3
Section 9.622	FH General Provisions	9.6-4
Section 9.623	FH Development Standards	9.6-7
Section 9.624	FH Definition	9.6-10
Section 9.630	Hillside Development (HD)	9.6-13
Section 9.631	HD Scope	9.6-13
Section 9.632	HD Standards	9.6-13
Section 9.633	HD Submission Rqmts/Land Divisions	9.6-16
Section 9.634	HD Submission Rqmts/Building Permits	9.6-17
Section 9.635	HD Approval Process and Authority	9.6-19
Section 9.636	HD Fees Authorized	9.6-19
<b>ARTICLE 9.7</b>		
<b>STANDARDS</b>		<b>USE</b>
<b>9.7-1</b>		
Section 9.701	Use Standards	9.7-1
Section 9.702	Home Occupation Standards	9.7-1
Section 9.703	Bed and Breakfast Standards	9.7-1
Section 9.704	Residential Care Home Standards	9.7-3
Section 9.705	Residential Care Facility Standards	9.7-3
Section 9.706	Multiple-family Housing Standards	9.7-3
Section 9.710	Manufactured Dwelling Standards	9.7-4

<b>CONTENTS (Continued)</b>		<b>PAGE</b>
Section 9.711	General Manufactured Dwelling Provisions	9.7-4
Section 9.712	Classification of Manufactured Dwellings	9.7-5
Section 9.713	Placement of MD on Individual Lots	9.7-7
Section 9.714	Temporary Manufactured Dwelling Use	9.7-8
Section 9.715	Manufactured Dwelling Parks (MDP)	9.7-9
Section 9.716	MDP Improvement Standards	9.7-10
Section 9.717	MDP Design and Submission Standards	9.7-11
Section 9.720	Residential Structures in Com. Districts	9.7-13
Section 9.721	Public & Semi-Public Use Standards	9.7-13
Section 9.722	Urban Agricultural Use Standards	9.7-14
<b>ARTICLE 9.8</b>		
<b>PUBLIC IMPROVEMENT REQUIREMENTS</b>		<b>9.8-1</b>
Section 9.801	Improvement Procedures	9.8-1
Section 9.802	Specifications for Improvements	9.8-1
Section 9.803	Required Public Improvements	9.8-2
Section 9.804	Public Use Dedications	9.8-2
Section 9.810	Improvements Agreement	9.8-2
Section 9.811	Security	9.8-2
Section 9.812	Noncompliance Provisions	9.8-3
Section 9.850	Design and Construction Standards	9.8-4
Section 9.851	Modifications Permitted	9.8-4
Section 7.800	Applicability of Lane County Standards	9.8-4
<b>ARTICLE 9.9</b>	<b>COMPREHENSIVE PLAN, 2005 Revision</b>	<b>9.9-1</b>
Section 9.910	Planning	9.9-1
Section 9.920	Environment	9.9-17
Section 9.930	Population & Economy	9.9-25
Section 9.940	Housing	9.9-37
Section 9.950	Land Use	9.9-51
Section 9.960	Public Facilities and Services	9.9-67
Section 9.970	Transportation	9.9-83
Section 9.980	Growth Management	9.9-93
Section 9.990	Comprehensive Plan Maps and Diagrams	9.9-117
<b>ARTICLE 9.1</b>	<b>ADMINISTRATIVE PROVISIONS</b>	

**SECTION 9.101 TITLE**

This document shall be known as the **Lowell Land Development Code** and may be referred to as the "Development Code" or "Code."

**SECTION 9.102 PURPOSE**

The purpose of this Code is to establish standards and procedures for the orderly development of land within the City of Lowell in conformance with the Lowell Comprehensive Plan, to protect property rights, provide due process of law and promote the public health, safety and welfare of the citizens of Lowell.

**SECTION 9.103 COMPLIANCE STANDARDS**

- (a) The Lowell Comprehensive Plan shall be the official policy guide for the Lowell Land Development Code.
- (b) A property may be used and a structure or part of a structure may be constructed, altered, occupied or used only as this Code permits.
- (c) No property, yard, off-street parking area, off-street loading area or other open space existing on or after the effective date of this Code shall be reduced below the minimum required for it by this Code unless authorized under the procedures of this Code.
- (d) No property, yard, off-street parking area, off-street loading area, or other open space shall be used as the requirement for another lot or use, except as provided for in this Code.
- (e) No lot, structure or use shall be permitted if it is a threat to the health, safety or welfare of the user or the public.
- (f) Every lot or parcel shall abut and/or have access to a public street.
- (g) Recreational vehicles, fifth-wheelers, travel trailers, tent trailers, tents or similar facilities may not be occupied for more than thirty (30) days in a calendar year within the City limits. The City shall grant one 30-day extension upon receiving a written request.
- (h) No person shall divide land or develop land within the City without having complied with the applicable provisions of this Code and the applicable provisions of county, state and federal law.
- (i) No person shall sell any subdivision lot or partition parcel until the Plat of the subdivision or partition has been approved by the City and recorded with Lane County.
- (j) The City shall be notified of any pending sale of a subdivision, partition or of any property where the Conditions of Approval, Variance conditions or required improvements have not been completed. Sale of property under these conditions shall invalidate the approval granted by the City unless an agreement to complete the approved requirements is accepted by the City.
- (k) All approvals granted by the City shall be completed within the time period specified in the approval or within one year of approval if not specified. Periodic reviews of the progress may be conducted by the City.

**SECTION 9.104 ASSOCIATED REGULATIONS**

In addition to this Code, the following policies, plans or regulations may apply:

- (a) The Lowell Comprehensive Plan.

- (b) Official Maps or Development Plans, including but not limited to Zoning Map, Regulating Plan, Downtown Master Plan, Water Master Plan, Sewer Master Plan, Master Road Plan and agreed upon individual Development Plans.
- (c) Chapter 227, City Planning and Zoning, of the Oregon Revised Statutes (ORS 227).
- (d) Chapter 197, Comprehensive Land Use Planning Coordination, of the Oregon Revised Statutes (ORS 197).
- (e) Chapter 92, Subdivisions and Partitions, of the Oregon Revised Statutes (ORS 92).
- (f) Chapter 209, County Surveyors, of the Oregon Revised Statutes (ORS 209).
- (g) Recording requirements of the Lane County Surveyor.
- (h) All other applicable regulations provided by law.

No person shall divide land or develop land within the City without having complied with the applicable provisions of this Code and the applicable provisions of county, state or federal law.

#### **SECTION 9.105 INTERPRETATION**

- (a) Where the conditions imposed by any provision of this Code are less restrictive than comparable conditions imposed by any other provisions of this Code or any other city ordinance, state law or federal law, the applicable provisions which are more restrictive shall govern.
- (b) An oral opinion or interpretation of this Code or of the applicability of the Code to specific site situations, including non-conforming uses, may be made by the City Administrator. An oral interpretation may not be appealed unless it is first requested in writing as a request for official interpretation as provide for below.
- (c) A request for an official interpretation of the content or applicability of this Code, the Comprehensive Plan or any applicable provision of law shall be made to the City Administrator.
- (d) A person requesting an official interpretation shall submit the request in writing and may offer an opinion or recommendation. The fee for an interpretation shall be paid in compliance with Section 9.109. Clarifications and interpretations of this Code or the Comprehensive Plan may be made by the City Administrator or may be referred to the Planning Commission. Public notifications and a Public Hearing by the Planning Commission will be scheduled for interpretations affecting adjacent property owners.
- (e) The City Administrator shall issue a written response as soon as possible, but within a maximum of 45 days from receipt of the request for review of the interpretation. A City Administrator interpretation shall be made in writing and transmitted to the person requesting the interpretation.
- (f) Appeal of an interpretation may be filed in compliance with Section 9.309.

- (g) Interpretations shall be issued in writing and shall be binding on the City and the petitioner unless appealed. A Record File shall be maintained for written interpretations.

### **SECTION 9.106      VALIDITY**

The provisions of this Code are severable. If any section, sentence, clause or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this Code.

### **SECTION 9.107      ADMINISTRATION**

- (a) The City shall maintain authority over all activities within the City Limits as provided by law and the City Charter. All powers of the City shall be vested in the City Council unless otherwise provided in the City Charter.
- (b) The City Administrator, under the direction of the City Council, shall have the authority and duty to enforce the provisions of this Code and all related city, county, state or federal regulations. An Administrative Decision is a decision by the City Administrator with notification of actions taken provided to the Planning Commission and City Council.
  - (1) The City Administrator shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code as provided for in Section 9.105.
  - (2) The City Administrator shall have decision authority for Property Line Adjustments.
  - (3) Final Plat signature specified in **Section 9.237**.
  - (4) Flood Plain development permits as specified in **Section 9.622**.
  - (5) All correspondence and inquiries related to this Code shall be directed to the City Administrator at the Lowell City Hall, 107 East Third Street, P.O. Box 490, Lowell, Oregon 97452, Telephone - (541) 937-2157, Fax - (541) 937-2936.
  - (6) The City Administrator may designate other City Officers or Staff to undertake specialized duties, including but not limited to, the City Attorney, City Engineer and City Planner.
- (c) The Planning Commission shall have the authority to review and approve all Site Plans, Conditional Uses, Variances and Partitions.
- (d) The City Council, with recommendation from the Planning Commission, shall have the authority to review and approve all Comprehensive Plan and Zoning Map Amendments, Vacations and Subdivisions. The City Council shall also review and approve all Annexations.
- (e) In the event that a single land use application requires more than one decision, the highest



deciding authority will make all decisions.

- (f) A decision by the City Administrator, the Planning Commission or the City Council may be appealed as provided in **Section 9.309**.

## **SECTION 9.108 ENFORCEMENT**

Owners and/or occupants of land or buildings within the City of Lowell are subject to the enforcement authority of the City of Lowell as provided by State Law and the provisions of this Code, including any other applicable Ordinances adopted by the Lowell City Council.

The City Administrator, acting on behalf of the City Council, shall have the authority to determine and designate a violation of this Code or a violation of the Conditions of Approval of a prior land use decision and seek such remedies as may be provided for in this Code or by law

- (a) **Remedy.** A structure located, constructed, maintained, repaired, altered or used in violation of this Code, or land used in violation of this Code, shall constitute a nuisance. The City may, as an alternative to other remedies that are legally available for enforcing this Code, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

(b) **Procedures.**

- (1) Upon determination of a violation of this Code, the City shall notify the property owner that a violation exists. Such notice shall specify, with reasonable certainty, the following:

- A. The location and nature of the violation.
- B. The provision or provisions of this Code which have been violated.
- C. That immediate enforcement will be sought unless the violation is corrected or corrective action has been initiated within ten (10) calendar days.

A defect in the notice of violation shall not prevent the enforcement of this Code.

- (2) If necessary, the City Attorney shall take such legal action as required to insure compliance with this Code unless:

- A. It has been demonstrated to the satisfaction of the City that the violation has been corrected or removed or;
- B. A court of competent jurisdiction has stayed enforcement pending the outcome of a proceeding before it, concerning the violation.

- (c) **Penalty.** A violation of this Code may be the subject of criminal, civil, or other sanctions authorized by State Law or City Ordinances.

- (1) In addition to, or in lieu of criminal actions, a violation of this Code or a permit issued herein may be the subject of a civil penalty to be recovered by a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.
- (2) Upon conviction of a civil violation of this Code, a fine up to \$750 may be imposed. Each day such violation continues beyond the ten (10) day Notice of Violation first provided by the City Administrator, will be considered a separate offense.

## **SECTION 9.109 FEES**

Application and review fees established by resolution of the City Council shall be paid to the City at the time of submitting an application and shall be in addition to other fees established by county, state or federal regulations.

## ~~SECTION 9.190 DEFINITIONS (Deferred until later)~~

## **ARTICLE 9.2 APPLICATION PROCEDURES**

### **SECTION 9.201 PRE-APPLICATION CONSULTATIONS WITH CITY STAFF**

An applicant may request an informal review of a proposal prior to application to determine the general feasibility of the proposal. The applicant should submit a brief description and a sketch drawing of the proposed development to the City for preliminary consultation. The City will inform the applicant of the procedural requirements and any conditions and policies of public agencies that may be pertinent to the proposal. The applicant may proceed with an application or the City may suggest a pre-application conference with City Staff and affected agencies to assist the applicant in preparing the application.

### **SECTION 9.202 PRE-APPLICATION CONFERENCE WITH AFFECTED AGENCIES**

Within 30 days after the pre-application consultation, the City Administrator may schedule a pre-application conference with the applicant and representatives of the City and other affected public and private agencies to further clarify the conditions and requirements necessary in the preparation of the application.

(a) Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

(b) Disclaimer. Failure of the Planning Official or City Administrator, or his or her designee to provide any of the information required for a pre-application consultation, as outlined in Section 9.201, shall not constitute a waiver of any of the standards, criteria or requirements for the application.

### **SECTION 9.203 APPLICATION PROCEDURE**

10 Following preliminary consultation and the pre-application conference, where applicable, the

applicant shall prepare an application together with other supplementary data required to clearly describe the proposed development and the decision requested of the City.

- (a) Applications, Petitions and Appeals provided for in this Code shall be made on forms prescribed by the City. Forms are available at the Lowell City Hall, 107 East 3<sup>rd</sup> Street , P.O. Box 490, Lowell, Oregon 97452, Telephone - (541) 937-2157, Fax - (541) 937-2936.
- (b) Applications shall be accompanied by narrative descriptions, an Application Site Plan in conformance with **Section 9.204** if required, building plans, maps, specifications and any other information that clearly describe the request and the applicable City Code sections that may apply to the request.
- (c) A consolidated procedure shall be utilized by the City for applications that require more than one approval procedure for a development project. The City will identify and address all of the procedures concurrently and will utilize the most comprehensive procedure and decision process of those required in the application. The total fee shall be the sum of all individual procedural fees with the exception that Site Plan Review fees shall not be included to arrive at the total fee.
- (d) Applications shall include the application form, site plan together with all documents, evidence and supplemental information relied upon by the applicant. The City may require the applicant to provide additional copies of all application materials. A Review or Hearing will be scheduled not earlier than 30 days from the date the Application is deemed complete.
- (e) All Applications shall be available to the public and notifications will be mailed by the City not later than fifteen (15) days prior to the review or hearing meeting.
- (f) An application and review fee shall accompany the application request in accordance with the provisions of **Section 9.109**.
- (g) Staff reports used at the review or hearing shall be available at least seven (7) days prior to the review or hearing.
- (h) The City shall comply with **ORS 227.178** and take final action on an application, including resolution of all local appeals, within 120 days after the application is deemed complete. If an application is incomplete, the City shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete if the applicant supplies the missing information, or if the applicant refuses to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.

If an application is complete when first submitted or if the applicant submits the requested missing information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

- (i) The 120 day period specified in subsection (8) may be extended for a reasonable time at the request of the applicant.

- (j) The 120 day period specified in subsection (8) does not apply to an amendment to this Code.
- (k) The Applicant bears the responsibility and burden of proof for the requested action.
- (l) The Application and the decision of the City shall be maintained by the City in a Record File of the Application. Notice of Decision shall be given the Applicant and other participants in the proceedings as specified in **Section 9.304**.
- (m) Expiration. Approved applications shall be void eighteen (18) months after the date of approval unless a building permit has been issued or other significant action has been taken to exercise the approval, unless a different period was specified as a condition of approval. However, upon written request, the Deciding Body may extend authorization for an additional period of time.
- (n) The specific requirements and decision process for each application procedure are contained **Table 1 below**.

<b><u>Table 1 Summary of Approvals by Type of Review Procedure</u></b>		
<b><u>Approvals</u></b>	<b><u>Review Procedures</u></b>	<b><u>Applicable Regulations</u></b>
<u>Amendments (Text Change to Development Code or Comprehensive Plan)</u>	<u>Type IV</u>	<u>Section 9.253 Amendments</u>
<u>Annexations</u>	<u>Type IV</u>	<u>Section 9.254 Annexations</u>
<u>Building Permit</u>	<u>Type I</u>	<u>Title VIII – Building and Applicable Standards of Zoning Designation. Section 9.209.</u>
<u>Code Interpretation</u>	<u>Type II</u>	<u>Section 9.105</u>
<u>Conditional Use Permit</u>	<u>Type III</u>	<u>Section 9.251</u>
<u>Flood Plain Development Permit</u>	<u>Type I</u>	<u>Section 9.620 Flood Hazard Development</u>
<u>Home Occupation (outside of boundaries of Regulating Plan)</u>	<u>Type III</u>	<u>Section 9.702 Home Occupation Standards</u>
<u>Home Occupation (inside boundaries of Regulating Plan)</u>	<u>Type I</u>	<u>Section 9.702 Home Occupation Standards</u>
<u>Official Planned Unit Development (PUD)</u>	<u>Type IV</u>	<u>Section 9.465 Official PD Development Plan</u>
<u>Modification to Approval (minor)</u>	<u>Type II</u>	<u>Section 9.243 Proposed Changes in Approved Plans for Subdivisions or Land Partitions. Section 9.466 for PUD.</u>
<u>Modification to Approval (major)</u>	<u>Type V</u>	<u>Section 9.243 Proposed Changes in Approved Plans for Subdivision or Land Partitions. Section 9.466 for PUD.</u>
<u>Zone Change Map Amendment Change (for one or more affected properties)</u>	<u>Type IV</u>	<u>Section 9.253 Amendments</u>

<u>Property Line Adjustments (including consolidations)</u>	<u>Type II</u>	<u>Section 9.211 Property Line Adjustments and Lot Consolidations</u>
<u>Non-Conforming Use Determination (Lots/Use/Structures/Premises/Characteristics)</u>	<u>Type II</u>	<u>Section 9.408 Nonconforming Use</u>
<u>Partition</u>	<u>Type III</u>	<u>Section 9.220 Subdivision or Partition Tentative Plans</u>
<u>Sign Permit</u>	<u>Type I</u>	<u>Section 9.530 Signs</u>
<u>Site Plan Review</u>	<u>Type III</u>	<u>Section 9.250 Site Plan Review. Site Plan Review for Building Permit Submittal shall be a Type I process. See Building Permit.</u>
<u>Subdivision - Tentative</u>	<u>Type V</u>	<u>Section 9.220 Subdivision or Partition Tentative Plan and Section 9.228 Decision Criteria</u>
<u>Subdivision - Final</u>	<u>Type I</u>	<u>Section 9.230 Subdivision or Partition Plat and Section 9.238 Decision Criteria</u>
<u>Temporary Manufactured Dwelling Use Permit</u>	<u>Type II</u>	<u>Section 9.714 Temporary Manufactured Dwelling Use</u>
<u>Variance</u>	<u>Type III</u>	<u>Section 9.252 Variances</u>
<u>Annexation</u>	<u>Type IV</u>	<u>Section 9.254 Annexations</u>
<u>Vacation</u>	<u>Type IV</u>	<u>Section 9.255 Vacations</u>
<u>Replat</u>	<u>Type V</u>	<u>Section 9.241 Replatting</u>

(o) All land use and development permit applications and approvals shall be decided by using the procedures contained in Table 1. The procedure “type” assigned to each application governs the decision-making process for that permit or approval.

(1) Type I Procedure (Ministerial). Type I decisions are made by the City Administrator, or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying City standards and criteria requires no use of discretion. Type I process is further outlined in Section 9.206.

(2) Type II Procedure (Administrative). Type II decisions are made by the City Administrator or his or her designee, with public notice, and an opportunity for a public hearing if appealed. Type II decisions may be heard by Planning Commission. The appeal of a Type II decision is heard by the Planning Commission. Type II process is further outlined in Section 9.206.

(3) Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III decisions generally use discretionary approval criteria. The Type III process is further outlined in Section 9.206.

(4) Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involved the creation, revision, or large-scale implementation of

public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts, not just one property). Type IV matters are considered initially by the Planning Commission for a recommendation, with a final decision made by the City Council. Appeals are submitted to the Oregon State Land Use Board of Appeals (LUBA). The Type IV process is further outlined in Section 9.206.

(5) Type V (Subdivision and Replat). Type V procedures apply to tentative subdivision plats, replats and major modifications to an approved tentative subdivision plat. A Type V process involves a public hearing in front of the Lowell Planning Commission and a second public hearing by the Lowell City Council. The Lowell Planning Commission shall issue a recommendation onto Lowell City Council for consideration and final action. The Type V process is further outlined in Section XX.

## **SECTION 9.204 APPLICATION SITE PLAN**

Applications for land divisions requiring a tentative plan or for any land use request in this code that requires a site plan shall submit the plan on 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Larger drawings may be required for presentation and City review. Drawings shall be drawn to scale. The scale to be used shall be in any multiple of 1 inch equals 10 feet ( 1" = 20', 1" = 30', 1" = 100', etc.) and may be increased or decreased as necessary to fit the sheet size. The Application and site plan shall show clearly and with full dimensioning the following information, as applicable, for all existing and proposed development. It is understood that some of the requested information may not apply to every application. (X) out the number of non-applicable information.

- (a) The names of the owner(s) and applicant if different.
- (b) The property address or geographic location and the Assessor Map number and Tax Lot number.
- (c) The date, scale and northpoint.
- (d) A vicinity map showing properties within the notification area and roads. An Assessor Map, with all adjacent properties, is adequate.
- (e) Lot dimensions.
- (f) The location, size, height and uses for all existing and proposed buildings.
- (g) Yards, open space and landscaping.
- (h) Walls and fences: location, height and materials.
- (i) Off-street parking: location, number of spaces, dimensions of parking area and internal circulation patterns.
- (j) Access: pedestrian, vehicular, service, points of ingress and egress.
- (k) Signs: location, size, height and means of illumination.

- (l) Loading: location, dimension, number of spaces, internal circulation.
- (m) Lighting: location and general nature, hooding devices.
- (n) Street dedication and improvements.
- (o) Special site features including existing and proposed grades and trees, and plantings to be preserved and removed.
- (p) Water systems, drainage systems, sewage disposal systems and utilities.
- (q) Drainage ways, water courses, flood plain and wetlands.
- (r) The number of people that will occupy the site including family members, employees or customers.
- (s) The number of generated trips per day from each mode of travel by type: employees, customers, shipping, receiving, etc.
- (t) Time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.
- (u) Specifications of the type and extent of emissions, potential hazards or nuisance characteristics generated by the proposed use. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use. Misrepresentation or omission of required data shall be grounds for denial or termination of a Certificate of Occupancy.

Uses which possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community including, but not limited to; noise, water quality, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference, may require additional safeguards or conditions of use as required by the Planning Commission or City Council.

All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. City approval of a land use application shall be conditional upon evidence being submitted to the City indicating that the proposed activity has been approved by all appropriate regulatory agencies.

- (v) Such other data as may be necessary to permit the deciding authority to make the required findings.

## **SECTION 9.205 RECORD FILE**

The City shall maintain an official Record File of each application containing all relevant data, drawings, dates, notices, hearings, postponements, continuances, decisions, appeals and minutes of all meetings pertaining to the application.

- (a) Minutes of all meetings, reviews and hearings shall record the substance of all issues before the review or hearing body including the criteria, factual evidence and the justification for the decision as specified in **Article 9.3**. Summary written minutes shall be maintained in the Record file. The minutes and records need not be a verbatim transcript of the meeting.
- (b) Proceedings may be recorded either stenographically or electronically although a verbatim record is not required. Minutes may be summarized from the transcript or tape.
- (c) Testimony may be transcribed at the expense of the requesting party, if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs as authorized by state law.
- (d) The staff report and recommendation shall be included in the Record File.
- (e) The review or hearing body shall, where practical, retain as part of the record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the Record file until after all appeal periods have expired, at which time the exhibits may be released.
- (f) The public shall have access to the Record File of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

### **SECTION 9.206 APPLICATION TYPES PROCESS**

#### **(a) Type I Procedure (Ministerial).**

##### **(1) Application Requirements**

**A. Application Forms.** Type I applications shall be made on forms provided by the City Administrator or designee.

**B. Application Requirements.** Type I applications shall:

- 1. Include the information requested on the application form;**
- 2. Address the criteria in sufficient detail for review and action; and**
- 3. Be filed with the required fee.**

**(2) Ministerial Decision Requirements.** The City Administrator or designee's decision shall address all of the approval criteria, including applicable requirements of any road authority. Based on the criteria and the facts contained within the record, the City Administrator shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

**(3) Final Decision.** A Type I decision is the final decision of the City. It cannot be appealed to City Officials.

**(4) Effective Date.** A Type I decision is final on the date it is made.



(b) Type II Procedure (Administrative)

(1) Pre-application Conference. A pre-application conference is optional for Type II reviews. Pre-application conference requirements and procedures are in Section XX.

(2) Application Requirements.

A. Application Forms. Type II applications shall be made on forms provided by the City Administrator or designee.

B. Submittal Information. The application shall:

1. Include the information requested on the application form;
2. Be filed with one copy of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required based on the requested land use action; and
3. Be accompanied by the required fee.

(3) Notice of Application for Type II Administrative Decision.

A. Before making a Type II Administrative Decision, the City Administrator or designee shall mail notice to:

1. All owners of record of real property within a minimum of 300 feet of the subject site;
2. All City-recognized neighborhood groups or associations whose boundaries include the site;
3. Any person who submits a written request to receive a notice; and
4. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.

B. Posted Notice. Posted notice shall be provided, when required, as follows:

1. The applicant shall post notice on the subject property no earlier than 14, and no later than ten, days prior to the end of the 14-day comment period. The notice shall remain in place throughout the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made part of the file.
2. Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.
3. Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts

the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.

4. Posted notice shall be on signs approved by the City Administrator or designee.

5. The applicant shall remove the signs from the subject property after the comment period.

C. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.

D. Notice of a pending Type II Administrative Decision shall:

1. Provide a 14-day period for submitting written comments before a decision is made on the permit;

2. List the relevant approval criteria by name and number of code sections;

3. State the place, date and time the comments are due, and the person to whom the comments should be addressed;

4. Include the name, telephone number, and email of a contact person regarding the Administrative Decision;

5. Describe proposal and identify the specific permits or approvals requested;

6. Describe the street address or other easily understandable reference to the location of the site;

7. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;

8. State that all evidence relied upon by the City Administrator or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;

9. State that after the comment period closes, the City Administrator or designee shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

10. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Lowell Development Code requires that if you receive this notice, it shall be promptly forwarded to the purchaser."

E. Administrative Decision Requirements. The City Administrator or designee shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Administrator or designee shall approve, approve with conditions, or deny the requested permit or action. If the application has unique or unclear characteristics the City Administrator, or the applicant, may refer the application to the Planning Commission for review in a public hearing, in which case the review shall follow the Type III procedures in **Section XX**.

F. Notice of Decision.

1. Within five days after the City Administrator or designee signs the decision, a Notice of Decision shall be sent by mail to:

- (i) The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
- (ii) Any person who submits a written request to receive notice, or provides comments during the application-review period;
- (iii) Any City-recognized neighborhood group or association whose boundaries include the site; and
- (iv) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.

2. The City Administrator or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

3. The Type II Notice of Decision shall contain:

- (i) A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);
- (ii) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
- (iii) A statement of where the City's decision can be obtained;
- (iv) The date the decision shall become final, unless appealed;
- (v) A statement that all persons entitled to notice may appeal the decision; and
- (vi) A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

G. Final Decision and Effective Date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

H. Appeal. A Type II administrative decision may be appealed to the Planning Commission as follows:

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- (i) The applicant or owner of the subject property;
- (ii) Any person who was entitled to written notice of the Type II administrative decision;

(iii) Any other person who participated in the proceeding by submitting written comments.

2. Appeal filing procedure. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures. A Notice of Appeal shall be filed with the City Administrator or designee within 15 days of the date the Notice of Decision was mailed.

3. Contents of notice appeal. The Notice of Appeal shall contain:

(i) An identification of the decision being appealed, including the date of the decision;

(ii) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;

(iii) A statement explaining the specific issues being raised on appeal;

(iv) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and

(v) Filing fee.

4. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be a hearing de novo before the Planning Commission. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.

5. Appeal procedures. Type III notice, hearing procedures and decision process shall also be used for all Type II Administrative Appeals, as provided in **Sections XX**

6. Further appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission hearing. The decision of the City Council on an appeal is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to **ORS 197.805 - 197.860**.

(c) Type III procedure (Quasi-Judicial)

(1) Pre-application Conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in **Section XX**.

(2) Application Requirements.

A. Application forms. Type III applications shall be made on forms provided by the City Administrator or designee; if a Type II application is referred to a Type III

hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.

B. Submittal Information. When a Type III application is required, it shall:

1. Include the information requested on the application form;
2. Be filed with one copy of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval; and
3. Be accompanied by the required fee.

(3) Notice of Hearing.

A. Mailed notice. The City shall mail the notice of the Type III action. The records of the Lane County Assessor's Office are the official records for determining ownership and can be accessed by RLID – Regional Land Use Information Database [www.rlid.org](http://www.rlid.org). Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Administrator or designee in the following manner:

1. At least 20 days before the hearing date, notice shall be mailed to:

- (i) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
- (ii) All property owners of record within 300 feet of the site;
- (iii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;
- (iv) Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
- (v) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
- (vi) Any person who submits a written request to receive notice;
- (vii) For appeals, the appellant and all persons who provided testimony in the original decision; and
- (viii) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

2. The City Administrator or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.

B. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed shall contain the following information:

- (1) The nature of the application and the proposed land use or uses that could be authorized for the property;
- (2) The applicable criteria and standards from the development code(s) that apply to the application;
- (3) The street address or other easily understood geographical reference to the subject property;
- (4) The date, time, and location of the public hearing;
- (5) A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
- (6) The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
- (7) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies shall be provided at a reasonable cost;
- (8) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- (9) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
- (10) The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Lowell requires that if you receive this notice it shall be promptly forwarded to the purchaser."

C. Posted Notice. Posted notice shall be provided, when required, as follows:

- (1) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14-day comment period. The notice shall remain in place throughout the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part of the file.
  - (i) Posted notice. Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.
- (2) Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.
- (3) Posted notice shall be on signs approved by the City Administrator.
- (4) The applicant shall remove the signs from the subject property after the comment period ends.

(4) Conduct of the Public Hearing.

A. At the commencement of the hearing, the hearings body shall state to those in attendance:

- (1) The applicable approval criteria and standards that apply to the application or appeal;
- (2) A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
- (3) A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
- (4) Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.

B. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence.

C. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.

- (1) When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
- (2) An extension of the hearing or record granted is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
- (3) If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence;
- (4) The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
- (5) In making its decision, the hearings body may take notice of facts not in the

hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts; and  
(6) The review authority shall retain custody of the record until the City issues a final decision.

D. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

1. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section D(5) below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;

2. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

3. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

4. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

5. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

E. Ex parte communications.

1. Members of the hearings body shall not:

(i) Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per Section XX above; and

(ii) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.



2. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

(i). Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

(ii) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

3. A communication between City staff and the hearings body is not considered an ex parte contact.

F. Presenting and receiving evidence.

1. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

2. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section XX; and

3. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

(5) The Decision Process.

A. Basis for decision. Approval of a Type II or Type III application, or denial of an appeal of a Type II decision, shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;

B. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

C. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;

D. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Administrator or designee within ten business days after the close of the deliberation;

E. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within ten business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

F. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the City Council's written decision or, in the case of Type I decision, within 21 days of the administrative decision date.

(6) Appeal.

A. An appeal of a Type III decision may be appealed to the City Council within 15 days of the date the Notice of Decision was mailed. The Type II appeal process shall govern the appeal process for a Type III decision. See **Section b(3)H.**

(d) Type IV Procedure (Legislative)

(1). Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the City. The requirements and procedures for a pre-application conference are described in **Section XX.**

(2). Application Requirements.

A. Application forms. Type IV applications shall be made on forms provided by the City Administrator or designee.

B. Submittal Information. The application shall contain:

1. The information requested on the application form;
2. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
3. The required fee; and
4. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

(3). Notice of Hearing.

A. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.

B. Notification Requirements. Notice of public hearings for the request shall be given by the City Administrator or designee in the following manner:

1. At least 10 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

(i) Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);

(ii) Any affected governmental agency;

(iii) Any person who requests notice in writing; and

(iv) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

2. At least 10 days before the scheduled Planning Commission public hearing date, and 10 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.

3. The City Administrator or designee shall:

(i) For each mailing of notice, file an affidavit of mailing in the record as provided by subsection 1; and

(ii) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection 2.

4. The Oregon Department of Land Conservation and Development (DLCD) shall be notified electronically using the PAPA online submittal system of proposed comprehensive plan and development code amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.

5. Notifications for annexation shall follow the provisions of this Section XX and ORS 222.

C. Content of notices. The mailed and published notices shall include the following information:

1. The number and title of the file containing the application, and the address and telephone number of the City Administrator or designee's office where additional information about the application can be obtained;

2. The proposed site location;

3. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;

4. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and

available at City Hall ; and

5. Each mailed notice required shall contain the following statement: “Notice to mortgagee, lien holder, vendor, or seller: The Lowell Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

D. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:

1. Personal notice is deemed given where the notice is deposited with the United States Postal Service; and

2. Published notice is deemed given on the date it is published.

(4). Hearing Process and Procedure.

A. Unless otherwise provided in the rules of procedure adopted by the Lowell City Council:

1. The presiding officer of the Lowell Planning Commission and of the Lowell City Council shall have the authority to:

(i) Regulate the course, sequence, and decorum of the hearing;

(ii) Direct procedural requirements or similar matters; and

(iii) Impose reasonable time limits for oral presentations.

2. No person shall address the Lowell Planning Commission or the Lowell City Council without:

(i) Receiving recognition from the presiding officer; and

(ii) Stating their full name and address.

3. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

B. Unless otherwise provided in the rules of procedures adopted by the Lowell City Council, the presiding officer of the Lowell Planning Commission and of the Council shall conduct the hearing as follows:

1. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the Lowell City Council or the final decision of the Council;

2. The City Administrator or designee’s report and other applicable staff reports shall be presented;

3. The public shall be invited to testify;

4. The public hearing may be continued to allow additional testimony or it may be closed; and

5. The body’s deliberation may include questions to the staff, comments from

the staff, and inquiries directed to any person present.

(5). Continuation of the Public Hearing. The Lowell Planning Commission or the Lowell City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

(6). Decision-Making Criteria. The recommendation by the Lowell Planning Commission and the decision by the Lowell City Council shall be based on the following factors:

- A. Approval of the request is consistent with the Statewide Planning Goals;
- B. Approval of the request is consistent with the Comprehensive Plan;
- C. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property; and
- D. All relevant applicable approval criteria as contained elsewhere in the Lowell Development Code.

(7). Approval Process and Authority.

A. The Lowell Planning Commission shall:

1. After notice and a public hearing, vote on and prepare a recommendation to the Lowell City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.

B. Any member of the Lowell Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Administrator or designee before the Council public hearing on the proposal. The City Administrator or designee shall send a copy to each Council member and place a copy in the record.

C. If the Lowell Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, the City Administrator or designee shall:

- 1. Report the failure together with the proposed change to the City Council; and
- 2. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing make a decision. No further action shall be taken by the Commission.

D. The Lowell City Council shall:

- 1. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Lowell Planning Commission for rehearing and reconsideration on all or part of the application;
- 2. Consider the recommendation of the Lowell Planning Commission; however, the City Council is not bound by the Commission's recommendation; and

3. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

(8). Vote Required for a Legislative Change.

A. A vote by a majority of the qualified voting members of the Lowell Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

B. A vote by a majority of the qualified members of the Lowell City Council present is required to decide any motion made on the proposal.

(9). Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Administrator or designee. The City shall also provide notice to all persons as required by other applicable laws.

(10). Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

(11). Record of the Public Hearing.

A. A record of the proceeding shall be made by a minutes recorder, stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record.

B. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

C. The official record shall include:

1. All materials considered by the hearings body;
2. All materials submitted by the City Administrator or designee to the hearings body regarding the application;
3. The record made by the minutes recorder, stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
4. The final ordinance;
5. All correspondence; and
6. A copy of the notices that were given as required by **Section XX**.

(e) Type V Procedure (Subdivisions and Replats). Type V applications apply to tentative subdivision plat approvals and replats. A Type V decision is made by City Council with a recommendation from the Planning Commission. A minimum of two public hearings are required for a Type V land use application. Appeals are submitted to the Oregon State Land Use Board of Appeals (LUBA).

(1). Pre-Application Conference. A pre-application conference is required for all Type V applications initiated by a party other than the City. The requirements and procedures for a pre-application conference are described in **Section XX**.

(2). Application Requirements.

A. Application forms. Type V applications shall be made on forms provided by the City Administrator or designee.

B. Submittal Information. The application shall contain:

1. The information requested on the application form;
2. The items as specified in Sections 9.221 through 9.227.
3. The required fee; and
4. One copy of a letter or narrative statement that explains how the proposal meets the decision criteria as contained in Section 9.228.

(3). Notice of Hearing.

A. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type V applications.

B. Notification Requirements. Notification requirements shall be the same as those for a Type III procedure. Notice for a Type V land use process may contain both public hearing dates in the same notice.

C. Content of notices. The mailed notice shall contain the same information as required for a Type III procedure.

D. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:

1. Personal notice is deemed given where the notice is deposited with the United States Postal Service; and
2. Published notice is deemed given on the date it is published.

(4). Hearing Process and Procedure.

A. The hearing process shall follow the process for a Type III Quasi-Judicial process.

(5). Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

(6). Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on applicable approval criteria as outlined in the Staff Report and Section 9.228.

(7). Approval Process and Authority.

A. The Planning Commission shall:

1. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.

B. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Administrator or designee before the Council public hearing on the proposal. The City Administrator or designee shall send a copy to each Council member and place a copy in the record.

C. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change,

the City Administrator or designee shall:

1. Report the failure together with the proposed change to the City Council; and
2. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing make a decision. No further action shall be taken by the Commission.

D. The City Council shall:

1. Approve, approve with modifications, approve with conditions, deny, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
2. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
3. Prepare Findings of Fact and a Final Order supporting the Council's decision.

(9). Notice of Decision. Written notice of a Type V decision shall be mailed to the applicant and all parties of record within ten business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

(10). Final Decision. A Type V decision shall be final on the date notice of decision is mailed by the City. Since a Type V decision is a final decision by the City Council appeals must be submitted to the Land Use Board of Appeals within 21 days of the decision becoming final.

## **SECTION 9.209 BUILDING PERMITS**

- (a) Building Permits are issued by the City through a TYPE I ministerial process. The City contracts with others to provide plan review and construction inspections in accordance with ORS Chapter 455.
- (b) Building Permits applications may be submitted and building permits issued at any time upon compliance with established Building permitting processes for **Permitted Uses** not requiring a Review or Public Hearing by the Planning Commission or City Council.
- (c) Application for Building Permits requiring any land use decision described in this Article normally may not be submitted until the land use decision has been made approving the use. The exception to this requirement being that the Applicant may make application for a Building Permit prior to land use approval if the Applicant agrees in writing to pay all Building Permit fees should the land use decision be denied. Building Permits for an approved land use decision shall not be issued until the appeal period, as specified under **Section 9.309**, has passed without the approval of the City Administrator.
- (d) Certificate of Occupancy will only be issued when all Conditions for Approval of a land use decision required to allow the building permit to be issued have been met.



**SECTION 9.210 LAND DIVISIONS****SECTION 9.211 PROPERTY LINE ADJUSTMENTS**

- (a) **Purpose.** A property line adjustment is a relocation of a common property line between abutting properties when both parties agree. A property line adjustment shall not create an additional lot or parcel, reduced a lot or parcel in size below the minimum size specified for the zone, or create a violation of development standards on either lot or parcel. A lot consolidation is the legal incorporation of two or more existing lots or parcels of land to form a single, larger property.
- (b) **Application.** A property line adjustment, or lot consolidation may be submitted for review by the City Administrator without preliminary consultation, a land division conference, or a hearing where the adjustment complies with **Section 9.212 and 9.213.**
- (c) **Information.** The City may require additional copies of the proposed map of the property line adjustment together with other supplementary data required for recording or specified herein as required for review and action by the deciding authority.

**SECTION 2.212 PROPERTY LINE ADJUSTMENT REQUIREMENTS**

All property line adjustment and or lot consolidation requests shall contain the following information:

- (a) The property to be adjusted shall comply with **ORS 92** for Property Line Adjustments.
- (b) A map clearly and legibly drawn to scale with the scale indicated.
- (c) The title "Property Line Adjustment" for, or "Lot Consolidation for" ....., the date and northpoint.
- (d) Name and address of the record owner(s) of the property to be adjusted.
- (e) Assessor Map and Tax Lot numbers and approximate acreage or square feet of each property prior to and after adjustment.
- (f) The location and boundary dimensions and other information to accurately locate the adjusted property line.
- (g) Existing conditions for land within the properties to be adjusted:
- (1) The locations, names and widths of existing streets.
  - (2) The location, width and purpose of existing or proposed easements.
  - (3) (e) The approximate location of buildings, public and private utilities, drainage ways and other significant features that would affect development of the adjusted properties.

**SECTION 9.213 DECISION CRITERIA**

~~A Property Line Adjustment may be approved based upon compliance with the submittal requirements specified above and the following findings:~~

(a) Property Line Adjustment.

- ~~(a)~~ (1) The adjustment will not create an additional unit of land.
- ~~(b)~~ (2) The adjustment will not create a land-locked parcel.
- ~~(c)~~ (3) The existing unit of land reduced in size by the adjustment complies with applicable City Ordinances and this Code and will not create a non-conforming lot or non-conforming development.
- ~~(d)~~ (4) The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
- ~~(e)~~ (5) The adjustment shall comply with all state and county recording requirements.

(b) A Lot Consolidation.

- (1) Each property is a lawfully established unit of land, or the consolidation is intended to rectify previous unlawful establishment of units of land.
- (2) The resulting number of parcels will be less than the existing number.
- (3) All affected properties would comply with the minimum lot depth, width and area standards of the applicable zone after the proposed consolidation.
- (4) Existing structures on any affected property would comply with the minimum and maximum setbacks standards of the applicable zone after the proposed consolidation.
- (5) If the resulting aggregation of affected properties is eligible for additional development under existing zoning, the proposed consolidation will not:
  - (i) Preclude the opportunity for such additional development; or
  - (ii) Reconfigure the properties in a pattern which might avoid or reduce the need to install public improvements typically required as a condition of such additional development.

**SECTION 9.214 DECISION PROCESS**

- ~~(a) A Property Line Adjustment or Lot Consolidation shall be processed as a Type II process. A Property Line Adjustment does not require a Limited Land Use Decision or Notifications. The City Administrator may consider a Property Line Adjustment at any time following submittal of the application.~~

- (b) If the proposed Property Line Adjustment, or Lot Consolidation is consistent with City land use standards, the City Administrator may approve the map as submitted, approve with conditions or deny the request for noncompliance.
- (c) If the application requires a Variance or the establishment or relocation of an Easement, or requires interpretation or the exercise of policy, the decision shall be placed before the Planning Commission which shall hold a public hearing in conformance with the Type III process procedures of Section XX. ~~Quasi-judicial Public Hearings requirements of Section 9.306.~~

**SECTION 9.215 PROPERTY LINE ADJUSTMENT AND LOT CONSOLIDATION FILING**

- (a) Deeds or conveyances for all lots or parcels conforming to the approved Property Line Adjustment, or Lot Consolidation shall be filed with Lane County Deeds and Records ~~the County Clerk~~ in accordance with **ORS 92.190, subsections (3) and (4)**.
- (b) Upon approval or denial, a Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Property Line Adjustment, or Lot Consolidation as specified in Section 9.306. ~~A decision by the City Administrator may be appealed to the Planning Commission in accordance with Section XX. The Applicant may modify the proposed Property Line Adjustment for compliance with the required conditions or may request an Appeal to the Planning Commission within 15 days of the City Administrator decision or to the City Council within 15 days of the Planning Commission decision in conformance with Section 9.309.~~
- (c) Copies of all recorded deeds, conveyances and filed surveys shall be provided to the City for inclusion in the Record File of the Application, in accordance with Section 9.205.

**SECTIONS 9.216 through 9.219 Reserved for Expansion****SECTION 9.220 SUBDIVISION OR PARTITION TENTATIVE PLAN**

- (a) The Planning Commission shall have the authority to review and approve Land Partitions, pursuant to a Type III process. And the City Council, with recommendation from the Planning Commission, shall have the authority to review and approve all Subdivisions under the provisions of this Code pursuant to a Type V process.
- (b) In the event that a single land use application requires more than one decision, the highest deciding authority will make all decisions requested in the application.

**SECTION 9.221 SUBMISSION REQUIREMENTS**

A land divider shall prepare a Tentative Plan together with improvement plans and other supplementary material as may be required to indicate the general idea and objectives of the project. The Applicant shall submit three copies of the Tentative Plan and supplementary data to the City at the time of submittal of the application. The City may require additional copies to be submitted before review or hearing.

**SECTION 9.222 FORM AND SCALE**

The Tentative Plan shall be clearly and legibly presented on 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Larger drawings may be required for presentation and City review. The scale to be used shall be in multiples of 1 inch equals 10 feet (1" = 20', 1" = 30', 1" = 100', etc.) and may be increased or decreased as necessary to fit the sheet size.

**SECTION 9.223 GENERAL INFORMATION**

The following information shall be provided on all Tentative Plans:

- (a) All information required by **ORS 92** for a Tentative Plan including, but not limited to, the following.
- (b) No Tentative Plan shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land Platted is contiguous to and Platted by the same party that Platted the subdivision bearing that name or unless the party files and records the consent of the party that Platted the subdivision bearing that name. All Plats must continue the lot and block numbers of the Plat of the same name last filed.

Subdivisions submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.

- (c) Date, northpoint, scale of drawing.

- (d) Appropriate identification clearly stating the map is a subdivision or partition Tentative Plan.
- (e) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed subdivision.
- (f) Names and addresses of the owner, applicant and surveyor.
- (g) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

#### **SECTION 9.224 EXISTING CONDITIONS INFORMATION**

- (a) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other right-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.
- (b) The location of all existing sewers, septic tanks and drainfields, water lines, storm drains, culverts, ditches and utilities, together with elevational data, on the site and on adjoining property or streets, if applicable.
- (c) The base data used to determine contours shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

Contour Intervals	Ground Slope
One Foot	Up to 10%
Five Feet	Over 10%

**Exception:** The City may approve slope indications for partitions by means of arrows or other suitable symbol together with not less than four spot elevations per acre evenly distributed for slopes of less than five percent (5%).

- (d) The location of at least one bench mark control point within the tract boundaries.
- (e) The location and direction of all on-site and off-site drainage, drainage channels, water courses and the location of all areas subject to flooding.
- (f) Natural features such as rock outcroppings, wetlands, wooded areas and isolated preservable trees. Lands that are wholly or partially within areas identified as wetlands shall be clearly delineated for review and permit.
- (g) Existing uses on and adjacent to the property, including the location of all existing structures to remain on the property after the land division.
- (h) Zoning on and adjacent to the property to be divided.

#### **SECTION 9.225 PROPOSED PLAN INFORMATION**

- (a) A vicinity map clearly showing the relationship and connections of the proposed land division to surrounding developments, streets, storm drainage, sewer, septic tank and drainfield, water and utility services.
- (b) The location, width, name and approximate grade and curve radii of proposed street. The relationship of proposed streets to existing streets and any projected future streets shown on the Master Road Plan or other transportation planning document. Streets proposed for public dedication and streets held for private use shall be clearly indicated and all reservations or restrictions relating to such private streets shall be included in the statements specified in **Section 9.226**.
- (c) The location, width, and purpose of existing and proposed easements.
- (d) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.
- (e) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where the property division results in any lots or parcels that are larger than 2½ times the minimum lot size, the applicant shall provide a sketch plan showing how the parcels may be re-divided in the future to provide for at least 80% of maximum density within current minimum lot sizes, existing site constraints and requirements of this Code.
- (f) An outline of the areas proposed for partial recording of a final Plat and a time schedule for additional Platting if staged recording is proposed.
- (g) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.
- (h) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (retention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).
- (i) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (j) Identification of any requirements for future streets and easements required for extension of public infrastructure beyond the development together with restrictions on building within those future streets and easements as well as future setback areas required by this Code.
- (k) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mail boxes, bus stops, greenways, bike or pedestrian paths.

## **SECTION 9.226 ACCOMPANYING STATEMENTS**

The Tentative Plan shall be accompanied by written statements from the applicant giving essential information regarding the following matters:

- (a) Identify the adequacy and source of water supply including:
  - (1) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
  - (2) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Council.
- (b) Identify the proposed method of sewage disposal including:
  - (1) Certification that a sewage disposal system will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
  - (2) A bond, contract or other assurance by the applicant that a sewage disposal system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City.
- (c) Protective covenants, conditions and deed restrictions (CC&R'S) to be recorded, if any.
- (d) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.
- (e) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.
- (f) A statement that the declarations required by **ORS 92.075** on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.
- (g) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The deciding authority may require a specific time schedule for approval.

#### **SECTION 9.227 SUPPLEMENTAL INFORMATION**

Any of the following may be required by the City, in writing to the applicant, to supplement the Tentative Plan.

- (a) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.
- (b) A detailed plan of the domestic water supply lines and related water service facilities.

- (c) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.
- (d) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.
- (e) Specifications and details of all proposed improvements.
- (f) Wetland delineation if identified as an existing condition in **Section 9.224 (f)**.

## **SECTION 9.228 DECISION CRITERIA**

A Partition Tentative Plan may be approved by the Planning Commission pursuant to a Type III process and a Subdivision Tentative Plan may be approved by the City Council pursuant to a Type V process. Approval shall be based upon compliance with the submittal requirements specified above and the following findings.

- (a) That the proposed land division complies with applicable provisions of City Codes and Ordinances, including zoning district standards.
- (b) In dividing large tracts into lots or parcels which may be further divided into smaller properties, the applicant has shown through a shadow plat indicating future division of the property and street layout will not preclude development on adjacent tracts and will facilitate future land divisions and ensure existing structures and infrastructure will meet the locational requirements of this code.
- ~~(c) Where the proposed land division results in any lots or parcels that are at least two and one half times the allowed minimum lot size, the applicant has demonstrated that all such lots or parcels may be re-divided in the future to at least 80% of maximum density possible within current minimum lot sizes, existing site constraints, and requirements of this Code.~~
- ~~(d) The applicant has demonstrated that the proposed land division does not preclude development on properties in the vicinity to at least 80% of maximum density possible within current minimum lot sizes, existing site conditions and the requirements of this Code.~~
- (c) The proposed street plan:
  - a. Is in conformance with City standards and with the Master Road Plan or other transportation planning document.
  - b. Provides for adequate and safe traffic and pedestrian circulation both internally and in relation to the existing City street system.
  - c. Will not preclude the orderly extension of streets and utilities on undeveloped and underdeveloped portions of the subject property or on surrounding properties.
- (d) Adequate public facilities and services are available to the site, or if public services and facilities are not presently available, the applicant has demonstrated that the services and



- facilities will be available prior to need, by providing at least one of the following:
- a. Prior written commitment of public funds by the appropriate public agency.
  - b. Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
  - c. A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the City.
  - d.
- (e) That proposed public utilities can be extended to accommodate future growth beyond the proposed land division.
  - (f) Stormwater runoff from the proposed land division will not create significant and unreasonable negative impacts on natural drainage courses either on-site or downstream, including, but not limited to erosion, scouring, turbidity, or transport of sediment due to increased peak flows and velocity.
  - (g) The proposed land division does not pose a significant and unreasonable risk to public health and safety, including but not limited to fire, slope failure, flood hazard, impaired emergency response or other impacts identified in Section 9.204 (u).

#### ~~SECTION 9.229~~ — ~~DECISION PROCESS~~

- ~~(a) — Upon receipt of an Application and Tentative Plan, the City shall furnish one copy of the Tentative Plan and supplementary material to the Fire District and other agencies known to be affected. Agencies notified shall be given 14 days to review the plan and submit written comments. Notification to the Division of State Lands for identified wetlands shall require 30 days for review in accordance with **ORS 227.350, Subsection (4)**.~~
- ~~(b) — A Land Division requires a "Limited Land Use Review" in conformance with **Section 9.305**. The "Limited Land Use Review" shall be conducted by the deciding authority. A Limited Land Use Decision requires notification to owners of property within 300 feet of the subject property with an opportunity to provide comments at any time prior to the "Limited Land Use Review" decision.~~
- ~~(c) — The deciding authority shall consider the Tentative Plan proposal and any comments at the first regular meeting following the 14 day review period.~~
- ~~(d) — If the Application includes a Variance request, the Tentative Plan and Variance will be considered together as provided in **Section 9.203 (e)** and the Decision Criteria for the Variance shall apply as specified in **Section 9.252 (b)**.~~
- ~~(e) — The deciding authority shall hold a public hearing on a Tentative Plan and Variance request in conformance with the Quasi-judicial Public Hearing requirements of **Section 9.306**. A public hearing may also be held on a Tentative Plan if requested or if the deciding authority determines that conditions may present possible adverse effects on adjacent properties or within the land use zoning district.~~
- ~~(f) — The deciding authority may continue the review or hearing for good cause.~~
- ~~(g) — If the proposed Land Division complies with this Code, the deciding authority may~~

~~approve the Tentative Plan as submitted or as modified to achieve compliance.~~

- ~~(h) — If the proposed land division requires modification to certain features in order to comply with City land use standards, the deciding authority may approve the Tentative Plan with specified conditions of approval to achieve compliance with the intent of City land use standards.~~

- ~~(i) If the proposed land division cannot comply with City land use standards even with conditions of approval, the deciding authority shall deny the request.~~
- ~~(j) Approval of the Tentative Plan shall indicate approval of the final Plat if there is no change in the plan of the land division and if the applicant complies with the requirements of this Code and any conditions of approval specified by the deciding authority.~~
- ~~(k) The action of the deciding authority shall be noted on two copies of the Tentative Plan and any attached documents describing conditions. One copy shall be returned to the applicant and the other shall be retained by the City.~~
- ~~(l) A written record of the findings and action of the City shall be maintained by the City in a Record File of the Application as specified in Section 9.205. Notice of Decision shall be given the Applicant and other parties to the proceedings together with any conditions of approval for the proposed land division as specified in Section 9.308.~~

## **SECTION 9.230            FINAL SUBDIVISION OR**

### **PARTITION PLAT SECTION 9.231    SUBMISSION**

#### **REQUIREMENTS**

Within 18 months after approval of the Tentative Plan, the land divider shall cause the land division to be surveyed and a Final Plat prepared and submitted to the City for approval. This time period may be extended for up to one year upon the approval of the Deciding Authority. The Final Plat shall be in conformance with the approved tentative Plan. All public improvements required by the tentative plan approval must be completed and accepted prior to the City's approval of the Plat, unless the applicant provides security to assure public improvements will be completed. If the land divider fails to submit the Final Plat for approval within 18 months or as extended, ~~they~~ **he** must reapply for approval and resubmit the Tentative Plan with any revision necessary to comply with changed conditions.

## **SECTION 9.232            FORM AND SCALE**

The Final Plat shall be submitted in the form prescribed by **ORS 92** and the county recording standards.

## **SECTION 9.233            INFORMATION REQUIRED**

In addition to that otherwise specified by law, the following information shall be shown on the Final Plat.

- (a) The name of the owner(s), land divider, surveyor and land division. The date, scale, northpoint, legend and existing features such as creeks, drainage courses, highways and railroads.
- (b) Reference to Federal Geodetic Control Committee guidelines for third order class II, points of existing surveys identified, related to the Plat by distances and bearings, and

referenced to a field book or map as follows:

- (1) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division.
  - (2) Adjoining corners of adjoining land divisions.
  - (3) Other monuments found or established in making the survey or required to be installed by provisions of this Code.
- (c) The exact location and width of streets, rights-of-way and easements intercepting the boundary of the tract.
  - (d) Tract and lot or parcel boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.
  - (e) The name and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center-line dimensions, the radius and center angle shall be indicated.
  - (f) Easements denoted by fine dashed lines clearly identified and, if already of record, their recorded reference. If an easement is not definitely located or recorded, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the Plat or map, it shall be properly referenced in the owner's certificates of dedication.
  - (g) Locations and widths of drainage channels including one hundred year flood plain or normal high water lines for any creek or other body of water, railroad rights-of-ways, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division.
  - (h) Numbering of lots or parcels shall begin with the number "1" and numbered consecutively. Number sequence to generally follow the same system as sections are numbered in a township.
  - (i) Lots or parcels to be dedicated for any purpose shall be distinguished from lots or parcels intended for sale with acreage and alphabetic symbols for each parcel indicated.
  - (j) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the City.
  - (k) Special building setback lines and solar easements, if any, which are to be made part of the Deed Covenants Conditions and Restrictions (CC&R's) of the land division.

**SECTION 9.234 SUPPLEMENTAL INFORMATION WITH PLAT**

Filing of separate legal documents to achieve any of the requirements of the final Plat may be permitted by the City when it can be shown that placing such information on the final Plat is not required to achieve the purposes of this Code. The following data may accompany the Plat.

- (a) Legal descriptions of the land division boundaries if available at the time of Plat approval.
- (b) A copy of any proposed deed CC&R's (Covenants, Conditions and Restrictions) applicable to the land division.
- (c) A copy of any dedication requiring separate documents.
- (d) Verification that:
  - (1) All improvements have been installed in accordance with the requirements of these regulations and with the action of the Deciding Authority giving conditional approval of the Tentative Plan or,
  - (2) An agreement has been executed to assure completion of required improvements

**SECTION 9.235 SURVEY REQUIREMENTS**

A complete and accurate survey of the land to be divided, shall be made by a registered surveyor licensed to practice in the State of Oregon in accordance with standard practices and principles of land surveying and as provided in this Code and state law including **Oregon Revised Statutes, Chapter 92 and Chapter 209**.

**SECTION 9.236 DEDICATION REQUIREMENTS**

- (a) All lots or parcels of land shown on the final Plat intended for public use shall be offered for dedication to the City at the time the Plat is filed. Exception: Those lots or parcels, or common linear open spaces which are intended for the exclusive use of the owners, their licensees, visitors, tenants or employees; and also excepted are those parcels of land reserved for public acquisition.
- (b) All streets, pedestrian ways, drainage channels, open spaces, easements and other rights-of-way shown on the final Plat intended for public use shall be offered for dedication for public use at the time the final Plat is filed.
- (c) All rights of access to and from streets, lots and parcels of land shown on the final Plat intended to be surrendered shall be offered for dedication at the time the final Plat is filed.
- (d) The land divider shall provide and designate one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land. The reserve strip shall be included in the dedication granting to the City the right to

control access over the reserve strip to assure the continuation or completion of the street. This reserve strip shall overlay the dedicated street right-of-way.

### **SECTION 9.237 CERTIFICATES ON FINAL PLAT**

Certificates on the Final Subdivision or Partition Plat shall be as required in ORS, Chapter 92. The following City of Lowell certificates are required:

- (a) A certificate for execution by the City Administrator to certify that the final plat conforms to the approved tentative plan as approved or amended.
- (b) If any land is dedicated to the City, A certificate that the City has accepted public dedications, for execution by the Mayor.

### **SECTION 9.238 DECISION CRITERIA**

A final Plat of a subdivision or partition may be approved by the City Administrator, pursuant to a Type I process, based upon compliance with the submittal requirements specified above and the following findings:

- (a) The final Plat is in substantial conformance with the Tentative Plan.
- (b) The Conditions of Approval attached to the Tentative Plan have been satisfied.
- (c) All public improvement requirements have been completed or surety provided.

### **SECTION 9.239 DECISION PROCESS**

- (a) Upon receipt by the City, the Plat and other data shall be reviewed by the City Administrator or designee through a Type I process to determine that the land division as shown is substantially the same as it appeared on the approved Tentative Plan and that there has been compliance with provisions of law and of this Code.
- (b) The City may make such checks in the field as are desirable to verify that the plat is sufficiently correct on the ground and City representatives may enter the property for this purpose. Certifications of the County Surveyor shall be used to determine that the plat survey is technically correct.
- (c) If the City Administrator determines that the Plat conforms to the approved Tentative Plan, including all supplemental documents, provisions for required improvements and all conditions specified by the Deciding Authority, approval shall be indicated by the signature of the City Administrator. The approval of the Plat does not constitute an acceptance by the City of the dedication of any street or other easements offered on the plat until officially accepted by the City. If such dedications have been officially accepted by the City, the Mayor shall certify such by signing the Plat.
- (d) If the City Administrator finds errors or finds that the Plat does not substantially conform to the approved Tentative Plan, the City shall advise the land divider of the changes or additions that must be made and shall afford the land divider an opportunity to make

corrections or to request an amendment to the approved Tentative Plan. An amendment to the Tentative Plan must be approved by the Deciding Authority.

#### **SECTION 9.240 FILING OF PLAT**

- (a) Within 60 days of City approval of the Final Plat, the applicant shall submit the Final Plat to Lane County and to the City of Lowell for signatures of County and City officials, as required by ORS Chapter 92.
- (b) The land divider shall deliver to the City a signed and certified copy of the Plat and all recorded documents required and approved by the City. The City shall maintain the documents in the Record File of the Application in accordance with **Section 9.205**.
- ~~(c) The land divider shall, without delay, submit the Plat for signatures of public officials required by this Ordinance or state law. Approval of the Plat shall be null and void if it is not recorded within 120 days after approval by the City Administrator.~~

#### **SECTION 9.241 REPLATTING**

- (a) Replatting shall allow the reconfiguration of lots or parcels and public easements within a recorded Plat in accordance with ORS 92.180 to 92.190. A replat shall conform to all of the requirements of the City for a subdivision or partition of land including approval of a Tentative Plan unless approved as a Property Line Adjustment as described in **Section 9.211** of this Code. Upon approval by the City, the replat will act to vacate the Platted lots or parcels and easements within the replat area, subject to ORS 92.
- (b) Notice consistent with that required for approval of a Tentative Plan shall be provided by the City. All affected utility companies or public agencies shall also be notified. Utility companies desiring to maintain easements proposed for vacation shall notify the City within 14 days of the mailing of the notice.

#### **SECTION 9.242 EXPEDITED LAND DIVISIONS**

When an expedited land division, for residential use only, is requested by an Applicant, the City shall use the procedures for an expedited land divisions specified under **ORS 197.365** in lieu of the procedures described in **Sections 9.220 through 9.229** if the application complies with the conditions and standards of **ORS 197.360 through 197.380**. Upon request for an expedited land division, the City Administrator shall evaluate the application against the requirements to qualify for expedited land division contained in **ORS 197.360** and provide a written administrative decision, approving or denying expedited land division, to the applicant. The applicant may appeal the decision under provisions of **Section 9.309**.

**SECTIONS 9.243 through 9.249 Reserved for Expansion.**

**SECTION 9.243 PROPOSED CHANGES IN APPROVED PLANS FOR  
SUBDIVISIONS OR LAND PARTITIONS.**

(a) Major Changes. Major changes in the approved tentative plat shall be considered a new application and shall comply with the procedures for approval. Anything not listed below as a Minor Change is considered a Major Change.

(1) Does not change the development density (i.e., dwellings units per acre).

(2) Does not change the boundaries of the proposed land division.

(3) Does not change any use, such as residential to commercial.

(4) Does not change the location or amount of land devoted to a specific land use.

(5) Does not relax dimensional standards or other specific requirements established by the City as a condition of approval.



## SECTION 9.250 SITE PLAN REVIEW

The purpose of the site plan review procedures is to correlate the general code requirements with the specific site conditions and proposed uses through a comprehensive review process to assure that developments are in conformance with the City's applicable land use regulations.

(a) **Site Plan Review Application.** An application for a use or development requiring a Site Plan Review by the Lowell Planning Commission shall be processed and submitted in accordance with the procedures of a Type III land use application. shall be filed with the City together with a site plan and other supplementary data described in the Application, Section 9.203 and the Application Site Plan, Section 9.204. The City Administrator may also request a Site Plan Review for any development proposal, in addition to those specifically required by this Code, if the site or proposed buildings have unusual or special features that the City Administrator decides may require a decision by the Planning Commission.

- (b) **Decision Criteria.** After an examination of the Site and prior to approval, the Planning Commission must make the following findings:
- (1) That the proposed development complies with the Zoning District standards.
  - (2) That the proposed development complies with applicable provisions of city codes and ordinances.
  - (3) That the proposed development will not cause negative impacts to traffic flow or to pedestrian and vehicular safety and future street rights-of-way are protected.
  - (4) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
  - (5) That proposed utility connections are available, have the capacity to serve the proposed development and can be extended in the future to accommodate future growth beyond the proposed land division.
  - (6) That the proposed development will not cause negative impacts to existing or proposed drainageways including flow disruptions, flooding, contamination or erosion.
  - (7) That the proposed development will not cause negative impacts, potential hazards or nuisance characteristics as identified in Section 2.140, Item 21 of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.
  - ~~(8) That developments within Lowell's Downtown, as defined by the Regulating Plan included in the Downtown Master Plan, are consistent with the policies of the Lowell Downtown Master Plan.~~

(c) **Decision Process.** The procedure for taking action on an application for a Site Plan Review shall be as follows:

- ~~(1) A Site Plan Review requires a "Limited Land Use Review" by the Planning~~

~~Commission in conformance with Section 9.305.~~

(1) Site Plan Review shall be conducted in accordance with the Type III land use procedures.

- (2) The Planning Commission may approve, disapprove, or modify and approve the Site Plan and attach any reasonable conditions to approval of a site development plan.
- ~~(3) The Planning Commission may also call for a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.~~
- (4) Once approved, the site plan submitted shall become the Official Plan. Building permits shall be issued only for plans that conform to the Official Plan and all construction shall conform to the Official Plan or a Certificate of Occupancy may be withheld until compliance.
- (5) All required elements of the approved site plan shall be installed and maintained indefinitely by the owner, unless approval has been received for a revision or amendment.
- (6) Revisions or amendments to an approved site plan shall follow the same procedure as for adoption of a site development plan.

## SECTION 9.251           CONDITIONAL USES

A conditional use is a use of land or a structure which is normally appropriate in the district where it is permitted, but due to the specifics of that use could cause a potential nuisance, health or safety problem. It is the intent of this section to provide standards and procedures so that uses which are classified as conditional can fit into a particular zone in a manner that safeguards surrounding property, the neighborhood, and the City.

- (a) **Conditional Use Application.** Conditional Use Permit requests shall be processed in accordance with the Type III land use procedures. An application for a use requiring a Conditional Use must be filed with the City together with a site plan and other supplementary data using forms described in the Application, **Section 9.203** and the Application Site Plan, **Section 9.204**.

The Planning Commission may also request a Conditional Use for any development proposal, in addition to those specifically required by this Code, if the site or proposed use has characteristics similar to, but different than, the uses permitted in the zone.

Uses existing prior to the effective date of this Code that are classified as a conditional use in this Code shall conform with the requirements for a conditional use if a change in use, lot area or an alteration is proposed.

- (b) **Decision Criteria.** Conditional uses listed in this Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:

- (1) That the proposed development can comply with the Zoning District standards with Conditions of Approval.
  - (2) That the proposed development complies with applicable provisions of city codes and ordinances.
  - (3) That the proposed development will not cause negative impacts to traffic flow or to pedestrian and vehicular safety and future street rights-of-way are protected.
  - (4) That proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
  - (5) That proposed utility connections are available, have the capacity to serve the proposed development and can be extended in the future to accommodate future growth beyond the proposed land division.
  - (6) That the proposed development will not cause negative impacts to existing or proposed drainageways including flow disruptions, flooding, contamination or erosion.
  - (7) That the proposed development will not cause negative impacts, potential hazards or nuisance characteristics as identified in Section 9.204 (u) of the Application Site Plan consistent with the standards of the Zoning District and complies with the applicable standards of all regulatory agencies having jurisdiction.
- (c) **Decision Conditions.** In approving a conditional use application, the Planning Commission may require additional standards and conditions which the Planning Commission considers necessary to comply implementing codes or ordinances. These conditions may include, but are not limited to, the following:
- (1) Regulating the required lot size, lot width, or yard dimensions.
  - (2) Regulating the height of buildings.
  - (3) Controlling the location and number of vehicle access points.
  - (4) Requiring dedication of additional street right-of-way or increasing the street width.
  - (5) Increasing the number of required off-street parking or off-street loading spaces.
  - (6) Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  - (7) Limiting the number, size, location and lighting of signs.
  - (8) Requiring ongoing maintenance of buildings and grounds.
  - (9) Regulating emissions, potential hazards or nuisance characteristics caused by the proposed use which could have a negative impact on the surrounding area or the

City as a whole.

- (10) Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.
  - (11) Regulating time periods for the conduct of certain activities.
  - (12) Setting a time limit for which the conditional use is approved.
  - (13) Providing a performance bond or other security for the cost of improvements to guarantee compliance with the standards and conditions of approval for the conditional use approved by the Planning Commission.
  - (14) Providing a contractual agreement with the City to assure that the applicant will pay a share of the development costs for future public improvements.
- (d) **Decision Process.** The procedure for taking action on an application for a Conditional Use shall be as follows:
- (1) A Conditional Use requires a Public Hearing ~~"Quasi-judicial Public Hearing"~~ by the Planning Commission in conformance with the Type III procedures of Section 9.309.
  - (2) The Planning Commission may approve, deny, or approve conditionally the Conditional Use and attach any reasonable standards of development to attain compliance with the zone and city codes and ordinances.
  - (3) If an application is denied, the action must be based on reasons related to non-compliance with Development Code or Ordinance requirements and inability to meet criteria for approval.
  - (4) Once approved, the Conditional Use shall become the Official Plan. Building permits shall be issued only for plans which conform to the Official Plan and all construction shall conform to the official plan or a Certificate of Occupancy may be withheld until compliance.
  - (5) All required elements of the approved Conditional Use shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
  - (6) Revisions or amendments to an approved Conditional Use shall follow the same procedure as that utilized for approval.

**SECTION 9.252 VARIANCES**

Because of the impossibility of foreseeing and providing for all circumstances and conditions which may effect individual properties or uses, the variance provision is created to allow modification of the provisions of this Code for special and unusual circumstances without defeating the purpose and intent of the Code.

(a) **Variance Application.** A Variance request shall be processed in accordance with the Type III land use procedures. An application for a Variance shall be filed with the City together with a site plan and other supplementary data using forms prescribed in **Section 9.203**

The applicant shall submit evidence that the circumstance for granting a Variance as outlined in **Item (2)** herein apply to the Variance request. The Planning Commission may authorize variances from the requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of the Code would cause an undue or unnecessary hardship. A Variance shall not be granted to allow a use permitted in another district or zone or to allow a use not authorized within the intended district or zone. In granting a Variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purposes of this Code.

(b) **Decision Criteria.** A Variance may be granted in the event that all of the following circumstances exist:

- (1) That there are circumstances or conditions affecting the property or use.
- (2) That the Variance is necessary for the proper design and/or function of the proposed development or land division.
- (3) That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated.
- (4) That the granting of the Variance will not conflict with the purpose and intent of the district or zone, this Code, or other related ordinances of the City.

(c) **Decision Process.** The procedure for taking action on an application for a Variance shall be as follows:

- (1) A Variance requires a Public Hearing "~~Quasi-judicial Public Hearing~~" by the Planning Commission in conformance with Type III procedures of the **Section 9.306**.
- (2) The Planning Commission may approve, deny, or approve conditionally the Variance request and attach any reasonable standards of development to attain compliance with the zoning district and this Code as provided in **Section 9.308**.
- (3) If an application is denied, the action must be based on reasons related to non-compliance with Code or Ordinance requirements or with failure to meet criteria for approval.

- (4) If the application is approved, the Planning Commission may prescribe the terms and conditions upon which a Variance may be granted and may set a time limit for the duration of such Variance and may require guarantees in an approved form to insure that the conditions and standards for the approved Variance will be fulfilled.
- (5) Once approved, the Variance shall become official standard. Building permits or land divisions shall only be approved for plans that conform to the conditions and standards of the approved Variance and all construction shall conform to the approved Variance or a Certificate of Occupancy may be withheld until compliance.
- (6) All required elements of the approved Variance shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (7) Revisions or amendments to an approved Variance shall follow the same procedure as that utilized for approval.
- (8) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in **Section 9.205**. Notice of Decision shall be given in accordance with the Type III land use procedures. ~~the Applicant together with any conditions of approval for the proposed Variance as specified in Section 9.308.~~

## SECTION 9.253 AMENDMENTS

It is recognized that this Code or the Lowell Comprehensive Plan may require amendments to adjust to changing circumstances. An amendment may require either, a Legislative Decision (Type IV) as defined in **Section 9.303 (b)** or a Quasi-judicial (Type III) Decision as defined in **Section 9.303 (c)** depending upon whether the amendment applies to the Code in general or to a specific property.

Amendments may be either Text Amendments or Map Amendments. The City utilizes a single land use map as a Comprehensive Plan Map and a Zoning Districts Map, therefore a zone change map amendment is an amendment to the Lowell Comprehensive Plan and the Lowell Land Development Code.

- (a) **Amendment Application.** An Amendment to this Code may be initiated by the City Council, the Planning Commission or by application of a property owner. A request by a property owner for an amendment shall be accomplished by filing an application with the City using forms prescribed in **Section 9.203**.
- (b) **Decision Criteria.** All requests for an amendment to the text or map of this Code or the Comprehensive Plan may be permitted upon authorization by the City Council in accordance with following findings:
  - (1) The proposed amendment does not conflict with the intent of the Comprehensive Plan.
  - (2) There is a need for the proposed amendment to comply with changing conditions, new laws or to correct existing deficiencies.

- (3) The amendment will not have a significant adverse impact on adjacent properties.
  - (4) The amendment will not have a significant adverse impact on the air, water and land resources of the City
  - (5) The amendment will not have a significant adverse impact on public facilities, transportation, the economy, and on the housing needs of the City.
  - (6) The amendment does not conflict with the intent of Statewide Planning Goals.
- (c) No application of a property owner for an amendment to the text of this Code shall be considered by the City within a one-year period following previous denial of a similar request, except the City Council may permit a new application, if in the opinion of the Council, new evidence or a change of circumstance warrant it.
- ~~(d) **Decision Process.**~~
- ~~(1) Text amendments or zone change map amendments that affect a group or class of properties within the City requires a "Legislative Decision" by the City Council with recommendation by the Planning Commission in conformance with the Legislative Public Hearing procedures of **Section 9.307.**~~
  - ~~(2) Zone change map amendments initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with recommendation by the Planning Commission in conformance with the Quasi-judicial Public Hearing procedures of **Section 9.306.**~~
  - ~~(3) The City Council upon recommendation of the Planning Commission may approve, deny or approve with standards or conditions to attain compliance with this Code or the applicable zoning district.~~
  - ~~(4) The City is not required to justify denial of a proposed legislative change.~~
- ~~(d) No application of a property owner for an amendment to the text of this Code shall be considered by the City within a one-year period following previous denial of a similar request, except the City Council may permit a new application, if in the opinion of the Council, new evidence or a change of circumstance warrant it.~~

## SECTION 9.254 ANNEXATIONS

The annexation of land to the City of Lowell shall promote orderly growth of the City and the efficient provision of public facilities and services. The procedures and standards for annexations are specified in **ORS 222.111 to 222.180**. An annexation or change in the UGB requires an Amendment to the Lowell Comprehensive Plan in conformance with Statewide Planning Goal 14 and approval from Lane County ~~and the Boundary Commission~~ as well as an amendment to the Joint Agreement for Planning Coordination between Lane County and the City of Lowell.

A proposal for annexation may be initiated by the City Council on its own motion, or by a petition to the City Council by owners of real property located in the territory to be annexed.

(a) **Annexation by City Council Initiation**

The City Council may determine the procedures for City initiated annexations within the limits defined by **ORS 222.111 to 222.180**. These procedures may include, but are not limited to, an election within the territory to be annexed, consent of the requisite number property owners and electors or a public hearing on the annexation. Proposed annexations shall include the following information:

- (1) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (2) A map of the area to be annexed including adjacent City territory.
- (3) The proposed land use zoning district(s).
- (4) The availability of public facilities and services for the proposed annexation.

(2) **Annexation by Application**

A request by a property owner for an annexation shall be accomplished by filing an application with the City using forms prescribed in **Section 9.203**. An Annexation shall follow the TYPE IV land use procedures. Each application for annexation shall include the following material:

- (1) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both as provided by state law.
- (2) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (3) A map of the area to be annexed including adjacent City territory.
- (4) A statement of the expected demand on public facilities and the availability of public facilities and services to serve the proposed annexation.
- (5) A statement of the overall development intent and a conceptual land use plan indicating the types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.
- (6) Upon acceptance of a complete application, the City shall request a Staff Review together with other public or private agencies which may be affected by the proposed annexation. Upon receipt of the application, plans and accompanying narrative, Staff shall make an evaluation and recommendation. Comments and recommendations shall be available to the public and the Applicant. The Applicant shall be advised of any recommended changes or conditions for approval. The City shall incorporate all Staff comments into a report to the Planning Commission and City Council. The report shall include an analysis of the impacts of the proposed annexation, a review of applicable City and State policies and standards, and a recommendation as to the appropriateness of the proposed development and the annexation itself



- (c) **Decision Criteria.** All requests for annexation to the City may be permitted upon authorization by the City Council in accordance with following findings:
- (1) The proposed annexation does not conflict with the intent of the Comprehensive or, an amendment to the Comprehensive Plan is included with the requested annexation.
  - (2) The annexation request is within the Lowell Urban Growth Boundary (UGB) or, a UGB change is included with the requested annexation.
  - (3) The annexation request complies with the procedures and standards for annexations specified in **ORS 222.111 to 222.180**.
  - (4) The annexation will not have a significant adverse impact on adjacent properties within or outside of the UGB.
  - (5) The annexation will not have a significant adverse impact on the air, water and land resources of the City or surrounding areas.
  - (6) The annexation will not have a significant adverse impact on public facilities, transportation and the economy of the City.
- (d) **Decision Process.** The procedure for taking action on an annexation shall follow the Type IV land use process and: ~~request may be one of the following:~~
- (1) ~~Upon the filing of a complete application for annexation, the City Council shall review the application and refer the request to~~ The Planning Commission shall evaluate the proposed annexation and to determine the appropriate zoning district to be applied upon annexation and make a recommendation to the City Council.
  - (2) The Planning Commission shall ~~may~~ hold a public hearing in accordance with the provisions of **Section 9.306** for the purposes of reviewing the proposed annexation and the proposed land use zoning district(s). Following the close of the public hearing the Commission shall recommend the appropriate zoning district to be applied upon annexation and forward its recommendation to the City Council.
  - (3) The City Council ~~may~~ shall hold a public hearing in accordance with the provisions of **Section 9.306** for the purposes of reviewing the proposed annexation and the proposed land use zoning district(s). The City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed. The zoning to be applied to the annexed territory shall be included in the adopting ordinance or be contained in a separate ordinance that is to be adopted concurrently.
- (e) A written record of the findings and action of the City shall be maintained in a Record File of the Application as specified in **Section 9.205**. Notice of Decision shall be given the Applicant and all parties to the proceedings as specified in **Section 9.308**.
- (f) Approval of the annexation shall require a Notice of Decision consistent with a Type IV process and include ~~be given the proper state and county authorities including~~ the

Oregon Secretary of State, the Oregon Department of Revenue, ~~the Oregon U-R Mapping Unit~~, and the County Clerk and Assessor of Lane County. Notice shall include a legal description of the annexed property, a map of the proposed property showing the location of the annexed property relative to the Lowell City Limits.

## SECTION 9.255 VACATIONS

Where it is determined that a proposed Vacation shall not be injurious to the City or abutting properties, it may be appropriate to vacate all or parts of a public right-of-way, easements or other public places. This section states the procedures and criteria to permit the vacation of public lands not needed for municipal purposes, where it is consistent with the community land use policies and goals. Ownership of vacated territory shall revert proportionally to the adjoining properties and become a part thereof, unless specified otherwise by the City Council.

- (a) **Vacation Application.** An application for a Vacation shall be processed in accordance with the Type IV land use procedures. An application for a Vacation may be initiated by the City Council or by petition of adjoining or area landowners in accordance with **ORS 271.080**. A request by a property owner for a Vacation shall be accomplished by filing an application with the City using forms prescribed in **Section 9.203**. Applicants shall set forth a description of the area proposed to be vacated and shall submit a map showing the same area and shall state the purpose and justification for the proposed vacation.
- (b) **Consent of Affected Property Owners.** At the time the application is submitted, the Applicant shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with **ORS 271.080**, affected property owners shall be defined as:
- (1) All abutting property owners, and
  - (2) Owners of not less than two-thirds in area of the real property affected thereby as defined in **ORS 271.080**.

Consent of the owners of the required amount of property shall be submitted in writing and duly acknowledged by the City prior to the scheduling of a public hearing for the requested Vacation.

- (c) **Decision Criteria.** A Vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:
- (1) The proposed Vacation is consistent with the relevant Comprehensive Plan policies and with any official street plan, transportation plan or public facility plan.
  - (2) The proposed Vacation will not adversely impact adjacent areas or the land use plan of the City.
  - (3) The proposed Vacation will not have a negative effect on access between public rights-of-way, existing or future properties, public facilities or utilities.
  - (4) The proposed Vacation will not have a negative effect on traffic circulation or emergency service protection.

- (5) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
- (6) The proposed Vacation will not have an adverse impact on economy of the area.
- (7) The public interest, present and future, will be best served by approval of the proposed Vacation.
- (d) **Decision Process.** The procedure for taking action on a Vacation request may be one of the following:
- (1) Upon the filing of a complete application for a Vacation, the Lowell Planning Commission shall hold a public hearing ~~City Council shall review the application and refer the request to the Planning Commission~~ to evaluate the proposed Vacation and to determine the appropriate zoning district to be applied upon the vacation and make a recommendation to the Lowell City Council.
  - (2) Zoning of Vacated Right-of-Way. Except as otherwise provided within the vacation ordinance or where the official City zoning map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the adjoining property to which the ownership of the vacated unit of land automatically reverts.
  - (3) Vacations initiated by an applicant for a specific property within the City requires a Type IV "Legislative Quasi-judicial Decision" by the City Council with a recommendation by the Planning Commission, in conformance with the Type IV Quasi-judicial Public Hearing procedures of **Section 9.306** as supplemented by the provisions of **ORS Chapter 271**. State law defines the affected area and mandates notice requirements that may be more stringent than the City's requirements. ~~271.~~
  - (d) The Lowell City Council, upon recommendation of the Lowell Planning Commission, may approve, deny or approve with standards or conditions to attain compliance with this Code and State Statutes.
  - (e) Conditions of Approval. The City may attach conditions to the approval of a Vacation request to ensure that the proposal will conform to the review criteria and may require fair market value for the vacated property as a condition of approval.
- (e) A written record of the findings and action of the City Council on the Application shall be maintained by the City in a Record File as specified in **Section 9.205**. Notice of Decision shall be given in accordance with the Type IV procedures ~~the Applicant together with any conditions of approval for the proposed Vacation as specified in~~ **Section 9.308**.

## SECTIONS 9.256 through 9.299 Reserved for Expansion.

### ~~ARTICLE 9.3~~ — ~~DECISION PROCESSES~~

### ~~SECTION 9.301~~ — ~~BASIS FOR DECISION~~

~~The basis for a decision on a land use application and the reasons for approval or denial are contained in **ORS 227.173**.~~

- ~~(a) — Approval or denial of a discretionary permit application shall be based on standards and criteria contained in the Code or other development ordinances consistent with the City's Comprehensive Plan.~~
- ~~(b) — Approval or denial of a land use application shall be based upon and accompanied by:
 
  - ~~(1) — A brief statement that explains the criteria and standards considered relevant to the decision.~~
  - ~~(2) — A statement of the facts relied upon in rendering the decision.~~
  - ~~(3) — An explanation of the justification for the decision based on the criteria, standards and facts set forth.~~~~
- ~~(c) — An application shall not be approved unless the proposed development of land would be in compliance with the City Comprehensive Plan, this Code or other applicable land use regulations or ordinance provisions. The approval may include such conditions as are authorized by **ORS 227.215** or any City legislation.~~

### ~~SECTION 9.302 — FORM OF DECISION~~

~~A land use decision will take one of three forms:~~

- ~~(a) — **Approval.** Approval means the review or hearing body found the approval criteria were satisfied by the presented facts.~~
- ~~(b) — **Approval with Conditions.** Approval with conditions means the review or hearing body found the approval criteria could be satisfied with the application of specified conditions of approval as authorized in this Code.~~
- ~~(c) — **Denial.** Denial means the review or hearing body found the approval criteria was not satisfied by the presented facts and could not be made to comply with attached conditions of approval.~~

### ~~SECTION 9.303 — TYPE OF DECISIONS~~

~~**ORS 197 and ORS 227** define four types of decisions utilized by cities to address land use applications. Each type of decision has its own procedural requirements. The four types of decisions are:~~

- ~~(a) — **Administrative Decisions**  
An administrative decision is a decision that correlates the adopted code or ordinance requirements and standards, to an individual issue. These interpretations are usually provided by the City Administrator or designee.~~

**(b) — Legislative Decisions**

~~A legislative decision produces a general rule, law or policy applicable to everyone under similar circumstances. Legislative decisions have a "presumption of validity." They are the laws that apply to everyone in similar situations.~~

~~An example of a Legislative Decision was the adoption of the City's Comprehensive Plan, this Code and Ordinances. Other legislative decisions provided for in this Code include text amendments and zone change map amendments that affect a group or class of properties within the City. Legislative Amendments to this Code are provided for in **Section 2.700**.~~

**(c) — Quasi-judicial Decisions**

~~A Quasi-judicial Decision involves a discretionary judgment applying the adopted rules, laws or policies to a specific individual land use situation like determining the permissible use of a specific piece of property. The action is judicial in nature and the hearing body must conduct a fair and impartial hearing. The decision must be based upon demonstrated compliance with the applicable criteria or standards contained in the City Comprehensive Plan, this Code, ordinances or policies, as determined by the factual evidence presented in the public hearing. The applicant for a change in the use of land specified in the Comprehensive Plan and implementing ordinances bears the burden of proof for the requested change.~~

~~Examples of Quasi-judicial Decisions provided for in this Code include, but are not limited to, Conditional Uses as provided in **Section 9.251**, Variances as provided in **Section 9.252** or a zone change map amendment for a specific property as provided in **Section 9.253**.~~

**(d) — Limited Land Use Decision**

~~The 1991 Oregon Legislature added **ORS 197.195** to Chapter 197 to provide provisions for a final decision or determination made by a city pertaining to a site within its urban growth boundary which concerns:~~

~~(1) — Approval or denial of a subdivision or partition, as described in **ORS 92**.~~

~~(2) — Approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to, site reviews and design reviews.~~

~~A Limited Land Use Decision is a form of discretionary decision that does not require a public hearing and is not subject to the requirements of ORS 197.763 for quasi-judicial public hearings, but is subject to the requirements of **ORS 227.173** for a Planning Commission and/or City Council review of the application.~~

~~Examples of limited land use decisions in this Code that require a review by the Planning Commission and/or City Council include, but are not limited to, Subdivision and Partition Tentative Plans specified in **Section 9.220** and Site Plan Reviews specified in **Section 9.250**.~~

**SECTION 9.304 NOTIFICATION**

- ~~(a) — **Administrative** actions authorized by this Code do not require notifications.~~
- ~~(b) — **Legislative** actions authorized by this Code require one or more public hearings and notification to the general public. Any means of notification that provides the general public and organizations believed to have an interest in the legislative issue with reasonable opportunity to be aware of the hearing on the issue is permitted and encouraged.~~
- ~~(c) — **Limited Land Use** reviews or **Quasi-judicial** public hearings authorized by this Code require notification to the applicant and to owners of property within 300 feet of the property which is the subject of the notice as identified on the most recent property tax assessment roll where such property is located. Notice shall also be provided to public agencies known to be affected and to any neighborhood or community organization recognized by the City whose boundaries include the site.~~
- (d) **State Ballot Measure 56** requires local governments to mail written individual notice to land owners when the governing body changes the base zoning classification of property, or adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (e) The notice of review or hearing shall be mailed at least twenty (20) days prior to the date of the review or hearing; or if two or more reviews or hearings are required, ten (10) days before the first review or hearing. For notices that are sent by the City as a result of a new or amendment to a state administrative rule or statute, notice shall be mailed within "Section deleted as the appeal provisions are addressed under each respective new "Type" use code sections."30 days of the effective date of the administrative rule or statute.
- (f) The required notice provisions of this section may be expanded to include properties beyond 300 feet and shall include giving public notice by other means.
- (g) The failure of a person to receive the notice as provided in this section shall not invalidate such proceedings if the City can validate by affidavit that such notice was given.
- (h) The notice provided by the City shall:
- (1) Explain the nature of the application and the proposed use or uses which could be authorized.
  - (2) List the applicable criteria from the Code and the Plan that apply to the application at issue or indicate where to find criteria.
  - (3) Set forth the street address or other easily understood geographical reference to the subject property.
  - (4) State the date, time and location of the review or public hearing.

- (5) State that failure of an issue to be raised in a review or hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes based on that issue.
  - (6) Include the name and address of the City Administrator and the telephone number where additional information may be obtained.
  - (7) State that a copy of the application, all documents and evidence relied upon by the applicant and the applicable criteria are available for inspection at the Lowell City Hall and copies will be provided at reasonable cost.
  - (8) State that a copy of the staff report will be available for inspection at least seven days prior to the review or hearing.
  - (9) Include a general explanation of the requirements for submission of testimony and the procedures for the conduct of reviews or public hearings by the City.
  - (10) The City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision making process and contain an explanation of appeal rights.
- (i) **Wetland Notice.** The City shall provide the Oregon Division of State Lands, the Applicant and Owner with notice of applications for developments located within areas identified as "Wetlands" on the State-wide Wetlands Inventory. No physical alteration shall occur within defined wetland areas until a notice or permit is received from the Division. If the Division fails to respond within thirty days of notice, City approval may be granted with written notice to the applicant and owner that their proposal may require state or federal permits.
  - (j) **DLCD Notice.** The City shall notify the Department of Land Conservation and Development of a pending adoption or amendment to the City Comprehensive Plan, Implementing Ordinances, or any other land use ordinance or regulation. The notice shall be provided at least 45 days prior to the first evidentiary hearing on adoption and the notice shall contain information sufficient to inform the Department as to the effect of the proposal. If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required. In addition, the City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.
    - (1) The notice shall be provided at least 45 days prior to the first evidentiary hearing per ORS197.610, OAR Chapter 660 – Division 18 and Senate Bill 543. The City may consider an amendment or new regulation with less than 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.
    - (2) The notice shall include the text of the amendment and any other information the local government believes is necessary to advise DLCD of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulation.

- (3) Submittal of proposed “map” amendments must include a map of the affected area showing existing and proposed plan and zone designations. The map should be on 8-1/2x11 inch paper. A legal description, tax account number, address or general description is not adequate.
  - (4) Submittal of proposed amendments which involve a goal exception must include the proposed language of the exception.
  - (5) If the City determines that the statewide goals do not apply to a proposed amendment or new regulation, notice is not required.
  - (6) The amendment or new regulation shall be submitted after adoption as provided in ORS 197.615 (1) and (2).
- (k) **Manufactured Dwelling Park Notice.** If an application would change the zone of property, including all or part of a Manufactured Dwelling Park, the City shall provide written notice by first class mail to each existing mailing address for tenants of the Manufactured Dwelling Park at least 20 days prior to the date of the first hearing on the application.

### ~~SECTION 9.305 — LIMITED LAND USE REVIEW PROCEDURES~~

~~The following procedures govern the conduct of Limited Land Use Reviews by the by the Lowell Planning Commission or the Lowell City Council for all Site Plan Reviews, and Subdivision or Partition Tentative Plan Reviews. Written comments may be submitted prior to the review decision. The City of Lowell will allow oral public comments regarding a limited land use review application after the staff report and before deliberation on the application. Notice of this opportunity will be included in the public notice of the application.~~

- ~~(a) — At the commencement of a review the Chairperson shall request a summary of the Staff Report that:
 
  - ~~(1) — States the address or geographic location of the subject property.~~
  - ~~(2) — Explains the nature of the application and the proposed use or uses which could be authorized.~~
  - ~~(3) — Lists the applicable criteria from the ordinance and the plan that apply to the application at issue.~~
  - ~~(4) — States that written testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances which the person believes to apply to the decision.~~
  - ~~(5) — States that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue.~~~~



~~(6) — States that the City shall provide written notice of the decision to the Applicant and all parties to the proceeding. The notice shall briefly summarize the decision making process and contain an explanation of appeal rights.~~

~~(b) — The Chair shall invite public comments.~~

~~(c) — The Chair shall request members of the hearing body to declare and identify any actual or potential conflict of interest or any ex parte contacts on the issue.~~

~~Members shall place on the record the substance of any written or oral ex parte communications concerning the decision or action.~~

~~(d) — The Deciding Authority may choose to schedule a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.~~

### ~~SECTION 9.306 — QUASI-JUDICIAL PUBLIC HEARING PROCEDURES~~

~~The following procedures govern the conduct of Quasi-judicial Public Hearings by the Lowell Planning Commission or the Lowell City Council on an application for a land use decision:~~

~~(a) — A Quasi-judicial Public Hearing is required by the Planning Commission for discretionary land use decisions including, but not limited to: Conditional Uses and Variances. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.~~

~~(b) — Quasi-judicial Public Hearings are required by both the Planning Commission and City Council for discretionary land use decisions for a Zone Change Map Amendment initiated by an applicant for a specific property. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing.~~

~~(c) — The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or Council President shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.~~

~~(d) — An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient detail so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.~~

~~(e) — At the commencement of a hearing the Chairperson of the Hearing Body shall:~~

- ~~(1) — Announce the purpose of the hearing.~~
- ~~(2) — State that the applicable substantive criteria will be presented in the Staff Report.~~
- ~~(3) — State that testimony and evidence must be directed toward the criteria or other criteria in the plan or ordinances which the person believes to apply to the decision.~~
- ~~(4) — State that a failure to raise an issue with sufficient detail to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal based on that issue.~~
- ~~(f) — The Chair shall request members of the hearing body to declare and identify any potential conflict of interest or any ex parte contacts on the issue:
  - ~~(1) — Members shall place on the record the substance of any written or oral ex parte communications concerning the decision or action.~~
  - ~~(2) — Members shall make a public announcement of the content of the communication.~~
  - ~~(3) — Opposition parties' have a right to rebut the substance of any ex parte communication at the first hearing following said communication.~~
  - ~~(4) — In accordance with **ORS 227.180**, no decision or action by the Planning Commission or City Council shall be invalid due to ex parte contact or bias resulting from ex parte contact with a member of the decision making body if the member makes the declarations cited above.~~~~
- ~~(g) — The Chair shall request presentation of the Staff Report.~~
- ~~(h) — The Chair shall request reports or testimony from any Governmental Agencies.~~
- ~~(i) — The Chair shall make the following statements before presentation of testimony:
  - ~~(1) — A person shall first stand and state his full name and address.~~
  - ~~(2) — The Chair, members of the Hearing Body, or others, with the recognition of the Chair may question a witness.~~~~
- ~~(j) — The Chair shall call for the Applicant's Presentation.~~
- ~~(k) — The Chair shall call for other Proponent testimony in favor of the Request.~~
- ~~(l) — The Chair shall call for Opponent's testimony in opposition to the Request.~~
- ~~(m) — The Chair shall call for general comments.~~
- ~~(n) — The Chair shall call for the Applicant's rebuttal to opponent's testimony. The Applicant has the right of rebuttal. Opponents do not.~~

- ~~(o) — The Chair shall close the hearing or continue it to an announced time and place.~~
- ~~(p) — Unless there is a continuance of the hearing, if a participant so requests, before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing to receive additional written evidence, arguments or testimony. While the record remains open to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue. The Applicant shall be granted at least seven days after the record is closed to other parties to submit final written rebuttal argument. Otherwise, the record of the hearing may be closed by the hearing body.~~
- ~~(q) — The Hearing Body may continue the hearing to gather additional evidence, to consider the application fully, to give notice to additional persons, or for any purpose allowed by this Code. If written or oral notice of the rescheduling of a hearing is provided at the originally scheduled hearing, no additional notice is required. The hearing shall be rescheduled to a specific date, time, and place. If written or oral notice of a continued hearing was not provided, then renotification is required.~~
- ~~(r) — Call for deliberation by the Hearing Body following the close of the Hearing. The Hearing Body may make its decision following the hearing or may close the Record and continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.~~

### ~~SECTION 9.307 — LEGISLATIVE PUBLIC HEARING PROCEDURES~~

~~The following procedures govern the conduct of Legislative land use public hearings conducted before the Lowell Planning Commission and/ or the Lowell City for amendments to the Lowell Comprehensive Plan or this Code:~~

- ~~(a) — Legislative public hearings are required by both the Planning Commission and City Council for text amendments or zone change map amendments that affect a group or class of properties. Written testimony may be provided at the hearing or prior to the hearing. Oral testimony may be provided at the hearing. Amendments to this Code are provided for in **Section 9.253**.~~
- ~~(b) — The Planning Commission and City Council may choose to combine their hearings into a single joint public hearing. The Mayor or Council President shall preside at joint hearings. Following the joint public hearing, the Planning Commission will deliberate at a separately scheduled meeting and make a recommendation to the City Council. The City Council will consider the recommendation of the Planning Commission and following deliberation, make a final decision on the amendment considering the public testimony, factual evidence presented and compatibility and compliance with the City Comprehensive Plan and the Statewide Land Use Goals and Guidelines.~~
- ~~(c) — The Hearing is a DeNovo Hearing in which all evidence and comment is accepted for consideration. Approval of a Legislative Decision may be appealed to the Land Use Board of Appeals (LUBA) for Review in accordance with ORS 197.830. Denial of a Legislative Decision is not subject to Review.~~

- ~~(d) — At the commencement of a hearing, a statement by the Chairperson shall be made to those in attendance that:~~
- ~~(1) — Announces the purpose of the hearing.~~
  - ~~(2) — Asks if any member of the deciding body has an actual or potential conflict of interest in the matter before the Hearing Body.~~
  - ~~(3) — States that the applicable substantive criteria will be presented in the Staff Report.~~
  - ~~(4) — States that all testimony and evidence relevant to the issue will be accepted for consideration by the Hearing Body.~~
- ~~(e) — The Chair shall request presentation of the Staff Report.~~
- ~~(f) — The Chair shall request reports or testimony from any Governmental Agencies.~~
- ~~(g) — The Chair shall make the following statements before presentation of testimony:~~
- ~~(1) — A person shall first stand and state his full name and address.~~
  - ~~(2) — The Presiding Officer, members of the Hearing Body, or others, with the recognition of the chair may question a person giving testimony.~~
- ~~(h) — Call for public testimony in any order determined by the Hearing Body.~~
- ~~(i) — Call for general comments.~~
- ~~(j) — Close the hearing or continue it to another announced time and place.~~
- ~~(k) — Call for deliberation by Hearing Body following close of the Hearing. The Hearing Body may make its decision following the hearing or may close the Record and continue its deliberation to a subsequent meeting. The time and place of the subsequent meeting shall be announced.~~

### ~~SECTION 9.308 — DECISION~~

~~Applicants and participants in a land use proceeding are entitled to a decision based upon a fair and impartial review or hearing of the factual evidence presented in conformance with the relevant standards and criteria contained in the City's Codes or Ordinances.~~

- ~~(a) — **Decision Justification.** The Deciding Authority shall make a decision on a land use application and provide a brief statement that explains the standards and criteria considered relevant to decision, states the facts relied upon and explains the justification for the decision, with findings that summarize the facts believed by the review or hearing body and how the standards and criteria are satisfied by the accepted facts.~~

- ~~(b) — **Findings.** Findings are based on the information presented in the application, the staff report and evidence presented in the proceedings. **ORS 227.173** requires:~~
- ~~(1) — An explanation of the relevant criteria applicable to the decision.~~
  - ~~(2) — A statement of the facts supporting the decision.~~
  - ~~(3) — An explanation of how the standards and criteria are satisfied by the accepted facts and justify the decision.~~
- ~~(c) — **Findings for Approval.** The findings must contain a statement that the applicable policy or criteria is satisfied by the accepted facts presented.~~
- ~~(d) — **Findings for Approval with Conditions.** The findings must contain a statement that the applicable policy or criteria cannot be satisfied by the facts presented without the application of conditions of approval as authorized in this Code.~~
- ~~(e) — **Findings for Denial.** The findings must contain a statement that the applicable policy or criteria are not satisfied by the facts presented and cannot be made to comply with the application of conditions of approval as authorized in this Code.~~
- ~~(f) — **Notice of Decision.** Written notice shall be given to the Applicant and all parties to the proceedings. The notice shall contain the following information:~~
- ~~(1) — The name of the Applicant and/or Owner of the subject property.~~
  - ~~(2) — The address or geographic description of the subject property.~~
  - ~~(3) — A description of the requested action.~~
  - ~~(4) — The date of decision.~~
  - ~~(5) — A summary of the decision made.~~
  - ~~(6) — Identification of any actual or potential conflict of interest or any ex parte contacts on the issue by any member of the decision body.~~
  - ~~(7) — An explanation of appeal rights.~~
  - ~~(8) — The location where the record may be reviewed.~~
- ~~(g) — The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.~~
- ~~(h) — Personal notice is deemed given when the notice is deposited with the United States Postal Service.~~
- ~~(i) — The records of the Lane County Assessor's Office shall be the official records used for giving notice required by this Ordinance. A person's name and address which is not on~~

~~file at the time the notice mailing list is initially prepared shall not be deemed a person entitled to notice.~~

### ~~SECTION 9.309 — APPEAL PROVISIONS~~

~~An appeal issue shall be raised at the time of the review or hearing, either in person or by letter. The appeal issue raised must be specific and shall be presented with enough clarity to afford the decision body an opportunity to adequately respond to the issue. Failure to raise the issue at the review or hearing or failure to clearly define the issue shall preclude appeal to the City Council or to the Land Use Board of Appeals (LUBA) on that issue.~~

- ~~(a) — Written notice of the appeal shall be filed with the City. An Appeal request shall contain:~~
- ~~(1) — The name of the appellant(s) and a statement by the appellant that they were a party to the initial proceedings.~~
  - ~~(2) — Identification of the decision being appealed.~~
  - ~~(3) — The date of the decision being appealed.~~
  - ~~(4) — The form and basis of the appeal and the criteria relied upon for the appeal request.~~
- ~~(b) — A written decision or ruling of the City Administrator or designee pursuant to Sections 9.105 or 9.107 may be appealed, in writing, to the Planning Commission within 15 days of the date of notification of the decision. If an appeal is not filed within the above specified period, the decision of the City Administrator or designee shall be final. If the appeal is filed, the Planning Commission shall receive a report and recommendation thereon from the City Administrator or designee and shall hold a public hearing on the appeal.~~
- ~~(c) — An action or ruling of the Planning Commission pursuant to this Code may be appealed to the City Council within 15 days after notification of the Planning Commission decision is mailed.~~

~~Written notice of the appeal shall be filed with the City. If the appeal is not filed within the above specified period, the decision of the Planning Commission shall be final. If the appeal is filed, the City Council shall request a report and recommendation thereon from the Planning Commission and shall hold a public hearing on the appeal. The City Council may continue the hearing for good cause. Following the hearing, the City Council may sustain any recommendations or ruling of the Planning Commission, provided such action complies with the provisions of this Code, or the City Council may decide the issue.~~

- ~~(d) — **Notice.** A "Notice of Appeal" shall be provided in the same manner as provided for in the original Application and Notice of Decision including all parties to the previous proceedings. A "Notice of Appeal" shall contain:~~
- ~~(1) — The name of the appellant and a statement that they were a party to the initial proceedings.~~

- ~~(2) Identification of the decision being appealed.~~
- ~~(3) The date of the decision being appealed.~~
- ~~(4) The form and basis of the appeal and the criteria relied upon for the appeal.~~
- ~~(e) **Scope of Review.** The hearing body shall determine the scope of review on the appeal to be one of the following:~~
  - ~~(1) Review on specific issues relative to the decision being appealed.~~
  - ~~(2) Review only on the official record of the decision being appealed.~~
  - ~~(3) A "de novo" hearing as if the request had not been previously heard, except that all testimony, evidence and other materials in the record of the previous review or hearing may be included in the new record of review.~~
- ~~(f) A party aggrieved by the City's final determination in a proceeding for a land use decision, limited land use decision or discretionary permit may have the determination reviewed by the Land Use Board of Appeals (LUBA) under **ORS 197.828 to 197.845** by filing a notice of intent to appeal with LUBA not later than 21 days after the decisions becomes final.~~

## **SECTION 9.310 REVOCATION**

A decision on a land use application may be overturned, revoked or modified by the City on any one or more of the following grounds after a public hearing on the issue:

- (a) A material misrepresentation or mistake of fact was made in the application or evidence submitted, either intentionally or unintentionally.
- (b) The use for which approval was granted has ceased to exist.
- (c) Failure to comply with the terms and conditions of approval.
- (d) The use is in violation of a provision of this Code or other applicable statutes, ordinances, or regulations.
- (e) The approval decision was overturned on appeal.

A decision on a land use application for text or map amendment, vacation or annexation requiring implementation by ordinance that is overturned, revoked or modified requires adoption of an ordinance repealing, modifying and/or reversing the original implementing ordinance.

**SECTIONS 9.311 through 9.399 reserved for expansion.**

**ARTICLE 9.4 ZONING DISTRICTS**

**SECTION 9.401 CLASSIFICATION OF LAND USE DISTRICTS**

For the purpose of this Code the following Primary Land Use Districts are hereby established:

<b><u>PRIMARY DISTRICTS</u></b>	<b><u>ABBREVIATED DESIGNATION</u></b>
Single-family Residential	R-1
Multiple-family Residential	R-3
<del>General Commercial</del>	<del>C-1 Downtown Flex-Use 2-DF1</del>
<del>Downtown Commercial</del>	<del>C-2 Downtown Flex-Use 1-DF2</del>
<u>Downtown Townhome/Single-Family Attached</u>	<u>DRA</u>
<u>Downtown Residential/Single-Family Detached</u>	<u>DRD</u>
Light Industrial	I-1
Public Lands	PL

**SECTION 9.402 CLASSIFICATION OF OVERLAY DISTRICTS**

- (a) An Overlay District may be established in combination with a Primary Land Use District. The Overlay District shall establish additional requirements, standards and procedures for the use and development of property in the Primary District. In cases of conflict between the standards and requirements of the Primary District and the Overlay District, the standards and requirements of the Overlay District shall apply.
- (b) For the purposes of this Code the following Overlay Districts are hereby established:

<b><u>OVERLAY DISTRICTS</u></b>	<b><u>ABBREVIATED DESIGNATION</u></b>
Planned Development	PD

**SECTION 9.403 LOCATION OF ZONING DISTRICTS**

The City’s **Zoning Districts** are also the City’s **Comprehensive Plan Land Use Districts**. The boundaries for the Zoning Districts listed in this Code are indicated on the combined **Lowell Comprehensive Plan and Zoning Districts Map** which is hereby adopted by reference and made a part of this Code.

**SECTION 9.404 ZONING AND REGULATING PLAN MAPS**

A Zoning Map adopted by **Section 9.403** of this Code or an amendment thereto shall be dated with the effective date that adopts the map or map amendment. The Regulating Plan dictates building function within the prescribed areas and also implements a land use typology for future growth. A certified print of the adopted map or map amendment or Regulating Plan shall be maintained in the office of the City Administrator as long as this Code remains in effect.



**SECTION 9.405 ZONING DISTRICT BOUNDARIES**

District or Zone boundaries shall be section lines, sub-division lines, lot lines, center line of public rights-of-way or such lines extended.

**SECTION 9.406 ZONING OF ANNEXED AREAS**

Zoning of all areas annexed to the City shall be determined as a part of the Annexation approval process contained in **Section 9.254**. Decisions for zoning of annexed area shall be consistent with projected uses used to justify inclusion of the annexed property within the Urban Growth Boundary.

**SECTION 9.407 SIMILAR USE AUTHORIZATION**

The Planning Commission may permit, in a particular district, a use not listed in this Code, provided the use is of the same general type as the uses permitted by this Code. However, this section does not authorize the inclusion in a district where it is not listed, a use specifically listed in another district. The decision of the Planning Commission may be appealed to the City Council using procedures specified in **Section 9.309** of this Code.

**SECTION 9.408 NONCONFORMING USE**

It is the intent of the nonconforming use sections of this Code to permit pre-existing uses and structures which do not conform to the use or dimensional standards of this Code to continue under conditions specified herein. However, alteration or expansion of these nonconforming uses and structures that could cause potentially adverse effects in the immediate neighborhood or in the City as a whole, are not permitted as outlined in this section.

**(a) Continuation of a Nonconforming Use.**

- (1) Subject to the provisions of this section, a nonconforming use of a structure or a nonconforming use, may be continued and maintained, but shall not be altered or extended except as provided herein.
- (2) The extension of a nonconforming use to a portion of a structure which was arranged or designed for such use at the time of passage of this Code is not an extension of a nonconforming use.
- (3) In the manufacturing-research or commercial district, a pre-existing dwelling may be altered or extended, provided that such alteration or extension shall not exceed the yard, lot coverage and building height requirements specified in the nearest adjacent Residential District.

**(b) Nonconforming Structure.** A structure conforming as to use but nonconforming as to height, setback, lot coverage or similar dimensional standards, may be altered or extended if the alteration or extension does not cause the structure to deviate from the standards of this Code.

- (c) **Discontinuance of a Nonconforming Use.**
- (1) If a nonconforming use involving a structure is discontinued from active use for a period of one (1) year, further use of the property shall be for a conforming use unless approved by the Planning Commission.
  - (2) If a nonconforming use not involving a structure is discontinued from active use for a period of six (6) months, further use of the property shall be for a conforming use.
- (d) **Change of a Nonconforming Use.** If a nonconforming use is changed, it shall be changed to a use conforming to the regulations of the district in which it is located.
- (e) **Destruction of a Nonconforming Use or Structure.** If a nonconforming structure or a structure containing a nonconforming use is totally or substantially destroyed by any cause, a future structure or use on the site shall be either in accordance with the provisions of the district in which the property is located or the property owner may apply for a Conditional Use Permit to continue with the existing use or to replace the structure in its present location. A residence may be replaced in any zoning district.
- (f) **Repairs and Maintenance.** Any building housing a nonconforming use may be maintained or restored to conform with the standards of the building code, including repair or replacement of fixtures, wiring, or plumbing, provided the building is not increased in cubic content or floor area.
- (g) **Completion of Structure.** Nothing contained in this Code shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been lawfully issued and construction has commenced prior to adoption of this Code, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one (1) year from the time the permit is issued.
- ~~(h) **City Administrator Determination.** The City Administrator may make a determination as to whether a use or lot or structure is nonconforming based on the specific facts related to that particular use, lot, structure or history of the lot. The City Administrator shall issue a written decision, complete with the findings of fact in support of the determination. City Administrator's decision may be appealed to Planning Commission, pursuant to Section 9.309(b). A determination shall follow a Type II process and notice shall be sent pursuant to Section 9.304(c).~~

**SECTION 9.406 reserved for expansion.**

**SECTION 9.410 PRIMARY LAND USE DISTRICTS**

**SECTION 9.411 SINGLE-FAMILY RESIDENTIAL DISTRICT R-1**

- (a) **Purpose.** To provide areas suitable and desirable for low density, urban, single-family residential use with provisions for associated residential or public service uses.

- (b) **Permitted Uses.** In an R-1 District, the following uses and their accessory uses are permitted subject to the standards, provisions and exceptions set forth in this Code:
- (1) One single-family dwelling or manufactured dwelling per legal lot.
  - (2) Residential Care Homes for 5 or less people. as provided in ORS 197.660 -670. (Statutory)
  - (3) Group Child Care Home for 12 or less children as provided in the applicable provisions of ORS 657 A. (Statutory)
  - (4) Accessory buildings subject to the following standards:
    - A. ~~Accessory buildings shall not be used for dwelling purposes. Accessory buildings, except for permitted accessory dwelling units, shall not be used for dwelling purposes.~~
    - B. No sales, except authorized garage/yard sales, shall be made from an accessory structure unless it has been approved as a Home Occupation under the Type III conditional-use provisions of **Section 9.251** and the home occupation standards of **Article 9.7**.
    - C. Boats, trailers, detached campers, motorized dwellings and similar recreational equipment may be stored, but not used for human habitation.
  - (5) Accessory Dwelling Units (ADUs) subject to standards in Article 9.7
  - (6) Duplexes
  - (7) Cottage clusters, subject to standards in Article 9.7
- (c) **Conditional Uses.** In an R-1 District, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of **Section 9.251** and the applicable Use Standards of **Article 9.7**.
- (1) Home occupation.
  - (2) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670.
  - (3) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.
  - (4) Semi-public uses such as grange halls, churches, public utility facilities
  - (5) Light Agriculture in accordance with applicable standards of Article 9.7.
  - (6) Bed and Breakfast.
  - ~~(7) Duplexes on corner lots which have a minimum of 10,000 square feet in — area.~~
- (d) **Development Standards.**
- (1) Minimum lot area: ~~6,000~~ 7,000 square feet.
  - (2) Minimum lot width: ~~50~~ 60 feet, except for corner lots which must have no less than ~~55~~ 65 feet on any property line adjoining a street
  - (3) Minimum Lot Depth: 80 feet
  - (4) Maximum Building coverage including accessory buildings, provided that any patio structure used solely for open space and swimming pool not structurally covered shall not be counted as a structure for ascertaining coverage: 35%. Accessory Dwelling Units placed or constructed on lots may have lot coverage expanded to a maximum of 50%.
  - (5) Maximum building height – 2 stories, excluding basements/daylight basements, or 30 feet, whichever is lower. Accessory buildings are limited to one story, with the exception of Accessory Dwelling Units.
  - (6) Yards (all measurements are from the property line unless indicated otherwise):

- A. Front Yard
1. ~~10 feet, except all garages, carports or other parking structures taking access from the front of the property shall be set back 20 feet. For Streets with constructed or planned curbs and/or sidewalks, 20 feet from the outside edge of the curb or sidewalk but no less than 10 feet from the property line.~~
  2. ~~Where no curbs or sidewalks are constructed or planned, 15 feet, except all garages, carports or other parking structures taking access from the front of the property shall be set back 20 feet.~~
- B. Side yard setbacks:
1. Interior side yard: 5 feet for single story and 7 ½ feet for two story structures.
  2. Alley side yard: 5 feet
  3. Street side yard: ~~For Streets with constructed or planned curbs and/or sidewalks, 15 feet from the outside edge of the curb or sidewalk but no less than 5 feet from the property line except for parking structures which shall be set back at least 20 feet from a curb or sidewalk. Where no curbs or sidewalks are constructed or planned, 10 feet. Parking structures taking access from the side street may be flush with façade and do not need to be set back from a façade. except all parking structures taking access from the side street shall be set back 20 feet.~~
- C. Rear yard: 10 feet
- (7) See **Article 9.5** for additional General Development Standards, **Article 9.6** for Special Development Standards and **Article 9.7** for Use Standards that may apply in the R-1 District.

### SECTION 9.412 MULTIPLE-FAMILY RESIDENTIAL DISTRICT R-3

- (a) **Purpose.** To provide areas suitable and desirable for medium density multiple-family residential use with provisions for associated residential or public service uses. Medium density shall mean a maximum of 15 dwelling units per acre unless approved as a Conditional Use.
- (b) **Permitted Uses.** In an R-3 District, the following uses and their accessory uses are permitted subject to the Type I or Type III Site Plan Review provisions of **Section 9.250**, single-family and duplexes excepted, and other standards and provisions set forth in this Code:
- (1) Duplexes, apartments, and other multiple-family dwellings, including Triplexes and Quadplexes.
  - (2) One single-family dwelling or manufactured dwelling per tax lot.
  - (3) Residential Care Facility for 15 or less people as provided in ORS 197.660 - 670.
  - (4) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.
  - (5) Accessory buildings subject to the following standards:
    - A. ~~Accessory buildings shall not be used for dwelling purposes. Accessory buildings, except for permitted accessory dwelling units, shall not be used for dwelling purposes.~~
    - B. No sales, except authorized garage/yard sales, shall be made from an accessory

structure unless it has been approved as a Home Occupation through a Type III process. ~~under the conditional use provisions of Section 9.251 and the home occupation standards of Article 9.7.~~

- C. Boats, trailers, detached campers, motorized dwellings and similar recreational equipment may be stored, but not used for human habitation.

~~(5) Court Apartments~~

(6) Accessory Dwelling Units, subject to the standards as listed in Article 9.7.

(7) Single-Family Attached

(8) Cottage Clusters, subject to the standards as listed in Article 9.7.

- (c) **Conditional Uses.** In an R-3 District, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of **Section 9.251** and the applicable Use Standards of **Article 9.7**.

- (1) Home occupation.
- (2) Semi-public uses such as grange halls, churches, public utility facilities.
- (3) Multiple-family residential of greater density than 15 units per acre.
- ~~(4) Townhouses/condominiums~~
- (5) Manufactured Dwelling Parks
- (6) Bed and Breakfast

- (d) **Development Standards.**

- (1) Minimum lot area – ~~5,500~~ 7,000 square feet.
- (2) Minimum lot width – ~~50~~ 60 feet, except for corner lots which must have no less than ~~55~~ 65 feet on any property line adjoining a street
- (3) Minimum Lot Depth – 80 feet
- (4) Maximum Building coverage including accessory buildings - 40%, provided that any patio structure used solely for open space and swimming pool not structurally covered shall not be counted as a structure for ascertaining coverage. For lots on which permitted Accessory Dwelling Units are placed or constructed, maximum building coverage is 60%. Maximum Lot Coverage shall not apply to triplexes and quadplexes provided minimum setbacks and off-street parking standards are met.
- (5) Maximum building height – 3 stories or 45 feet, whichever is lower. Accessory building are limited to one story, with the exception of Accessory Dwelling Units. For R-3 development within 50 foot of an abutting R-1 district side or rear yard, R-1 height standards apply.
- (6) Yards:
  - A. Front Yard
    1. 10 feet, except all garages, carports or other parking structures taking access from the front of the property shall be set back 20 feet. For Streets with constructed or planned curbs and/or sidewalks, 20 feet from the outside edge of the curb or sidewalk but no less than 10 feet from the property line.
    2. ~~Where no curbs or sidewalks are constructed or planned, 15 feet, except all garages, carports or other parking structures taking access from the front~~

~~of the property shall be set back 20 feet.~~

B. Side yard setbacks:

1. Interior side yard: 5 feet and 7 ½ feet for two story structures.

2. Alley side yard: 5 feet

3. Street side yard: ~~For Streets with constructed or planned curbs and/or sidewalks, 15 feet from the outside edge of the curb or sidewalk but no less than 5 feet from the property line except for parking structures which shall be set back at least 20 feet from a curb or sidewalk. Where no curbs or sidewalks are constructed or planned, 10 feet. Parking structures taking access from the side street may be flush with façade and do not need to be set back from a façade.~~

C. Rear yard: 10 feet.

- (7) See **Article 9.5** for additional General Development Standards, **Article 9.6** for Special Development Standards and **Article 9.7** for Use Standards that may apply in the R-3 District.

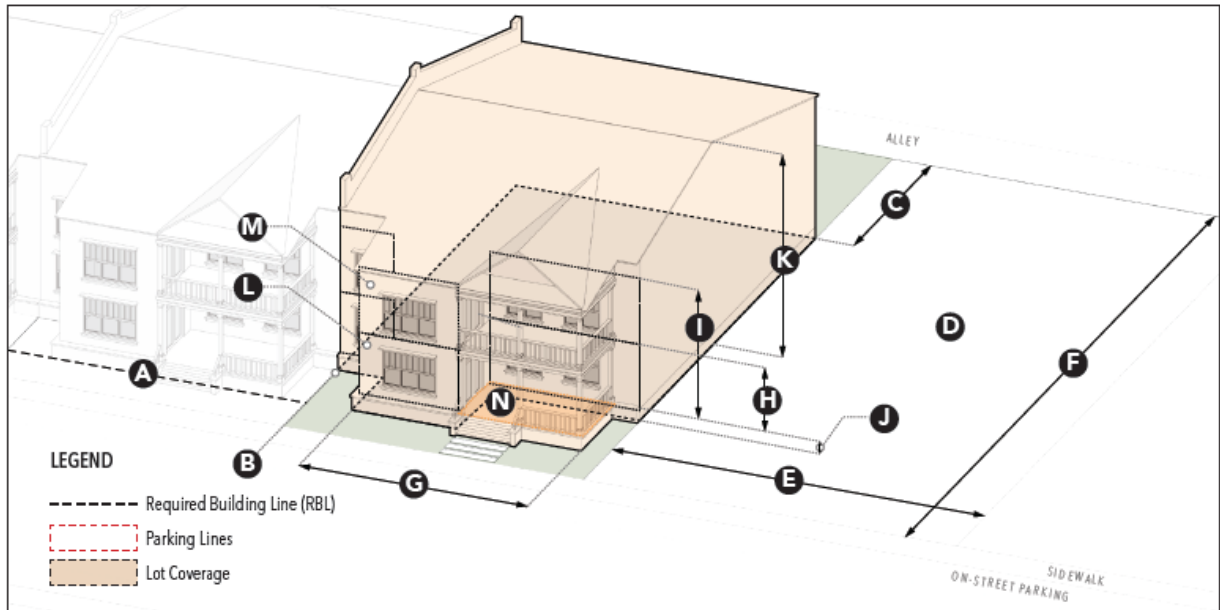
**SECTION 9.413 BUILDING STANDARDS.**

- (a) **Purpose.** The purpose of this Section and ensuing Sections is to set forth the regulations for building standards applicable to each Parcel Type that are appropriate to use within Lowell Downtown District and are organized by development typology on the Regulating Plan. These standards are intended to ensure that new development strengthens and enhances the existing character and scale of the Lowell Downtown District and its surroundings.
- (b) **Applicability.**
- a. The requirements in this Section shall apply to all proposed development within Lowell Downtown District, the boundaries of which are delineated on the Regulating Plan as “Downtown District,” and must be considered in relation to the intent and general character of the District.
  - b. The standards and requirements applicable to a Parcel Type shall modify and take precedence over any duplicative or conflicting provision of the Lowell Development Code, unless otherwise explicitly permitted.
  - c. These building standards shall not apply to the existing use of any building or land and shall not prevent the restoration of a building damaged not more than fifty (50) percent of its assessed valuation by fire, explosion, natural disaster, or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to any alteration, expansion or enlargement of a building or alteration of any parcel.
- (c) **General.** Building standards are not intended to indicate or suggest any specific architectural style.

**SECTION 9.414 DOWNTOWN TOWNHOME/SINGLE-FAMILY ATTACHED (DRA)**

**(a) Purpose.** The Downtown Townhome/Single-Family Attached (DRA) District is intended to provide a variety of homes, with a mix of sizes that are available to a wide range of income, within walking distance of the Downtown core for convenient, pedestrian-friendly access to shopping, employment, and recreational activities.

**(b) DRA Budling Standards.**



Use	
Ground/upper floor:	residential (primary), commercial (retail, service, office, trade)
Placement	
Front required building line (RBL)	5 - 15 ft when applicable; the front-most part of the building (i.e. wall, front porch) must be built to RBL <b>(A)</b>
Side setback	5 ft min. <b>(B)</b>
Rear setback	5 ft min.; 0 ft min. when abutting an alley <b>(C)</b>
Coverage	
Lot area	2,000 sf min. <b>(D)</b>
Lot width	20 ft min.; 40 ft min. for corner lots <b>(E)</b>
Lot depth	1.5x lot width or 100 ft, whichever is less <b>(F)</b>
Lot coverage	60% max.; see Notes
Primary street facade built to RBL	80% min. of RBL length when applicable <b>(G)</b>
Height	
Minimum number of floors	2 floors <b>(H)</b>
Maximum number of floors	3 floors <b>(I)</b>
Ground floor elevation	18 in min. above sidewalk <b>(J)</b>
Building height	subject to Fire Chief approval.; see Notes <b>(K)</b>
Facade Transparency	
Ground floor	40% of facade area min. <b>(L)</b>
Upper floors	40% of facade area min. <b>(M)</b>
Porch / covered stoop	
Dimension	6 x 6 ft min. for each primary entry
Parking	
Number of space	no min. requirement <b>(N)</b>

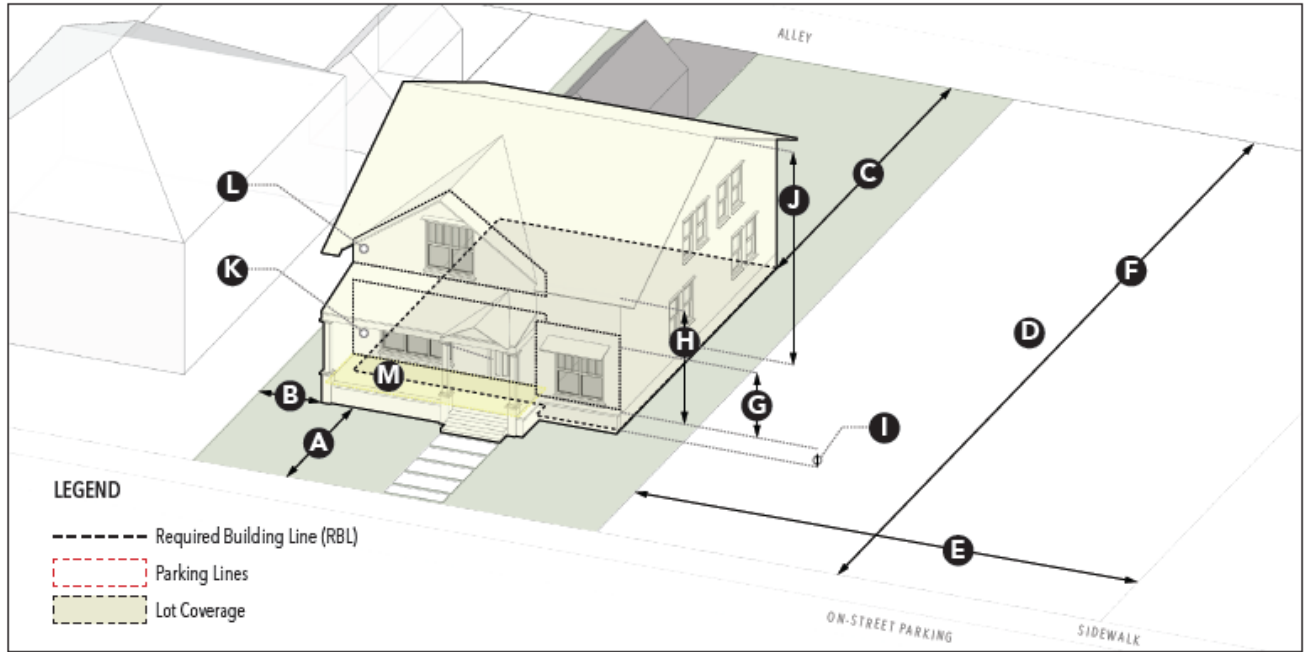
- Notes**
- Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited
  - Primary building entrance must be located along the Required Entry Zone (REZ) and be oriented to the street
  - Maximum lot coverage includes accessory buildings, provided that any patio structure used solely for open space and swimming pool not structurally covered shall not be counted as a structure for ascertaining coverage
  - Maximum building height excludes excluding basements/ daylight basements.; accessory buildings are limited to one story
  - All garages, carports or other parking structures must be located behind or to the side of the buildings; they cannot be placed between buildings and streets
    - Garages can be on the first level if accessed oriented to and accessed from an alley
    - Garages can be a detached style if oriented to and accessed from an alley
    - When no alley exists, garages can be tucked under the first story and accessed from the front or side of the property if set back a minimum of 20 ft
  - Residential uses entirely above the ground floor must have a balcony at least four feet deep



**SECTION 9.414 DOWNTOWN RESIDENTIAL/SINGLE-FAMILY DETACHED (DRD)**

(a) **Purpose.** The Downtown Single-Family Detached Residential District (DRD) is intended to provide units as a permitted use, within walking distance of the Downtown core for convenient, pedestrian-friendly, access to shopping, employment and recreational activities.

(b) **DRD Building Standards.**

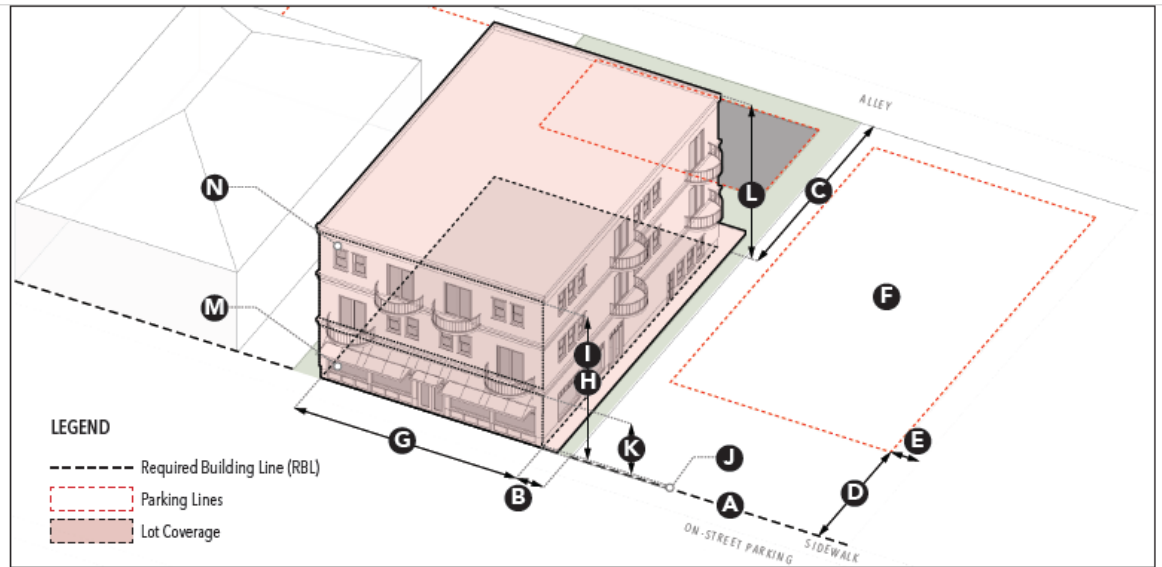


Use	
Ground/upper floor:	residential (primary), commercial (retail, service, office, trade)
Placement	
Front setback	10 ft min., 30 ft max. <b>(A)</b>
Side setback	5 ft min. <b>(B)</b>
Rear setback	5 ft min.; 0 ft min. when abutting an alley <b>(C)</b>
Coverage	
Lot area	5,000 sf min.; 6,000 sf min. for corner lots <b>(D)</b>
Lot width	40 ft min.; 50 ft min. for corner lots <b>(E)</b>
Lot depth	60 ft min. <b>(F)</b>
Lot coverage	50% max., 60% max. with Accessory Dwelling Unit (ADU); see Notes
Height	
Minimum number of floors	1 floors <b>(G)</b>
Maximum number of floors	3 floors <b>(H)</b>
Ground floor elevation	18 in min. above sidewalk <b>(I)</b>
Building height	subject to Fire Chief approval.; see Notes <b>(J)</b>
Facade Transparency	
Ground floor	40% of facade area min. <b>(K)</b>
Upper floors	40% of facade area min. <b>(L)</b>
Porch / covered stoop	
Dimension	6 x 6 ft min. for each primary entry <b>(M)</b>
Parking	
Number of required space	1 space per unit

- Notes**
- Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited
  - Primary building entrance must be located along the Required Entry Zone (REZ) and be oriented to the street
  - Maximum lot coverage includes accessory buildings, provided that any patio structure used solely for open space and swimming pool not structurally covered shall not be counted as a structure for ascertaining coverage
  - Maximum building height excludes excluding basements/ daylight basements.; accessory buildings are limited to one story
  - All garages, carports or other parking structures must be located behind or to the side of the buildings; they cannot be placed between buildings and streets
    - Garages can be on the first level if accessed oriented to and accessed from an alley
    - Garages can be a detached style if oriented to and accessed from an alley
    - When no alley exists, garages can be tucked under the first story and accessed from the front or side of the property if set back 20 ft min. from RBL
  - Residential uses entirely above the ground floor must have a balcony at least four feet deep

**SECTION 9.423 DOWNTOWN FLEX-USE 1 DISTRICT (DF1)**

- (a) **Purpose.** The Flex-Use 1 zone allows a mix of commercial and residential uses that are encouraged to locate Downtown. Mixed-use buildings support active town centers by allowing for a mix of users in a small footprint. Buildings along main streets have ground floor commercial or retail uses with offices or residential units above. Ground-floor retail store fronts have large, clear windows to encourage transparency and a sense of place along the pedestrian realm in the Downtown core of Lowell.
- (b) **DF1 Building Standards.**



Use	
Ground floor:	commercial (retail, service, office, trade)
Upper floor(s):	commercial (retail, service, office, trade), residential
Placement	
Front required building line (RBL)	0 ft; the front-most part of the building (i.e. wall, front porch) must be built to the RBL <b>A</b>
Side setback	0 ft min.; 10 ft min. when abutting residential zone <b>B</b>
Rear setback	0 ft min.; 10 ft min. when abutting residential zone <b>C</b>
Parking setback from RBL	30 ft min. <b>D</b>
Parking setback from parcel lines with no RBL	6 ft min.; 20 ft min. when abutting residential zone <b>E</b>
Coverage	
Lot area	no min.; see Notes for prerequisites <b>F</b>
Lot coverage	100% max.; see Notes for prerequisites
Primary street facade built to RBL	90% min. of RBL length <b>G</b>
Height	
Minimum number of floors	2 floors <b>H</b>
Maximum number of floors	3 floors <b>I</b>
Ground floor elevation	0 in min. above sidewalk; see Notes for residential use <b>J</b>
Floor to floor height	10 ft min. <b>K</b>
Building height	no max.; see Notes when abutting residential zone <b>L</b>
Facade Transparency	
Ground floor	75% of facade area min. <b>M</b>
Upper floors	40% of facade area min. <b>N</b>
Parking	
Number of space	see Section 9.514 Off-Street Parking Requirements

- Notes**
- Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited
  - Primary building entrance must be located along the Required Entry Zone (REZ) and be oriented to the street
  - Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access and pedestrian circulation including persons with disabilities
  - One hundred percent lot coverage is allowable when applicable minimum loading/parking space and setback requirements are met
  - There is no building height limitation except when the property abuts a residential zone, in which case the building height is limited to the height allowed in the adjacent residential zone for a distance of 50 ft.
  - Exterior building articulation is required every 40 horizontal feet or less
  - Ground floor with non-street-facing residential use must be elevated a minimum of 18 inches above grade
  - Pedestrian sidewalks or walkways must be provided to connect the building primary entrance to public right of way
  - Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from the alley or located behind or to the side of the building; they cannot be placed between buildings and streets
  - Access shall be designed to encourage pedestrian and bicycle use and shall facilitate vehicular movements with minimum interference or hazards for through traffic. Access may be subject to the review and approval of the County Engineer or State Department of Transportation. The dedication of additional right-of-way and construction of street improvements by the applicant may be required in order to facilitate traffic circulation.
  - Any ground-level shopfront windows facing circulation networks must be kept visible (unshuttered) at night
  - Residential uses entirely above the ground floor must have a balcony at least four feet deep

**~~SECTION 9.413 through 9.419 reserved for expansion.~~****~~SECTION 9.420 — COMMERCIAL DISTRICTS~~****~~SECTION 9.421 — GENERAL COMMERCIAL DISTRICT C-1~~**

~~(a) — **Purpose.** The General Commercial District is intended to provide areas appropriate for the full range of commercial activities to serve the needs of area residents and employees. The C-1 District is well suited for areas having access from the City's major thoroughfares that are free from conflict with non-compatible land uses.~~

~~(b) — **Permitted Uses.** In a C-1 District, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 9.250** and the standards, provisions and exceptions set forth in this Code, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building:~~

- ~~(1) — Retail stores or shops.~~
- ~~(2) — Personal or business service.~~
- ~~(3) — Repair shops (See 3 (b) below).~~
- ~~(4) — Eating or drinking establishments.~~
- ~~(5) — Offices, business or professional.~~
- ~~(6) — Financial institutions.~~
- ~~(7) — Indoor commercial amusement or recreation establishments.~~
- ~~(8) — Hotels and Motels.~~
- ~~(9) — Semi-public buildings and uses.~~
- ~~(10) — Residential Care Facility for 15 or less people as provided in ORS 197.660—670.~~
- ~~(11) — Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.~~
- ~~(12) — Second-story residences located above a ground floor commercial use in accordance with **Section 9.720 (b)**.~~
- ~~(13) — Conversion of residence to a permitted commercial use in accordance with **Section 9.720 (a)**.~~

~~(c) — **Conditional Uses.** In a C-1 District, the following uses and their accessory uses may be permitted in conformance with the conditional use provisions of **Section 9.251** and the applicable Use Standards of **Article 9.7**.~~

- ~~(1) — Automotive, truck, RV, equipment or other repair shops which possess nuisance characteristics or emissions potentially detrimental to Public health, safety and general welfare of the community such as noise, vibrations, smoke, odor, fumes, dust, heat, glare or electromagnetic interference shall not be permitted unless additional safeguards are specified by the Planning Commission. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use.~~
- ~~(2) — Permitted uses listed in (2) above, requiring open display or storage, including but not limited to, automobile or equipment sales.~~
- ~~(3) — Light industrial uses identified in Section 9.421 (c) which have no emissions or nuisance characteristics, as identified in Section 9.204 discernible without instruments outside any building, contain no outdoor storage and for which no other significant impacts to adjoining commercial and residential uses have been identified.~~

~~(d) — **Development Standards.** Lots within a General Commercial District are approved by the Planning Commission as part of the Site Plan Review procedures of **Sections 9.250**. Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access and pedestrian circulation including persons with disabilities.~~

~~(1) — Minimum lot area: None established~~

~~(2) — Yards:~~

~~A. — Front yard setbacks — none required. See **Section 9.509 to 9.512** for additional street setbacks.~~

~~B. — Side yard setbacks~~

~~A. — None required between commercially or industrially zoned property~~

~~B. — 10 feet when abutting residentially zoned property.~~

~~C. — None required for street side yard.~~

~~C. — Rear yard:~~

~~1. — None required between commercially or industrially zoned property.~~

~~2. — 10 feet when abutting residentially zoned property.~~

~~(3) — Maximum building height: There is no building height limitation except when the property abuts a residential zone, in which case the building height is limited to the height allowed in the adjacent residential zone for a distance of 50 feet.~~

~~(4) — Lot Size: There is no minimum lot size or lot dimension.~~

~~(5) — Lot Coverage and Density: There is no lot coverage or density requirements except as provided in yard setback and on-site parking requirements.~~

~~(6) — Access shall be designed to cause a minimum interference with traffic and may be subject to the review and approval of the County Engineer or State Department of Transportation. The dedication of additional right of way and construction of street improvements by the applicant may be required in order to facilitate traffic circulation.~~

~~(7) — See **Article 9.5** for additional General Development Standards, **Article 9.6** for Special Development Standards and **Article 9.7** for Use Standards that may apply in the C-1 District.~~

## ~~SECTION 9.422 — DOWNTOWN COMMERCIAL DISTRICT C-2~~

~~(a) — **Purpose.**~~

~~Downtown Lowell is intended to provide a central shopping center for the community to serve the needs of area residents and employees. Downtown Lowell is well suited for a central compact commercial center that includes public buildings and facilities. Downtown Lowell can become Lowell's central feature supporting easy access, convenient pedestrian circulation and attractive amenities for all users.~~

~~(b) — **Permitted Uses.** The following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 9.250** and the standards, provisions and exceptions set forth herein. Site Plans shall clearly show compliance with the intent and requirements for downtown revitalization.~~

~~(1) — Retail stores or shops.~~

~~(2) — Small Repair Shops~~

~~(3) — Personal or business service establishments.~~

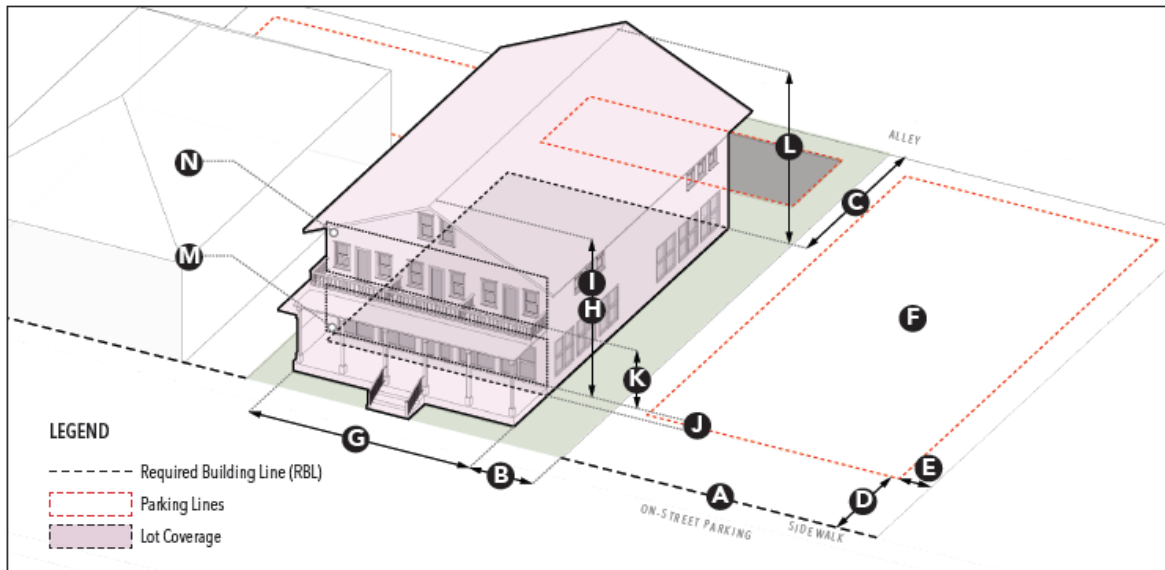
~~(4) — Eating or drinking establishments.~~

- ~~(5) — Offices, business or professional establishments.~~
  - ~~(6) — Financial institutions.~~
  - ~~(7) — Indoor commercial amusement or recreation establishments.~~
  - ~~(8) — Public or semi-public buildings and uses.~~
  - ~~(9) — Second and third story residences located above a ground floor commercial use in accordance with **Section 9.720 (b)**.~~
  - ~~(10) — Conversion of residence to commercial use in accordance with **Section 9.720 (a)**.~~
  - ~~(11) — Convenience and Decorative Elements including landscaping, benches, temporary banners or signs.~~
- ~~(c) — **Conditional Uses.** Uses and accessory uses similar to those specifically listed in Item (2) above may be permitted in conformance with the conditional use provisions of **Section 9.251**.~~
- ~~(d) — **Non-Permitted Uses.** The following uses and their accessory uses are not permitted:~~
- ~~(1) — Large Equipment Sales or Repair.~~
  - ~~(2) — Trucking Operations~~
  - ~~(3) — Auto Storage, Towing or Wrecking Yards.~~
  - ~~(4) — Automotive Service or Sales~~
  - ~~(5) — Adult Video or Goods.~~
  - ~~(6) — Indoor or outdoor storage and warehousing facilities not directly in support of downtown businesses.~~
- ~~(e) — **Development Standards:**~~
- ~~(1) — Lot area and configuration — Lots within the Downtown District are approved by the Planning Commission as part of the Site Plan Review procedures of **Sections 9.250**. Lots are required to be large enough to accommodate the building, required parking, service access and pedestrian circulation including persons with disabilities.~~
  - ~~(2) — Yards:
 
    - ~~A. — Exterior yard setbacks — none required. Buildings are encouraged to front onto wide sidewalks that include landscaping and pedestrian amenities.~~
    - ~~B. — Interior yard setbacks — 5 feet where abutting residential property and zero where abutting commercial property subject the requirements for building construction specified in the Oregon Structural Specialty Code.~~~~
  - ~~(3) — Maximum building height — 3 stories~~
  - ~~(4) — Access shall be designed to encourage pedestrian and bicycle use and shall facilitate vehicular movements with minimum interference or hazards for through traffic. The dedication of additional right-of-way and construction of street improvements by an applicant may be required in compliance with the standards herein.~~
  - ~~(5) — Development in the Downtown area may be conditional upon an agreement to comply with reasonable exterior building modifications and street and sidewalk standards established as a part of a future Downtown Development Plan.~~
- ~~(f) — See **Article 9.5** for additional General Development Standards, **Article 9.6** for Special Development Standards and **Article 9.7** for Use Standards that may apply to the C-2 District.~~

**SECTION 9.424 DOWNTOWN FLEX-USE 2 DISTRICT (DF2)**

(a) **Purpose.** The Downtown Flex-Use 2 zone allows a mix of commercial and residential uses that are encouraged to locate Downtown along the commercial corridor along North Moss. Mixed-use buildings support active town centers by allowing for a mix of uses in a small footprint. The mix of commercial and required residential allow residents to meet their daily shopping and employment needs, all within walking distance of the Downtown core.

**(d) DF2 Building Standards.**



Use	
Ground floor:	commercial (retail, service, office, trade), residential
Upper floor(s):	commercial (retail, service, office, trade), required residential
Placement	
Front required building line (RBL)	0 - 10 ft; the front-most part of the building (i.e. wall, front porch) must be built to RBL <b>(A)</b>
Side setback	5 ft min.; 10 ft min. when abutting residential zone <b>(B)</b>
Rear setback	0 ft min.; 10 ft min. when abutting residential zone <b>(C)</b>
Parking setback from RBL	20 ft min. <b>(D)</b>
Parking setback from parcel lines with no RBL	6 ft min.; 20 ft min. when abutting residential zone <b>(E)</b>
Coverage	
Lot area	no min.; see Notes for prerequisites <b>(F)</b>
Lot coverage	70% max.
Primary street facade built to RBL	80% min. of RBL length <b>(G)</b>
Height	
Minimum number of floors	1 floors <b>(H)</b>
Maximum number of floors	3 floors <b>(I)</b>
Ground floor elevation	0 in min. above sidewalk; see Notes for residential use <b>(J)</b>
Floor to floor height	10 ft min. <b>(K)</b>
Building height	no max.; see Notes when abutting residential zone <b>(L)</b>
Facade Transparency	
Ground floor	70% of facade area min. <b>(M)</b>
Upper floors	40% of facade area min. <b>(N)</b>
Parking	
Number of space	see Section 9.514 Off-Street Parking Requirements

Notes	
•	Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited
•	Primary building entrance must be located along the Required Entry Zone (REZ) and be oriented to the street
•	Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access and pedestrian circulation including persons with disabilities
•	There is no building height limitation except when the property abut a residential zone, in which case the building height is limited to the height allowed in the adjacent residential zone for a distance of 50 ft.
•	Exterior building articulation is required every 40 horizontal feet or less
•	Ground floor with residential use must be elevated a minimum of 18 inches above grade
•	Pedestrian sidewalks or walkways must be provided to connect the building primary entrance to public right of way
•	Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from the alley or located behind or to the side of the building; they cannot be placed between buildings and streets
•	Access shall be designed to encourage pedestrian and bicycle use and shall facilitate vehicular movements with minimum interference or hazards for through traffic. Access may be subject to the review and approval of the County Engineer or State Department of Transportation. The dedication of additional right-of-way and construction of street improvements by the applicant may be required in order to facilitate traffic circulation.
•	Any ground-level shopfront windows facing circulation networks must be kept visible (unshuttered) at night
•	Residential uses entirely above the ground floor must have a balcony at least four feet deep

**SECTION 9.423 through 9.429 reserved for expansion.****SECTION 9.430 INDUSTRIAL DISTRICTS SECTION****9.431 LIGHT INDUSTRIAL DISTRICT I-1**

- (a) **Purpose.** The I-1, Light Industrial, District is intended to create, preserve and enhance areas for low intensity, light manufacturing and commercial development which create no obnoxious impact on abutting properties and are free from conflict with non-compatible uses
- (b) **Permitted Uses.** In an I-1 District, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 9.250** and the standards, provisions and exceptions set forth in this Code.
- (1) All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, repair or testing uses, and associated commercial activities, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building and provided there are no emissions or nuisance characteristics, as identified in Section 9.204 (u), discernible without instruments at the property line.
  - (2) Semi-public buildings and uses.
  - (3) Interim farm use.
- (c) **Conditional Uses.** In an I-1 District, the following uses and their accessory uses may be permitted, subject to the provisions of **Section 9.251**.
- (1) Manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, repair or testing uses, and associated Commercial activities, having emissions or nuisance characteristics , as identified in Section 9.204 (u), discernible without instruments at the property line, conducted in part or in full outside a fully enclosed building or uses requiring a permit from a local, state or federal agency.
  - (2) Scrap, waste, recycling or wrecking yards.
  - (3) All other Commercial activities.
  - (4) Waste or hazardous material processing, storage or disposal.
  - (5) A manufactured dwelling for the owner or caretaker whenever an on-site residence is necessitated by such use. The manufactured dwelling shall comply with the standards of Article 9.7.
- (c) **Continued Compliance Required.**
- (1) Uses permitted under paragraph (2) above or a change of use must continually meet the standards that there be no emissions or nuisance characteristics, as identified in Section 9.204 (u), discernible without instruments at the property line. Failure to meet the standard will require the use to cease or require application for a conditional use as in accordance with Section 9.251.
  - (2) Uses permitted under paragraph (3) above or a change of use must continually meet all conditions for approval required to mitigate nuisance characteristics established for a conditional use permit. Failure to meet such conditions will require the use to cease or application for a new conditional use permit in accordance with Section

**(d) Development Standards.**

- (1) Lot area: There shall be no prescribed minimum lot area. Lot area shall be approved as part of the Site Plan Review procedures of **Section 9.250**. Lots are required to be large enough to accommodate the building, required parking, vehicle and pedestrian access and circulation, including persons with disabilities
- (2) Lot coverage and Density: Lot configuration shall be approved as part of the Site Plan Review procedures of **Section 9.250**.
- (3) Yard Setbacks:
  - a. Front - 20 feet., landscaped and maintained. See **Sections 9.509 to 9.512** for additional street setbacks.
  - b. Interior Side – None, except for yard abutting residential uses, which require a 20 foot setback landscaped and maintained.
  - c. Street Side – 10 feet.
  - d. Rear - None, except for yard abutting residential uses, which require a 20 foot setback landscaped and maintained.
  - e. All required yard setbacks must be landscaped and maintained.
- (4) Maximum Building Height - 45 feet unless a greater height is approved by the Planning Commission with conditions of approval as part of the Site Plan Review procedures of **Section 9.250**.
- (5) Access shall be designed to cause a minimum interference with traffic and may be subject to the review and approval of the County. The dedication of additional right-of-way and construction of street improvements by the applicant may be required in order to facilitate traffic circulation.
- (6) See **Article 9.5** for additional General Development Standards, **Article 9.6** for Special Development Standards and **Article 9.7** for Use Standards that may apply in the I-1 District.

**SECTION 9.432 through 9.439 reserved for expansion****SECTION 9.440 OTHER LAND USE DISTRICTS****SECTION 9.441 PUBLIC LANDS DISTRICT - PL**

- (a) **Purpose.** The Public Lands District is intended to establish development standards for public lands. Public Lands are those owned by public entities, specifically, the Federal Government, State of Oregon, Lane County, and the City of Lowell, as well as special districts established State law such as the Lowell Fire District and Lowell School District. Public Lands do not include lands owned by public utilities other than governmental entities.
- (b) **Permitted Uses.** In the Public Lands District all uses and their accessory uses generally associated with public functions are permitted, with the exception of uses identified below as conditional uses, subject to the Site Plan Review provisions of **Section 9.250** and the standards, provisions and exceptions set forth in this Code, where not specifically excluded by State and Federal law.
- (c) **Conditional Uses.** In the Public Lands District, the following uses and their accessory uses are not outright permitted and must be permitted in conformance with the conditional use provisions of **Section 9.251**, where not specifically excluded by State and



- (1) Uses that would create traffic, noise, dust, odor, visual or other types of impacts not consistent with adjoining land uses.
- (2) Use of publicly owned property for other than public purposes through lease or rent agreements between the public entities owning the property and non-public entities.

(d) **Development Standards.**

- (1) Minimum lot area and configuration - Lots within a Public Lands District are approved by the Planning Commission as part of the Site Plan Review procedures of **Section 9.250**. Lots are required to be large enough to accommodate uses proposed for development, including but not limited to, the building, sewage disposal system, required parking, service access and pedestrian circulation including persons with disabilities.
- (2) Yards: No specific yard setbacks are established with the exception that all development on public lands will be set back no less than 10 feet from adjoining residentially zoned property. Requested setbacks will be evaluated as a part of the Site Plan Review and
- (3) Maximum building height: There is no building height limitation except when the property abuts a residential zone, in which case the building height is limited to the height allowed in the adjacent residential zone for a distance of 50 feet.
- (3) Lot Size: There is no minimum lot size or lot dimension.
- (4) Lot Coverage and Density: There is no lot coverage or density requirements except as provided in yard setback and on-site parking requirements.
- (5) Access shall be designed to cause a minimum interference with traffic and may be subject to the review and approval of the County Engineer or State Department of Transportation. The dedication of additional right-of-way and construction of street improvements by the applicant may be required in order to facilitate traffic circulation.
- (6) See **Article 9.5** for additional General Development Standards, **Article 9.5** for Special Development Standards and **Article 9.5** for Use Standards that may apply in the Public Lands District.

**SECTION 9.442 through 9.449 reserved for expansion.**

**SECTION 9.450 OVERLAY-DISTRICTS**

An Overlay-District may be established in combination with a Primary District. The Overlay-District shall establish additional requirements, standards and procedures for the use and development of property in the Primary District. In cases of conflict between the standards and requirements of the Primary District and the Overlay-District, the standards and requirements of the Overlay-District shall apply.

**SECTION 9.451 Application.**

The City, a property owner, or any interested person may apply for designation of an Overlay-District in combination with any Primary District in accordance with the application requirements of **Sections 9.203 and 9.204** and the amendment procedures of **Section 9.253**. The Quasi-judicial hearing procedures of **Section 9.306** shall be used when the application is submitted by a property owner and applies to a specific property. The Legislative hearing procedures of **Section 9.307** shall be used when the Overlay-District is applied by the City to a group or class of properties under similar circumstances.

**SECTIONS 9.541 through 9.599 reserved for expansion.****SECTION 9.460 PLANNED DEVELOPMENT OVERLAY-DISTRICT, PD**

The purpose of the PD Overlay-District is to provide opportunities to create more desirable working or living environments by the application of new development standards applied under an approved plan and program that is professionally prepared. The PD Overlay-District is intended to be used to encourage the application of new techniques and new technology to community development that can achieve economies in land development and maintenance while providing building groupings, open spaces and circulation systems that enhance the working or living environment of the inhabitants. A Planned Development may be residential, commercial or industrial or a mixed combination of land uses. Application procedures are as follows:

**SECTION 9.461 PD DEVELOPMENT STANDARDS**

- (a) **Minimum Site Size.** A PD Overlay-District shall not be established on less than five (5) acres unless the City finds a smaller area is suitable by virtue of its characteristics or location.
- (a) **Planned Development Applications:**
  - (1) The City or a property owner may request a PD Overlay-Zone in combination with any Primary Zone in accordance with the application requirements of **Sections 9.201 through 9.204**, the amendment procedure of **Section 9.253** and the requirements of **Sections 9.430 to 9.437** contained herein.
  - (2) A property owner located in an existing PD Overlay-Zone may request approval of a **PD Plan** in conformance with the requirements of **Sections 9.421 and 9.430 to 9.437** contained herein.
  - (3) Application for a PD Overlay-Zone or a PD Plan is divided into three phases:
    - A. The Applicant shall first submit a **PD Conceptual Plan** containing drawings and a written program that is presented in enough detail to clearly describe the proposed development. An informal pre-application review by members of the Planning Commission and City Council will be scheduled in conformance with **Sections 9.201 and 9.202** to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to the City. This preliminary process is intended to save time and expense for the Applicant and

the City.

- B. After receiving approval in principle of the PD Conceptual Plan the applicant shall have a **PD Development Plan** prepared by a professional design team that contains drawings and a written program for a formal public hearing and decision by the City.
- C. Verification of compliance with the conditions of approval by the City Administrator and acceptance of the **Official PD Development Plan** in conformance with the approved **PD Development Plan**.

(b) **Comprehensive Plan Compliance and Adjacent Property Protection.**

- (1) The development plan and program shall present an organized arrangement of buildings, service facilities, open spaces and improvements in compliance with the intent of the Comprehensive Plan that also protects the property rights of adjacent property owners.
- (2) Periphery yards of a PD Overlay-District shall be at least as deep as those required by the yard regulations of the underlying District unless the City finds that equal protection will be accorded through the specific design features of the approved plan.

(c) **Lot coverage and Building Height.** Lot coverage and building height shall be no greater than for the underlying District unless the City finds that an exception is warranted in terms of the adjacent property protection and amenities proposed in the total development.

(d) **Open Space.** Open space in a PD Overlay-District means the land area to be used for scenic or open recreational purposes within the development.

- (1) Open space does not include street right-of-way, driveways, parking areas, required setbacks, or public service easements unless these areas have some special recreational design or purpose.
- (2) Open space shall be adequate for the recreational and leisure use of the population occupying the development and shall be designed to enhance the development.
- (3) To the maximum extent possible, the plan and program shall assure that natural features of the land are preserved and landscaping is provided.
- (4) Instruments guaranteeing the maintenance of open space shall be provided with the proposed plan. Documents dedicating development rights and provisions for maintenance of open space shall be approved as to form by the City Attorney.

(e) **Density.** Greater overall density than that specified in the Primary District may be allowed under a PD Overlay-District based on the entire development design. Generally the density provision of the underlying District shall be used as a guideline for a deviation from the standard density. Areas used for public street right-of-way or private roadway intended to provide access to more than two (2) structures may be excluded when determining the overall density of the development.

- (f) **Subdivision Lot Sizes.** Minimum area, width, depth and frontage requirements for subdivision lots in a PD Overlay-District shall be the same as the basic District unless smaller lots are approved in accordance with proposed plan and program.
- (g) **Additional Standards and Controls.** The City may require additional standards or controls to protect adjacent property rights or the health, safety and welfare of the general public in compliance with the Comprehensive Plan based upon the specific development request. Additional standards and controls may include, but are not limited to, the following:
- (1) Increasing the required setbacks to protect adjacent properties or solar access.
  - (2) Controlling the location and number of vehicular access points.
  - (3) Establishing new streets, increasing the right-of-way or roadway width of existing streets, requiring curbs and sidewalks, and in general, improving the traffic circulation system.
  - (4) Requiring improvements for utilities or storm drainage facilities.
  - (5) Increasing the number of parking spaces and improving design standards for parking areas.
  - (6) Limiting the number, size, location, and lighting of signs.
  - (7) Designating sites for open space and recreation and, in general, improving landscaping requirements.
  - (8) Requiring view obscuring screening or fencing.
  - (9) Establishing time limits for completion of all or any portion of the project, including, but not limited to utilities, drainage facilities, streets, curbs, gutters, sidewalks, parking areas, landscaping, fencing, screening or recreation areas.
  - (10) Requiring contractual agreements with the City to assure development of streets, sidewalks, drainage facilities, utilities, and other improvements to standards acceptable to the City.
- (h) **Phased Development.** The applicant may elect to develop the site in successive stages as proposed in the PD Development Plan.
- (1) Each such stage shall be a substantially complete unit of development.
  - (2) The City may require that development be done in stages if public facilities are not adequate to service the entire development initially.
- (i) **Permitted Uses In Residential PD Overlay-Districts.** The following uses and their accessory uses may be permitted in a PD Overlay-District which has been combined with a Residential District.
- (1) Residential use of land.
  - (2) Related commercial uses when approved by the City.
  - (3) Related community service uses when approved by the City.
  - (4) Proposed standards or controls shall be specified in the PD Development Plan and signed by the owners. Where applicable the requirements may be made part of future deed CC&R's.

**SECTION 9.462 PD CONCEPTUAL PLAN**

An applicant shall submit at least fifteen (15) copies of a conceptual drawings and a written program to the City for review and acceptance of the proposed development in principle. An informal review by members of the Planning Commission and City Council will be scheduled to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to the City. The proposal shall address the following elements.

**(a) Elements of the Plan.**

- (1) Vicinity map showing location of streets and lots in the area within 300 feet of the proposed development.
- (2) Existing lands uses.
- (3) Proposed land uses including housing unit densities (number of units per acre, type of residence, and number of bedrooms by type of residence); commercial facilities such as shopping and community facilities such as schools or parks.
- (4) Building types and approximate bulk.
- (5) Vehicular and pedestrian access, circulation, and parking pattern. Status of street ownership.
- (6) Proposed Subdivision layout.
- (7) Parks, playgrounds, and open spaces.
- (8) Existing natural features such as trees, streams and topography.
- (9) Landscaping, screening, and fencing proposals.
- (10) Proposed method of solid waste disposal.
- (11) Proposed method for provisions of water supply and sewage disposal.
- (12) Proposed method for the handling of surface water drainage.
- (13) Proposed grading patterns.
- (14) Street and open space lighting proposals.

**(b) Elements of the Program.**

- (1) Proposed members of the Professional Design Team.
- (2) Proposed ownership pattern.
- (3) Operation and maintenance proposal, such as condominium, co-op, or Homeowners Association.
- (4) Time table of the development, to include expected starting dates, projection of completion time, and project phasing, if anticipated.
- (5) Method of public improvements financing, if any.

**(c) Review of PD Conceptual Plan**

- (1) An informal review with the Applicant and City Officials will be scheduled to determine if the requested PD conforms to the City's PD requirements and is conceptually acceptable to the City.
- (2) Members of the Planning Commission and City Council shall informally review the PD Conceptual Plan and may recommend either preliminary approval in principle, with or without modifications, or denial. Such action shall be based upon compliance with the intent of City's Comprehensive Plan, the intent of City

development standards and the extent of deviation from City standards proposed in the PD.

- (3) Approval in principle of the PD Conceptual Plan shall be limited to the preliminary acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse the precise location of uses nor engineering feasibility. The City may require the submission of additional information for the PD Development Plan review.
- (4) The City shall review and may recommend expansion, additions, or modifications in the proposed design team for the preparation of the PD Development Plan.
- (5) The City shall determine the extent of any environmental assessment to be included with the PD Development Plan.

### **SECTION 9.463 PD DEVELOPMENT PLAN**

- (a) After receiving approval in principle of the PD Conceptual Plan, the Applicant shall have a PD Development Plan prepared by a professional design team in such design-related fields as Architecture, Landscape Architecture, Urban Planning, and Civil Engineering.
- (b) An applicant for a PD Overlay-District shall also petition for an amendment to the zoning map as specified in **Section 9.253**. Fifteen (15) copies of the PD Development Plan shall be submitted to the Planning Commission and City Council at least 30 days prior to the date of public hearing.
- (c) Upon receipt of the PD Development Plan, the Planning Commission and City Council shall hold separate public hearings or a single joint public hearing in accordance with the provisions of **Section 9.306**. At the public hearing the applicant shall present the PD Development Plan.
- (d) **Plan Elements.** In addition to the Application Site Plan required in **Section 9.204**, the PD Development Plan shall contain the following elements:
  - (1) A complete development plan in conformance with the approved conceptual plan.
  - (2) Existing and proposed contour map of the site to a scale commensurate with the size of the development.
  - (3) Location, widths, and names of all existing or platted streets or other public ways, railroad and utility rights-of-way, parks, or other public open spaces and land uses within 300 feet of the development.
  - (4) Existing sewers, water mains, and other underground facilities within and adjacent to the development and their certified capacities.
  - (5) Proposed location and capacity of sewers or other disposal facilities, water mains and other underground utilities.
  - (6) Proposed system for the handling of storm drainage.
  - (7) A Subdivision Tentative Plan in conformance with **Section 9.220**, if the property is proposed to be subdivided.
  - (8) A land use plan indicating the uses planned for the development.
  - (9) Areas proposed to be dedicated or reserved for interior circulation, public parks, playgrounds, school sites, public buildings, or other uses dedicated or reserved to the public, if any.

- (10) Open space that is to be maintained and controlled by the owners of the property and the proposed uses thereof.
- (11) A traffic flow map showing the circulation pattern within and adjacent to the proposed development.
- (12) Location and dimensions of bikeways, pedestrian walkways, malls, trails, or easements.
- (13) Location, arrangement, number and dimensions of automobile garages and parking spaces, width of aisles, bays, and angle of parking.
- (14) Location, arrangement, and dimensions of truck loading and unloading spaces, if any.
- (15) Preliminary architectural plans and elevations of typical buildings and structures, indicating the general height, bulk, appearance and number of dwelling units.
- (16) A preliminary tree planting and landscaping plan. All existing trees over six (6) inches in diameter and groves of trees shall be shown. Trees to be removed by development shall be so marked.
- (17) The approximate location, height, materials of all walls, fences, and screen plantings. Elevation drawings of typical walls and fences shall be included.
- (18) The stages, if any, of development construction. Such stages shall be clearly marked on the PD Development Plan.

(e) **Program Elements.**

- (1) Narrative statement of the basic purposes of the planned development.
- (2) An environmental assessment if requested by the City during review of the PD Conceptual Plan.
- (3) Tables showing the total number of acres and the percentage of the total area which is designated for each type of use including each dwelling type, off-street parking, streets, parks, playgrounds, schools, and open spaces as shown on the proposed development plan.
- (4) Tables showing the overall density of the proposed residential development and showing density by dwelling types and any proposals for the limitation of density.
- (5) Drafts of appropriate restrictive covenants and drafts of documents providing for the maintenance of any common open space, or required dedications or reservations of public open spaces and of any dedications of development rights.
- (6) A timetable indicating when utility and drainage facilities intended to serve the development are to be installed. If the development is to be constructed in stages, the timetable shall reflect this.

**SECTION 9.464 DECISION AND FINDINGS**

- (a) **Planning Commission Decision.** The Planning Commission, after a public hearing in accordance with the provisions of **Section 9.306**, may recommend approval, denial or approval with conditions of the PD Development Plan and the PD Overlay-District.
- (b) **City Council Decision.** The City Council, after a public hearing in accordance with the provisions of **Section 9.306** and after receiving the recommendation from the Planning Commission on the PD Development Plan shall either approve the application, deny the application or approve the application with conditions.

- (c) A single joint public hearing by the Planning Commission and City Council may be utilized in conformance with **Section 9.306 (c)**.
- (d) **PD Development Elements.** Approval of the PD Development Plan includes approval of all attached elements including the PD Overlay-District, a Subdivision Tentative Plan and all Conditions of Approval.
- (e) **Decision Criteria.** The recommendation of the Planning Commission and decision by the City Council shall be based upon the following findings:
  - (1) That the proposed development is in conformance with the intent of the City's Comprehensive Plan.
  - (2) That exceptions from the standards of the underlying District are warranted by the design and amenities incorporated in the proposed PD Development Plan.
  - (3) That the proposed development is consistent with the purpose and intent of the Primary District and that adjacent properties are protected from potential adverse affects resulting from the proposed development by appropriate controls or development standards.
  - (4) That the proposed development, or a unit thereof, can be substantially completed within two (2) years of final approval.
  - (5) That the streets are adequate to support the anticipated traffic and that the development will not overload the streets outside the PD Overlay-District.
  - (6) That the proposed utilities and drainage facilities are adequate for the population densities and type of development proposed and will not create drainage or pollution problems outside the PD Overlay-District.
  - (7) That the timing of installation of utility and drainage facilities will be closely coordinated with development construction and will not create a hardship to residents either within or outside the PD Overlay-District.
  - (8) That the density in the proposed development will not result in any substantial negative impact on any public facility or utility.

#### **SECTION 9.465 OFFICIAL PD DEVELOPMENT PLAN**

- (a) Following approval of the PD Overlay-District by the City Council, the applicant shall make changes in the PD Development Plan to comply with the Conditions of Approval and submit it to the City Administrator for verification of compliance with the PD Development Plan and Conditions of Approval applied by the City.
- (b) If the PD Development Plan is found to be in compliance with the approval conditions, it shall be so certified by the City Administrator and placed in the Record File of the Application as the Official PD Development Plan along with all documents relating to dedications, improvements, agreements, restrictions, and associations.
- (c) The Platting procedures set forth in **Section 9.210** shall be followed and included in the Record File if the property is to be divided or streets are to be dedicated unless private street exceptions have been approved by the City Council.



- (d) All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be certified and placed in the Record File prior to the issuance of any building permit.
- (e) Final copies of all approved articles governing operation and maintenance shall be placed in the Record File prior to the issuance of any building permit.
- (f) The PD Overlay-District shall be adopted by City Ordinance. The area shall henceforth be shown on the official zoning map as a PD Overlay-District in addition to the Primary District. All building permits shall be issued only in conformance with the Official PD Development Plan recorded in the Record File.
- (g) All requirements of Article 7, Improvement Requirements, shall apply to public improvements required by the approved PD Development Plan unless waivers have been approved by the City Council as a part of the PD Development Plan approval process.

#### **SECTION 9.466 PROPOSED CHANGES IN APPROVED PLANS**

- (a) Major Changes. Major changes in the Official Development Plan after it has been adopted shall be considered a new petition and shall comply with the procedures for adoption.
- (b) Minor Changes. Minor changes in an approved Official Development Plan may be approved by the City Administrator, provided that such changes:
  - (1) Do not change the character of the development or the population density.
  - (2) Do not change the boundaries of the PD Overlay-District.
  - (3) Do not change any use, such as residential to commercial.
  - (4) Do not change the location or amount of land devoted to a specific land use.
  - (5) Do not relax dimensional standards or other specific requirements established by the City as a condition of approval.

#### **SECTION 9.467 EXPIRATION**

- (a) If substantial construction or development has not taken place within two (2) years from the date of final approval and acceptance of the Official Development Plan, the City Administrator shall review the status with the owner and make a report of the findings to the Planning Commission and City Council.
- (b) Upon abandonment of a particular Planned Development, or if its development has not been substantially completed within the time specified in the Official Development Plan, the City may schedule public hearings to remove the PD Overlay- District unless a request to extend the time limit is approved.
- (c) The procedure for removal of a PD Overlay District is essentially the same as for adoption. The proposed removal of the PD Overlay-District shall be reviewed at a public hearing of the Planning Commission to determine whether or not its continuation in whole or in part is in the public interest. If the PD Overlay-District is found not to be in the public interest, the Planning Commission shall recommend to the City Council that

the PD Overlay-District of the property be removed. The City Council shall then hold a public hearing on the revocation of the PD Overlay-District and shall either maintain the District, revoke the development plan approval, or grant a time extension if it appears justifiable. If the PD Overlay District is repealed, further use of the property and future structures thereon shall be in accordance with the existing Primary District

**SECTIONS 9.468 through 9.499 reserved for expansion.**

**ARTICLE 9.5 GENERAL DEVELOPMENT STANDARDS**

~~**SECTION 9.501 DEVELOPMENT STANDARDS MATRIX**~~

~~City Staff will publish a Development Standards Matrix which will contain general development standards contained in this Article and in Article 9.4 of the Lowell Land Development Code. This matrix is intended to provide easy reference to adopted development standards and a reference to the specific sections that establish the standards. The Matrix shall be updated when code amendments are adopted.~~

**SECTION 9.502 DEVELOPMENT STANDARDS**

In addition to the development standards specified for each zoning district, there are many standards that apply in more than one district. The following Sections specify development standards applicable within any zoning district in the City of Lowell.

**SECTION 9.503 PLAN CONFORMANCE**

All developments within the City shall conform to any approved development plan adopted by the City. Developments located within an area that has an approved plan shall comply with the design and construction standards of that approved plan in addition to those contained in this Code. In cases of conflict, the approved plan shall control.

**SECTION 9.504 HEIGHT STANDARDS**

Building height standards are specified in each Zoning District.

**SECTION 9.505 BUILDING HEIGHT EXCEPTIONS**

Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers aerials, flagpoles, and similar objects not used for human occupancy shall not exceed the building height limitations of this Code by more than ten (10) feet.

**SECTION 9.506 BUILDING PROJECTION EXCEPTIONS**

Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues shall not project more than 30 inches into a required yard.

**SECTION 9.507 LOT SIZE**

Lot size standards are specified in each Zoning District. Area required for panhandle and easement access shall not be included in the minimum lot size calculations for any lot.

**SECTION 9.508 LOT SIZE EXCEPTIONS**

If a lot as recorded in the office of the County Assessor at the time of passage of this Code, has an area or dimension which does not comply with the lot size requirements of the district in which the property is located, the property may be occupied by a use permitted in the district subject to the other requirements of the district. If there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the lot-area-per-dwelling-unit requirement of the district.

**SECTION 9.509 YARD SETBACKS**

Yard setback standards are specified in each Zoning District.

**SECTION 9.510 YARD SETBACK EXCEPTIONS**

- (a) No building shall be erected on a lot which abuts a street having only a portion of its required right-of-way (ROW) dedicated, unless, the yard setbacks are increased to accommodate the required ROW plus the required yard setback.
- (b) The Planning Commission may require additional setbacks, street right-of-way dedications and street improvements for development projects which are required to be submitted for review and approval.
- (c) The Planning Commission may reduce the required yard setbacks for special and unusual site conditions in conformance with **Section 9.252, Variances** where compliance with the setback provisions of this Code would create an undue or unnecessary hardship.

**SECTION 9.511 DRAINAGEWAY SETBACKS**

- (a) The shore of Dexter Reservoir and any year-round flowing streams shall have a minimum setback of 25 feet from the top of each bank. Additional setbacks may be required for riparian areas and wetlands existing along the shore of Dexter Reservoir and such streams. Alteration of these areas by grading or placement of structures or impervious surfaces is prohibited unless approved by the City in accordance with the procedures of city ordinances and state law. For purposes of drainageway setbacks, a fence is not considered a structure, and may be permitted within the drainageway setback. Fencing standards still apply as listed in Section 9.528(c)
- (b) All other drainageways and watercourses identified as significant by the City shall have a setback of 15 feet from the center of the drainageway. Additional setbacks may be required for identified wetlands. Alteration of these areas by grading or placement of structures or impervious surfaces is prohibited unless approved by the City in accordance with the procedures of city ordinances and state law. For purposes of drainageway setbacks, a fence is not considered a structure, and may be permitted within the drainageway setback.

Fencing standards still apply as listed in Section 9.528(c)**SECTION 9.512            ~~COMMERCIAL & INDUSTRIAL SETBACKS~~**

In ~~Commercial or~~ Industrial districts where an interior yard is not required and a structure is not located at the property line, it shall be set back at least five (5) feet from the property line to accommodate access to the building.

**SECTION 9.513            PARKING**

For each new structure or use, each structure or use increased in area and each change in the use of an existing structure there shall be provided and maintained off-street parking areas in conformance with the provisions of this section.

**(a) Design and Improvement Requirements for Parking Lots:**

- (1) All parking areas and driveway approaches shall be surfaced with a minimum of two inches asphaltic concrete or four inches Portland Cement Concrete over approved base unless other methods are approved by the City. Under specified conditions the City may defer paving and permit gravel parking areas as a temporary use.
- (2) For Commercial and Industrial uses, service drives and parking spaces on surfaced parking lots shall be clearly and permanently marked. Handicapped Parking must comply with the Oregon Structural Specialty Code.
- (3) Parking areas for other than single-family and two-family dwellings shall be served by a service driveway and turnaround so that no backing movements or other maneuvering shall occur within a street other than an alley. ~~Design for parking lots shall conform to the Parking Diagram contained in Figure 9.5-1.~~ Two-way driveways shall have a minimum width of 20 feet and a maximum width of 30 feet. One-way driveways shall have a minimum width of 12 feet and a maximum width of 16 feet.
- ~~(4) A Parking space shall conform to the Parking Diagram contained in Figure 9.5-1.~~
- (5) The outer boundary and all landscaped islands of a parking area shall be contained by a 6" high curb for protection of landscaping, pedestrian walkways and to contain rainwater runoff. No motor vehicle shall project over the property line.
- (6) All parking areas, except those in conjunction with a single family or two-family dwelling, shall have adequate drainage to dispose of the run-off generated by the impervious surface area of the parking area. On-site collection of drainage water shall not allow sheet flow of water onto sidewalks, public right-of-ways or abutting property and shall detain out-flow velocities to that of undeveloped land. On-site drainage must be approved by the City.
- (7) Service driveways to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrian and vehicular traffic on the site. The number of service driveways shall be limited to the minimum that will allow the property to

accommodate and service the traffic anticipated. Service driveways connected to County roads must be approved and permitted by Lane County Public Works

- (8) All off-street parking areas within or abutting residential districts or uses shall be provided with a sight-obscuring fence, wall or hedge as approved by the City to minimize disturbances to adjacent residents.
- (b) Location Standards for Parking Lots:
- (1) Required off-street parking shall be provided either on, or within 800 feet of the development site unless a Variance is approved by the City. Off-street parking within the Downtown Flex Use 1 and 2 Zones shall be consistent with the Parking Zone as seen on the Regulating Plan and Building Standards sheets in Section XX. ~~or in the case of the Downtown Commercial Zone, a master parking plan has been developed or the applicant has demonstrated that adequate public parking is available.~~
  - (2) Off-street parking areas may be located in a required yard required setback provided a 5-foot-wide landscaped buffer and screening, as in **Section 9.528 (d)**, is maintained at the property line. Driveways may be used for off-street parking for single-family ~~and~~ two-family dwellings, triplexes and quadplexes only.
- (c) Required parking spaces shall be available for the parking of operable motor vehicles for residents, customers, patrons and employees only and shall not be used for storage of vehicles, trucks, or materials used in the business, or for repair or servicing.
- (d) Provisions for and maintenance of off-street parking spaces are continuing obligations of the property owner. No building permit or other approvals shall be issued until plans are presented that show the complete parking layout. The subsequent use of property for which approval is granted shall be conditional upon the unqualified continuance and availability of the amount of parking space required by this Code.
- (e) Should the owner or occupant of a lot or building change the use of the property to a use which increases the off-street parking requirements, it shall be unlawful and a violation of this Code to begin to maintain such altered use until the required increase in off-street parking is provided.
- (f) In the event several uses occupy a single structure or property, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.
- (g) Owners of two or more uses, structures or properties may agree to use the same parking spaces jointly provided the off-street parking is the sum of the requirements of the several uses. If the hours of operation do not overlap, the parking requirement shall be for the highest use. An agreement shall be submitted and approved by the Planning Commission for the cooperative use of the parking facilities.
- (h) A plan, drawn to scale, indicating how the off-street parking requirements are to be fulfilled, shall accompany all requests for City approval or a Building Permit.

- (i) Parking lots shall be provided with landscaping as provided in **Section 9.528 (d)** and other suitable devices in order to divide the parking lot into sub-units to provide for pedestrian safety, traffic control, and to improve the appearance of the parking lot.
- (j) Off-street parking spaces shall be required as defined in **Section 9.514**. Fractional space requirements shall be counted as a whole space. When square feet are utilized to determine the required parking spaces, the area measured shall be the gross floor area of the building primary to the use but shall exclude any area within a building used for off-street parking, loading, or service functions not primary to the use. When the requirements are based on the number of employees, the number counted shall be those working on the premises during the largest shift at peak season.

**SECTION 9.514 OFF-STREET PARKING REQUIREMENTS**

<b>Table 2 Section 9.514 Off-Street Parking Requirements</b>	
<b>Residential Types</b>	
<u>Dwelling, single-family</u>	<u>One for each dwelling unit on a single lot.</u>
<u>Dwelling, two-family (duplex) or multiple family</u>	<u>One for each dwelling unit.</u>
<u>Townhome/Single-Family Attached (DRA District)</u>	<u>No minimum off-street parking required.</u>
<u>Flex 1 and Flex 2</u>	<u>No minimum off-street parking required.</u>
<u>Residential / Single-Family Detached (DRD District)</u>	<u>One space for each unit.</u>
<u>Hotel, motels, motor hotels, etc.</u>	<u>0.75 spaces for each guest room.</u>
<u>Accessory dwelling unit (ADU)</u>	<u>No minimum off-street parking required.</u>
<u>Cottage clusters</u>	<u>One space per cottage unit. One additional guest parking space provided for every four cottages, round up to the next whole number, up to a maximum of six guest parking spaces. Off-street parking requirement may be waived or reduced by the City Administrator, or designee, if sufficient on-street parking is available within 800 feet of property.</u>
<b>Institutional Types</b>	
<u>Hospitals</u>	<u>One for each bed; where fractioned, highest full unit, plus 2 for each nurses' station.</u>
<u>Churches, clubs and lodges</u>	<u>One space for every 75 square feet of main assembly area.</u>
<u>Libraires, museums, art galleries</u>	<u>One space for each 300 square feet of gross floor area.</u>
<u>Nursing homes, homes for the aged.</u>	<u>One space for each six beds for the aged, group care homes, asylums, etc.</u>
<u>Pre-School through Middle-School</u>	<u>Exempt from minimums. To be determined based on actual need. <del>One space per classroom.</del></u>
<u>High Schools</u>	<u>Exempt from minimums. To be determined based on actual needs. <del>Based on actual needs, Seven spaces per classroom.</del></u>

<u>Commercial Types</u>	
<u>Retail establishments, except as otherwise specified in this Code.</u>	<u>One space for each 400 square feet of retail floor area, except one per 1,000 square feet for bulk retail (e.g., auto sales, nurseries, lumber and construction materials, furniture, appliances, and similar sales.)</u>
<u>Barber and beauty shops</u>	<u>One space for each 200 square feet of floor area.</u>
<u>Health clubs, Gyms, Continuous entertainment (e.g., bowling alleys)</u>	<u>One space for every 300 square feet of floor area.</u>
<u>Office buildings, businesses, and professional offices, including medical, dental and banking institutions.</u>	<u>One space for every 500 square feet of floor area.</u>
<u>Recreational or Entertainment Establishments</u>	
<u>Spectator type auditoriums, assembly halls, theaters, stadiums, places of public assembly, etc.</u>	<u>One spacer per six seats.</u>
<u>Participating skating rinks, dance halls, etc.</u>	<u>One space for each 300 square feet of floor area.</u>
<u>Establishments for the sale and consumptions on the premise of food and beverage.</u>	<u>One space for each 200 square feet of floor area.</u>
<u>Industrial Types</u>	
<u>Storage warehouse, manufacturing establishment, wholesale establishments, rail or trucking freight terminal.</u>	<u>One space per employee.</u>
<u>Unspecified Uses</u>	
<u>Any use not specifically listed in this section shall have a parking requirement determined by the City Administrator or their designee, based a parking demand analysis technical memorandum. Such memorandum shall be prepared by qualified persons or agency with expertise or technical knowledge in the matter of parking analysis at the applicant's expense.</u>	

**USE \_\_\_\_\_ SPACE REQUIREMENT**

**(a) Residential**

- (1) One and two family dwellings
  - Studio \_\_\_\_\_ Space for one car per unit
  - 1 Bedroom \_\_\_\_\_ Space for one car per unit
  - 2 Bedroom \_\_\_\_\_ Space for two cars per unit
  - 3+ Bedroom \_\_\_\_\_ Space for two cars per unit

(2) Multiple family dwellings \_\_\_\_\_ 1 space per unit 1.5 Spaces per unit.

(3) Rooming or boarding house; \_\_\_\_\_ Spaces equal to 80% of the

~~Transient Lodging~~

~~number of guest accommodations plus one additional space for each owner, manager or employee.~~

~~(b) Institutional~~

- ~~(1) Convalescent hospital, nursing home, sanitarium rest home, home for the aged~~

~~One space per three beds for patients or residents~~

~~(c) Place of Public Assembly~~

- ~~(1) Church bench length in the main of floor area of main~~

~~One space per four seats or eight feet of auditorium, or one space for each 35-sq. ft. auditorium not containing fixed seats~~

- ~~(2) Library, reading room~~

~~One space per 400-sq. ft. of floor area plus one space per two employees~~

- ~~(3) Pre-school nursery, kindergarten~~

~~Two spaces per teacher~~

- ~~(4) Elementary, junior or high school~~

~~One space per classroom plus one space per administrative employee or one space per four seats or eight ft. of bench length in the auditorium or assembly room, whichever is greater~~

- ~~(5) Other public assembly or meeting rooms~~

~~One space per six seats or eight feet of bench length, or one space for each 35-s/f of floor area for assembly room not containing fixed seats~~

~~(d) Commercial~~

- ~~(1) Retail stores except as otherwise specified below~~

~~One space per 300-s/ft. of floor area designated for retail sales~~

- ~~(2) Service or repair shop, retail store exclusively handling bulky merchandise such as auto-mobiles and furniture.~~

~~One space per 600-s/ft. of floor area~~

- ~~(3) Banks and Offices~~

~~One space per 400-s/ft. of floor area~~



- ~~(4) Medical and dental clinic~~ ~~One space per 300 s/ft. of floor area plus one space per two employees~~
- ~~(5) Eating or drinking establishment~~ ~~One space per 100 s/ft. of customer access area~~
- ~~(e) — Industrial~~
  - ~~(1) Storage warehouse, manufacturing establishment, rail or trucking freight terminal~~ ~~One space per employee~~
  - ~~(2) Wholesale establishment per 700 square feet of patron~~ ~~One space per employee plus one space serving area~~
- ~~(f) Unspecified Uses~~ ~~Any use not specifically listed in this section shall have a parking requirement determined by the Planning Commission, based on the parking space requirements for comparable uses listed in this section.~~

**SECTION 9.515 TRANSPORTATION STANDARDS**

Until such time as a formal Transportation System Plan is completed and adopted by the City of Lowell which addresses and conforms with the State of Oregon Transportation Planning Rule, the development standards for transportation contained in Sections 9.515 through 9.519 shall apply.

- (a) The Lowell Master Road Plan shall be a guide in determining the location of required right-of-way dedications. The Planning Commission may require other right-of-way dedications when needed to provide for public access and construction of public utilities for proposed new developments
- (b) Standards for Development of Transportation infrastructure within the City of Lowell are contained in the adopted Standards for Public. The standards contained in Sections 9.515 through 9.519 are in lieu of or in addition to those standards. Where a conflict arises, the standards contained in this code apply.

**SECTION 9.516 ACCESS**

(a) Every property shall abut a street other than an alley for a minimum of continuous and usable width of 16 feet, of which 12 foot must be paved, except where the City has approved an access to multiple lots sharing the same access in which case the total paving width must be at least 16 feet. No more than two properties may utilize the same access unless more are approved with the tentative plan.

- (b) The following access alternatives to Panhandle properties may be approved by the City:

- (1) Approval of a single access road easement to serve proposed parcels. The City may require a provision for conversion to a dedicated public road right-of-way at some future date, in which case the easement shall have the same width as a required right-of-way.
  - (2) Approval of a road right-of-way without providing the road improvements until the lots are developed. ~~This places the burden for road improvements on the City although the City can assess all of the benefiting properties when improvements are provided in the future.~~ As a condition of approval, the City ~~may~~ shall require an irrevocable Waiver of Remonstrance to be recorded with the property.
  - (3) Approval of a private road. This approach should only be used for isolated short streets serving a limited number of sites and where future City street alignments will not be needed.
- (c) For the portion of a panhandle tract used to access the main portion of the tract, the City may require such road improvements and design as necessary to provide safe and adequate access to the main portion of the tract.
- (1) Panhandle lots shall be paved up until at least the crest of the panhandle. The crest of the panhandle is defined as the area in which the lot width increases and opens up into the main portion of the lot.
- (d) Lots or parcels that take access off of a private road easement shall have a legal right appurtenant to use that easement. A legal right to use the easement may be evidenced by:
- (1) An express grant or reservation of an easement in a document recorded with the County Recorder.
  - (2) A decree or judgement issued by a court of competent jurisdiction.
  - (3) An order from a court of competent jurisdiction that establishes a statutory way of necessity of gateway road; or
  - (4) An express easement set forth in an approved and recorded subdivision or partition.
- (e) Driveway and road approaches on City streets shall be located where they do not create undue interference or hazard to the free movement of highway and pedestrian traffic. Locations on sharp curves, steep grades, areas of restricted sight distance or at points that interfere with the placement and proper functioning of signs, lighting, guardrail or other traffic control devices shall not be permitted.
- (1) Driveway approaches or aprons abutting paved city rights-of-way, shall be paved.

## SECTION 9.517                      STREETS

- (a) Urban public street improvements including curbs, gutters and storm drainage are required for all land divisions and property development in the City of Lowell. Urban street improvements may be deferred by the City if there is not existing sidewalk or storm drain system to which connection can be made, conditional upon the responsible party agreeing to an irrevocable waiver of remonstrance to a

future assessment at the time of construction of a sidewalk which is otherwise required to be constructed.

- (b) The location and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. The arrangement of streets shall either:
  - (1) Provide for the continuation or appropriate extension of existing principal streets in the surrounding area; or
  - (2) Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
- (c) Minimum right-of-way and roadway widths. Right-of-way widths and the paved width of streets and sidewalks shall be as prescribed in the City's most current Standards for Public Improvements. Right-of-way widths may be reduced to that needed only for construction of streets and sidewalks if a minimum of a five foot utility easement is dedicated on both sides of the right-of-way.
- (d) Where conditions, particularly topography or the size and shape of the tract make strict adherence to the standards difficult, narrower developed streets may be approved by elimination of parking on one or both sides of the street and/or elimination of sidewalks on one side of the street.
- (e) Where topographical conditions necessitate cuts or fills for proper grading of streets, additional right-of-ways or slope easements may be required.
- (f) Reserve Strips: A reserve strip is a 1 foot strip of land at the end of a right-of-way extending the full width of the right-of-way used to control access to the street. Reserve strips will not be approved unless necessary for the protection of the public welfare or of substantial property rights. The control of the land comprising such strips shall be placed within the jurisdiction of the City by deed under conditions approved by the City. In addition, a barricade shall be constructed at the end of the street by the land divider which shall not be removed until authorized by the City. The cost shall be included in the street construction costs by the land divider.
- (g) Alignment: As far as is practicable, streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T"

- intersections shall, wherever practical, leave a minimum distance of 260 feet between the center lines of streets having approximately the same direction.
- (h) Future Extensions of Streets: Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivisions or partition, or development of property, and the resulting dead-end streets may be approved with a turn-around instead of a cul-de-sac. Reserve strips and street plugs may be required to preserve the objectives of street extensions.
  - (i) Intersection Angles: Streets shall be laid out to intersect at angles as near to right angles as practical except where topography require a lesser angle, but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design.
  - (j) Existing Streets: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of approval of the land division or land use approval.
  - (k) Half Street: Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision or partition when in conformity with the other requirements of these regulations and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be provided within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets. Half street improvements shall include, at minimum, a sidewalk, curb, and gutter.
  - (l) Cul-de-sacs: A cul-de-sac should have a maximum length of 500 feet but may be longer where unusual circumstances exist. A cul-de-sac shall terminate with a circular or hammerhead turn-around.
  - (m) Street Names: Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City.
  - (n) Street Name Signs: Street name signs shall be installed at all street intersections to City standards.
  - (o) Street Lights: Street lights shall be installed to City standards and shall be served from an underground utility.
  - (p) Traffic Signs/Signals: Where a proposed intersection will result in the need for street signals to serve the increased traffic generated by the proposed development, they shall be provided by the developer or land divider and the costs shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.
  - (q) Private Streets: Private streets are permitted within Planned Developments, Manufactured Home Parks, singularly owned developments of sufficient size to warrant interior circulation on private streets or on small developments where integration into the public road system is impractical. Design standards shall be the same as those required for

public streets unless approved otherwise by the City. The City shall require verification of legal requirements for the continued maintenance of private streets.

- (r) **Mail Boxes:** Provisions for mail boxes shall be provided in all residential developments where mail service is provided. Mail box structures shall be placed as recommended by the Post Office having jurisdiction and shall be noted on the plan.
- (s) **Clear Vision Areas:** In all districts a clear vision area shall be maintained at the corners of all property located at the intersection of two streets or a street-alley. A clear vision area shall also be maintained at all driveways intersecting a street. **See Figure 9.5-2**
  - (1) All properties shall maintain a clear triangular area at street intersections, alley-street intersections and driveway-street intersections for safety vision purposes. The two sides of the triangular area shall be 15 feet in length along the edge of roadway at all street intersections and 10 feet in length at all alley-street intersections and driveway-street intersections. Where streets intersect at less than 30 degrees, the triangular sides shall be increased to 25 feet in length. The third side of the triangle shall be a line connecting the two exterior sides.
  - (2) A clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstruction exceeding 3 feet in height, measured from the top of the curb, or, where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of 8 feet above grade.

## **SECTION 9.518                      SIDEWALKS**

Public sidewalk improvements are required for all land divisions and property development in the City of Lowell. Sidewalks may be deferred by the City where future road or utility improvements will occur and on property in the rural fringe of the City where urban construction standards have not yet occurred. The property owner is obligated to provide the sidewalk when requested by the City or is obligated to pay their fair share if sidewalks are installed by the City at a later date. An irrevocable Waiver of Remonstrance shall be recorded with the property to guarantee compliance with this requirement.

- (a) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the City determines that full right-of-way acquisition is impractical.
- (b) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval process.
- (c) The City may approve alternate sidewalk alignments and widths to accommodate obstructions that cannot be altered.
- (d) Sidewalks in residential areas shall be a minimum of five (5) feet in width and shall be installed adjacent to the curb unless a planter strip of at least four (4) feet in width is approved adjacent to the curb where sufficient right-of-way is available.

- (e) Sidewalks adjacent to Major Collector or Arterial Streets are required and shall be a minimum of five (5) feet in width separated by a planter strip of five (5) feet in width adjacent to the curb. Sidewalks may be approved adjacent to the curb where direct access is required. Sidewalks adjacent to the curb shall be a minimum of seven (7) feet in width or a minimum of ten (10) feet in width adjacent to Commercial properties. Planter openings adjacent to the curb are encouraged within the ten (10) foot wide walks.
- (f) Planter strips and the remaining right-of-way shall be landscaped and incorporated as part of the front yard of adjacent property.
- (g) Mid-block Sidewalks. The City may require mid-block sidewalks for long blocks or to provide access to schools, parks shopping centers, public transportation stops or other community services. Mid-block sidewalks shall be raised and shall be 6 feet in width.
- (h) Internal pedestrian circulation shall be provided within new office parks and commercial developments by clustering buildings and construction of accessways.

#### **SECTION 9.519           BIKEWAYS**

Bikeways are required along Arterial and Major Collector streets. Currently the only Bikeway requirements are those required by the County as a part of the County owned Major Collector streets within the City. Future requirements for Bikeways may be addressed at such time that a Transportation System Plan (TTSP) is completed for the City., but until specific Bikeway requirements are adopted, travel lanes of all streets that do not require Bikeways are approved for joint use with bicycles.

#### **SECTION 9.520           STORM DRAINAGE**

Until completion of a Storm Drainage Master Plan for the City of Lowell, Section IV, of the Standards for Public Improvements and the following shall apply. In the event of a conflict, the following takes precedence.

- (a) General Provisions. It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except as a part of an approved drainage plan. Paving, roof drains and catch basin outflows may require detention ponds or cells and discharge permits. Maintaining proper drainage is a continuing obligation of the property owner. The City will approve a development request only where adequate provisions for storm and flood water run-off have been made as determined by the City. The storm water drainage system must be separate and independent of any sanitary sewerage system. Inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. All proposed drainage systems must be approved by the City as part of the review and approval process.

- (b) Urban level inlets, catch basins, and drainage pipe improvements are required for all land divisions and property development in the City of Lowell. Urban storm drainage systems may be deferred by the City in lieu of a rural system of culverts and open drainageways.
- (c) Natural Drainageways. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance are permitted and encouraged. For the purposes of this Section, an open natural drainageway is defined as a natural path which has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation. Significant natural drainageways shall be protected as a linear open space feature wherever possible and shall be protected from pollutants and sediments. A 15 foot setback is required from the centerline of any significant drainageway.
- (d) Easements. Where a land division is traversed by a water course, drainageway, channel or stream, there shall be provided a public storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width as the City determines will be adequate for conveyance and maintenance. Improvements to existing drainageways may be required of the property owner. The property owner is also responsible for the continuing maintenance and protection of natural drainageways.
- (e) Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City must review and approve the necessary size of the facility, based on sound engineering principles and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.
- (f) Effect on Downstream Drainage. Where it is anticipated by the City that the additional run-off resulting from the development will overload an existing drainage facility, the City may deny approval of the development unless mitigation measures have been approved.
- (g) Drainage Management Practices. Developments within the City must employ drainage management practices approved by the City. The City may limit the amount and rate of surface water run-off into receiving streams or drainage facilities by requiring the use of one or more of the following practices:
  - (1) Temporary ponding or detention of water to control rapid runoff;
  - (2) Permanent storage basins;
  - (3) Minimization of impervious surfaces;
  - (4) Emphasis on natural drainageways;
  - (5) Prevention of water flowing from the development in an uncontrolled fashion;

- (6) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion;
  - (7) Runoff from impervious surfaces must be collected and transported to a natural drainage facility with sufficient capacity to accept the discharge; and
  - (8) Other practices and facilities designed to transport storm water and improve water quality.
- (h) NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb one or more acres of land.

### **SECTION 9.521 WATER**

- (a) All new development must connect to the public water system unless specifically approved otherwise as a part of a development approval for parcels exceeding 5 acres in size after division for which the public water system is located further than 300 feet from any property line. All water line extensions, required fire hydrants, and related appurtenances shall be installed and paid for by the developer unless the City has approved otherwise as a part of the tentative plan decision process.
- (b) All public water system improvements shall comply with Section II of the City's Standard for Public Improvements, dated September 1994. The City may modify those requirements upon a recommendation by the City Engineer in the event of special circumstances.
- (c) Water Line Extensions. Water distribution lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Administrator as necessary to accommodate likely system expansion. Water line extensions may be required through the interior of properties, within dedicated public utility easements, when necessary to provide for service to other properties or to provide system looping for fire flows. All public water system line extensions shall have a minimum 6 inch diameter unless a smaller size is recommended by the City Engineer and approved by the City. The City Engineer may also require a larger size if needed to extend transmission capacity or for fire hydrant flow where looping is not available.
- (d) Water Plan Approval. All proposed plans for extension and installation of the public water system must be approved by the City as part of the tentative plan review and approval process.
- (e) Restriction of Development. The Planning Commission or City Council may limit or deny development approvals where a deficiency exists in the water system or portion thereof which will not be corrected as a part of the proposed development improvements.



**SECTION 9.522 SANITARY SEWER**

- (a) All new development must extend and connect to the public sewer system unless specifically approved otherwise as a part of a development approval for parcels exceeding 5 acres in size after division for which the public sewer system is located further than 300 feet from any property line. All sewer line extensions, manholes, required lift stations and related appurtenances shall be installed and paid for by the developer unless the City has approved otherwise as a part of the tentative plan decision process.
- (b) All public sewer system improvements shall comply with Section III of the City's Standards for Public Improvements, dated September 1994. The City may modify those requirements upon a recommendation by the City Engineer in the event of special circumstances.
- (c) Sewer Line Extensions. Sewer collection lines must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Administrator as necessary to accommodate likely system expansion.
- (d) Sewer Plan Approval. All proposed sewer plans and systems must be approved by the City as part of the tentative plan review and approval process.
- (e) Restriction of Development. The City may limit or deny development approvals where a deficiency exists in the sewer system or portion thereof which will not be corrected as a part of the development improvements.

**SECTION 9.523 UTILITIES**

- (a) It is the policy of the City to place all utilities underground except as otherwise exempted below. Developers shall make all necessary arrangements with serving utility companies for installation of such utilities.
- (b) Exceptions. The City may permit overhead utilities as a condition of approval where the Applicant can demonstrate one of the following conditions:
  - (1) Underground utility locations are not feasible.
  - (2) Temporary installations.
  - (3) Major transmission facilities located within right-of-ways or easement
  - (4) Surface mounted structures, substations or facilities requiring above ground locations by the serving utility.

**SECTION 9.524 EASEMENTS**

- (a) Easements granting limited use of property for any defined purpose may be approved for any lot or parcel.
- (b) Access easements may be approved by the City as provided in **Section 9.516**. The Planning Commission or City Council may require wider access easements if special circumstances exist.

- (c) Utility easements shall be provided for sewers, water mains and public or private utilities necessary to provide full service to all developments. Land dividers shall show on the Tentative Plan and on the final Plat all easements and shall provide all dedications, covenants, conditions or restrictions with the Supplemental Data submitted for review. Minimum interior utility easements shall be 10 feet wide centered on lot or parcel lines where feasible. A wider easement may be required if multiple utilities will be utilizing the same easement or if topography dictates otherwise. An exterior utility easement adjacent to the public right-of-way will be required if at least five feet of unimproved public right-of-way is not available.
- (d) Water Courses. If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way containing the top of bank, vegetative fringe, and such further width as will be adequate for protection and maintenance purposes. Culverts or other drainage facilities shall be sized to accommodate storm and flood run-off from the entire upstream drainage area at full build out and shall be verified and approved by the City.

#### **SECTION 9.525           BLOCKS**

- (a) General: The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic including pedestrian and bicyclist, and recognition of limitations and opportunities of topography.
- (b) Size: A block shall have sufficient depth to provide for two tiers of building sites. Unless topography, development obstructions, or the location of adjoining streets justifies an exception, block sizes shall not exceed 400 feet unless alternative pedestrian and bicycle access ways are provided.
- (c) Large Lot or Parcel Block Configurations: In dividing tracts into large rural lots or parcels which at some future time are likely to be re-divided, the Planning Commission may require that the blocks or sites be of such size and shape to provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller urban size.
- (d) Traffic Circulation: Blocks shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers, commercial areas, and industrial areas; and to provide safe convenient and direct traffic circulation.

#### **SECTION 9.526           BUILDING SITES**

Size and shape: The size, width, shape and orientation of building sites shall be appropriate for the location and use contemplated, and shall comply with the standards of the Zoning District and the other standards of **Article 9.5** specified herein.

- (a) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (b) Existing lots or parcels smaller than City standards may be maintained as a conforming use within the district. Damaged buildings or structures may be restored to their previous use. Destroyed buildings may be replaced in conformance with this Code.
- (c) Large Lots or Parcels:
  - (1) Large lots or parcels which may be further divided into smaller lots in the future shall be of such size and shape that will accommodate the efficient provision of future streets and lots or parcels of smaller sizes. The land division request may be denied if the proposed lots or parcels do not provide for efficient future divisions and streets.
  - (2) Large lot or parcel plans must show by dash lines future potential divisions to minimum Code standards prior to approval. Building locations must be within the proposed minimum property lines and setback standards specified herein to facilitate an orderly division and use of the property in the future. Large lot or parcel divisions shall also show future urban street alignments and easements in addition to future urban lot lines on the Tentative Plan.
- (d) Through Lots and Parcels: Through lots and parcels shall be avoided except where they are essential to the intended use.
- (e) Lot and Parcel Side Lines: The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.
- (f) Building Lines: If special building setback lines are to be established in a land division, they shall be shown on the subdivision or partition Tentative Plan and on the Final Plat.

#### **SECTION 9.527 GRADING**

General grading shall conform to **Lowell Ordinance 227, Section 2, Excavation and Grading Building Code**, and the following standards unless engineered and approved by the City.

- (a) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (b) Fill slopes shall not exceed two feet horizontally to one foot vertically.
- (c) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.
- (d) Fills for streets and building sites shall be engineered and approved by the City.
- (e) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.

#### **SECTION 9.528 LANDSCAPING**

All yard setbacks and parking areas shall be landscaped in accordance with the following requirements:

(a) **General Provisions.**

- (1) Landscaping shall primarily consist of ground cover, trees, shrubs or other living plants with sufficient irrigation to properly maintain all vegetation. Decorative design elements such as fountains, pools, benches, sculptures, planters, fences and similar elements may be placed within the area.

**Exceptions:** Undeveloped properties or the undeveloped portion of large properties exceeding 4,000 square feet in area are exempt from the landscape requirements specified herein provided the lot or area is maintained so weeds and wild vegetation does not adversely affect adjacent developed properties. Removal of noxious weeds and vegetation will be enforced through the City's Nuisance Ordinance.

- (2) Provisions for landscaping, screening and maintenance are a continuing obligation of the property owner. All required landscaped areas shall be cleared of unwanted vegetation and weeds at least once a year prior to July. Dead landscape plantings shall be replaced by April of the following year.
- (3) Landscape plans for proposed new industrial, commercial or residential developments shall be included with the site plans submitted to the City for approval. Trees exceeding 10 inches in diameter, plantings and special site features shall be shown on all submitted plans and shall clearly indicate items proposed to be removed and those intended to be preserved.

(b) **Yard Setbacks and Open Space.**

- (1) All required street facing exterior yard setbacks in each land use district and the entire open space of all commercial, and multiple-family dwelling sites exclusive of walks, drives, parking areas and buildings shall be landscaped and permanently maintained.
- (2) Commercial and industrial developments abutting residential properties shall have their yard setbacks landscaped and/or fenced to protect the abutting residential properties.

(c) **Fences:**

- (1) Residential fences, hedges and walls may be located within yard setbacks. Height is limited to 6 feet in required side, rear or interior yards, 3 feet in any required front yard or 4 feet if the top 1 foot of the fence is 75% open, and 3 feet in height in a Vision Clearance Area. Commercial or industrial properties may have 8 foot high fences except in a street facing front yard setback.
- (2) Materials. Residential fences and walls shall not be constructed of or contain any material which would do bodily harm such as electric, barbed or razor wire, broken glass, spikes, or any other hazardous or dangerous materials. Commercial or industrial properties may have barbed wire at the top of fences over 6 feet in height.
- (3) Sight-obscuring fences, walls or landscaping may be required to screen objectionable activities as part of the City's review and approval process. Sight-

obscuring means 75% opaque when viewed from any angle at a point 25 feet away. Vegetative materials must be evergreen species that meet this standard year-round within 3 years of planting.

- (4) Maintenance. Fences shall be structurally maintained in a safe condition of repair and shall not lean over an adjoining property or sidewalk, have missing sections or slats, or broken supports.

(d) **Parking Areas:**

- (1) Parking lots shall be screened from abutting residential districts by a combination of fences, walls, and landscaping adequate to screen lights, provide privacy and separation for the abutting residential districts
- (2) Parking lots shall have curbed landscaped islands and trees at the ends of parking rows to facilitate movement of traffic and to break large areas of parking surface. The minimum dimension of the landscaped area excluding the curbs shall be 3 feet and the landscaping shall be protected from vehicular damage by wheel guards.
- (3) Parking lots containing more than 20 parking spaces shall have a minimum of 5 percent of the area devoted to vehicular circulation and parking areas in landscaping and trees. Landscaping shall be evenly distributed throughout the parking lot and long rows of parking spaces shall be interrupted by landscaped islands. The 5 percent landscaping shall be within or abutting the parking area and shall be in addition to the required landscaped yard setbacks

(e) **Service Facilities:**

Garbage collection areas and service facilities located outside the building shall be screened from public view and landscaped.

**SECTION 9.529 EXTERIOR LIGHTING**

Exterior lighting should be provided in parking lots and may be provided elsewhere. All exterior lighting shall be designed and installed to the following standards:

- (a) Uplighting is prohibited. Externally lit signs, displays, building and aesthetic lighting must be lit from the top and shine downward. The only exception to this requirement is for lighting of a flag pole. The lighting must be shielded to prevent direct glare and/or light trespass. The lighting must also be contained to the target area.
- (b) All exterior lights shall be designed, located, installed and directed in such a manner as to prevent glare across the property lines.
- (c) All exterior building lighting for security or aesthetics will be full cut-off or shielded type, not allowing any upward distribution of light.
- (d) For purposes of this subsection:
- (1) "Glare" means light that causes annoyance, discomfort, or loss of visual performance and ability.
- (2) "Uplighting" means any light source that distributes illumination above a 90 degree horizontal plane.
- (e) Pre-existing non-conforming lighting may be required to be brought into compliance upon a determination by the City Administrator that such non-conforming lighting is a nuisance.

**SECTION 9.530 SIGNS****(a) General Sign Provisions:**

- (1) No sign shall, by its light, brilliance, type, design, or character, create a public or private nuisance. The use of flashing or rotating lights is prohibited.
- (2) Each sign or outdoor advertising display shall be located on the same site as the use it identifies or advertises or have Conditional Use approval from the City.
- (3) No sign shall be constructed or erected such that the vision clearance area or other areas necessary for a safe sight distance by the traveling public would be inhibited or impaired.

**(b) Perimeter Street Signs:**

One sign oriented toward off-site traffic may be provided on-site at each public access point from a city, county or state road. Such signs shall comply with the following requirements:

- (a) Shall not exceed thirty-two (32) square feet in area;
- (b) Shall not exceed four (4) feet in height;
- (c) Shall use materials and design elements which are complimentary to those used in development.
- (d) May be internally illuminated. When a sign is internally illuminated, including awnings and canopies, the sign copy shall be lighter than the sign background. The background shall use a predominance of deep-toned colors or shall be opaque when the light source is on.

**(3) Building Signs:**

The sign area, location on the building, number of signs, and size of the copy used shall be determined in consideration of the following factors:

- (1) The relationship of the building to the road on site circulation.
- (2) The use and location of ground-mounted signs identifying the premises.
- (3) The amount of signing for the use which can be seen from a given direction.
- (4) The size and design of the building elevation on which the sign would be placed.

**(d) Residential Signs and Name Plates:**

One name plate not exceeding one 1.5 square foot in area, placed flat against the building for each dwelling or Home Occupation as defined in this ordinance. One non illuminated temporary sign not exceeding five (5) square feet in area for the lease,

rental or sale of the building or premises on which it is located.

**SECTIONS 9.531 through 9.599 reserved for expansion.**

**ARTICLE 9.6 SPECIAL DEVELOPMENT STANDARDS**

**SECTION 9.601 SPECIAL DEVELOPMENT STANDARDS, GENERAL.**

This article establishes special development standards unique to land with specific development constraints. Standards are established for the following development constraints:

- (a) Wetlands Development, Section 9.610
- (b) Flood Hazard Development, Section 9.620
- (c) Hillside Development, Section 9.630

**SECTIONS 9.602 through 9.609 reserved for expansion.**

**SECTION 9.610 WETLANDS DEVELOPMENT STANDARDS.**

Wetlands are defined as those areas that are inundated or saturated often enough to support a prevalence of vegetation adapted for life in standing water or saturated soil. Wetlands include swamps, bogs, marshes and similar areas.

- (a) **Regulation.** Development within wetlands is prohibited unless replacement or enhancement mitigation is accepted by the regulatory agencies. The Oregon Division of State Lands (DSL) is the coordinating agency for wetland permits. The US Army Corp of Engineers (Corps) is the federal regulatory agency administering Section 404 of the National Clean Waters Act. There are also other state and federal coordinating agencies including DLCD.
- (b) **Notice. ORS 227.350** specifies that cities shall provide notice of proposed wetlands development to the Division of State Lands (DSL). The City shall provide notice to the DSL, the applicant and the owner of record, within 5 working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the State-wide Inventory of Wetlands or have been identified in any known wetlands study as possibly containing wetlands.
  - (1) Subdivisions;
  - (2) Building permits for new structures;
  - (3) Other development permits and approvals that allow physical alteration to the land involving excavation and grading, including permits for removal or fill, or both;
  - (4) Conditional use permits and variances that involve physical alterations to the land or construction of new structures; and
  - (5) Planned unit development approvals.
- (c) The provisions of Section 9.610 (b) do not apply if a permit from DSL has been issued for the proposed activity.

- (d) Approval of any activity described in Section 9.610 (b) shall include one of the following notice statements:
- (1) Issuance of a permit under **ORS 196.600 to 196.905** by DSL is required for the project before any physical alteration takes place within the wetlands;
  - (2) Notice from DSL that no permit is required; or
  - (3) Notice from DSL that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.
- (e) If DSL fails to respond to any notice provided under Subsection (2) of this section within 30 days of notice, the City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
- (f) The City may issue local approval for parcels identified as having potential wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits. The City will provide DSL with a copy of the notification together with a map showing the property location.
- (g) Notice of activities authorized within an approved wetland conservation plan shall be provided to the division within five days following local approval.
- (h) Failure by the City to provide notice as required in this section will not invalidate City approval.
- (i) **Development Standards:**
- (1) No building permits shall be issued within designated wetlands unless a permit has been acquired from DSL and any other regulatory agency having jurisdiction or documentation is provided indicating that no permit is required.
  - (2) The City of Lowell shall not provide water and sewer service to any new structures or development which would encroach upon or adversely affect any designated wetlands within the Lowell City Limits or Urban Growth Boundary until the requirements of any permit are met. In the event that that water and sewer service are required before permit conditions such as mitigation, are accepted by the permitting agency, such service will only be provided on the condition that if permit conditions are not met, service will be terminated.

**~~SECTIONS 9.611 through 9.619 reserved for expansion.~~**

**SECTION 9.620 FLOOD HAZARD DEVELOPMENT**

**The City of Lowell's only Floodplain area is along the shore of Dexter Reservoir and development in that area is restricted and controlled by the US Army Corps of Engineers.**



**SECTION 9.621 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS**

**(a) STATUTORY AUTHORIZATION**

The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Lowell does ordain as follows:

**(b) FINDINGS OF FACT**

- (1)** The flood hazard areas of the City of Lowell are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2)** These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

**(c) STATEMENT OF PURPOSE**

It is the purpose of this code to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- (1)** Protect human life and health;
- (2)** Minimize expenditure of public money for costly flood control projects;
- (3)** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4)** Minimize prolonged business interruptions;
- (5)** Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- (6)** Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- (7)** Notify potential buyers that the property is in a special flood hazard area
- (8)** Notify those who occupy special flood hazard areas that they assume responsibility for their actions
- (9)** Participate in and maintain eligibility for flood insurance and disaster relief.

**(d) METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this code includes methods and provisions for:

- (1)** Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- (2) Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

## **SECTION 9.622 FLOOD HAZARD DEFINITIONS**

Unless specifically defined below, words or phrases used in this code shall be interpreted so as to give them the meaning they have in common usage.

**Appeal:** A request for a review of the interpretation of any provision of this code or a request for a variance.

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

**Area of special flood hazard:** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard".

**Base flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Base flood elevation (BFE):** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Building:** See "Structure."

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

### **Flood or Flooding:**

- (a) 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.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing

mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study:** See “Flood Insurance Study”.

**Flood Insurance Rate Map (FIRM):** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS):** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood proofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

**Functionally dependent use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

**Highest adjacent grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure:** Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- a. By an approved state program as determined by the Secretary of the Interior or
- b. Directly by the Secretary of the Interior in states without approved programs.

**Lowest floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this code.

**Manufactured dwelling:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home".

**Manufactured dwelling park or subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

**Mean sea level (MSL):** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**New construction:** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Lowell and includes any subsequent improvements to such structures.

**Recreational vehicle:** A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area:** See "Area of special flood hazard" for this definition.

**Start of construction:** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure:** 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 manufactured dwelling.

**Substantial damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Variance:** A grant of relief by the City of Lowell from the terms of a flood plain management regulation.

**Violation:** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this code is presumed to be in violation until such time as that documentation is provided.

## **SECTION 9.623 GENERAL PROVISIONS**

### **(a) LANDS TO WHICH THIS CODE APPLIES**

This code shall apply to all special flood hazard areas within the jurisdiction of the City of Lowell.

### **(b) BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS**

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for "Lane County, Oregon and Incorporated Areas" dated June 5, 2020, with accompanying Flood Insurance Rate Map (FIRM) panel 41039C1695 F, effective on June 2, 1999, and any revision thereto, are hereby adopted by reference and declared to be a part of this code. The FIS and FIRM panels are on file at Lowell City Hall.

### **(c) COORDINATION WITH STATE OF OREGON SPECIALTY CODES**

Pursuant to the requirement established in ORS 455 that the City of Lowell administers and enforces the State of Oregon Specialty Codes, the City of Lowell does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore,

this code is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

**(d) COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE**

**COMPLIANCE**

All development within special flood hazard areas is subject to the terms of this code and required to comply with its provisions and all other applicable regulations.

**PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this code and other applicable regulations. Violations of the provisions of this code by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a nuisance. See Land Use Development Code section 9.108 for specific information on enforcement of this code, including remedies, procedures and penalties. Nothing contained herein shall prevent the City of Lowell from taking such other lawful action as is necessary to prevent or remedy any violation.

**(e) ABROGATION AND SEVERABILITY**

**(1) ABROGATION**

This code is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this code and another code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**(2) SEVERABILITY**

This code and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the code is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this code.

**(f) INTERPRETATION**

In the interpretation and application of this code, all provisions shall be:

- (1) Considered as minimum requirements;**
- (2) Liberal construed in favor of the governing body; and**
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.**

**(g) WARNING AND DISCLAIMER OF LIABILITY**

**(1) WARNING**

The degree of flood protection required by this code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased

by man-made or natural causes. This code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

**(2) DISCLAIMER OF LIABILITY**

This code shall not create liability on the part of the City of Lowell, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this code, or any administrative decision lawfully made hereunder.

**SECTION 9.624 ADMINISTRATION**

**(a) DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The City Administrator and their designee is hereby appointed to administer, implement, and enforce this code by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

**(b) DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

**(1) PERMIT REVIEW**

Review all development permits to determine that:

- A. The permit requirements of this code have been satisfied;
- B. All other required local, state, and federal permits have been obtained and approved.
- C. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this code in section 9.625 (b) (4) are met; and
- D. Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections 9.625 (a) (7); and
- E. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.
- F. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section 9.622.
- G. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 9.625 (a) (1).
- H. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.

**(2) INFORMATION TO BE OBTAINED AND MAINTAINED**

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- A. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section 9.625 (a) (7).
- B. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 9.625 (b) (4) and 9.624 (b) (1)(B) are adhered to.
- C. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- D. Where base flood elevation data are utilized, obtain As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- E. Maintain all Elevation Certificates (EC) submitted to the community;
- F. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this code and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section 9.625 (a) (7).
- G. Maintain all floodproofing certificates required under this code;
- H. Record and maintain all variance actions, including justification for their issuance;
- I. Obtain and maintain all hydrologic and hydraulic analyses performed as required under section 9.625 (b) (4).
- J. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under section 9.624 (b) (4).
- K. Maintain for public inspection all records pertaining to the provisions of this code.

**(3) REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA****A. COMMUNITY BOUNDARY ALTERATIONS**

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain



management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

**B. WATERCOURSE ALTERATIONS**

Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

1. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
2. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 9.624 (b) (3)(C). Ensure compliance with all applicable requirements in sections 9.624 (b) (3)(C) and 9.625 (a) (1).

**C. REQUIREMENT TO SUBMIT NEW TECHNICAL DATA**

A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

1. Proposed floodway encroachments that increase the base flood elevation; and
2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA.

This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

**(4) SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS**

Conduct Substantial Improvement (SI) (as defined in section 9.622) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 9.624 (b) (2). Conduct Substantial Damage (SD) (as defined in section 9.622) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 9.623 (b)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**(c) ESTABLISHMENT OF DEVELOPMENT PERMIT**

**(1) FLOODPLAIN DEVELOPMENT PERMIT REQUIRED**

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 9.623 (b). The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 9.622, including fill and other development activities.

**A. Floodplain Development Permit Fee Established**

1. The City, by resolution, has established fees for application and issuance of a Flood Hazard Development permit.
2. If any development activity occurs prior to issuing a permit under this section, the fee for approval of the permit, after the fact, will be five (5) times the normal cost of the permit as established by resolution. If a permit is not subsequently issued, the property owner is responsible, in addition to the permit fee, for all costs to remove the development. If not approved, the development must be removed within 90 days of the date of notice of disapproval.

**(2) APPLICATION FOR DEVELOPMENT PERMIT**

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 9.624 (b) (2).
- B. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
- C. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section 9.625 (b) (3)(C).
- D. Description of the extent to which any watercourse will be altered or relocated.
- E. Base Flood Elevation data for subdivision proposals or other development when required per sections 9.624 (b) (1) and 9.625 (a) (6).
- F. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- G. The amount and location of any fill or excavation activities proposed.

**(d) VARIANCE PROCEDURE**

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

**(1) CONDITIONS FOR VARIANCES**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections 9.624 (d) (1C and 1E), and 9.624 (d) (2). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause;
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or codes.
- E. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section

9.624 (d) (1B-D) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**(2) VARIANCE NOTIFICATION**

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 9.624 (b) (2).

**SECTION 9.625 PROVISIONS FOR FLOOD HAZARD REDUCTION**

**(a) GENERAL STANDARDS**

In all special flood hazard areas, the following standards shall be adhered to:

**(1) ALTERATION OF WATERCOURSES**

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 9.624 (b) (3)(B) and 9.624 (b) (3)(C).

**(2) ANCHORING**

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All manufactured dwellings shall be anchored per section 9.625 (b) (3)(D).

**(3) CONSTRUCTION MATERIALS AND METHODS**

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**(4) UTILITIES AND EQUIPMENT**

**A. WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS**

- 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- 2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

**B. ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT**

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated to at or above one (1) foot above the Base Flood Elevation (BFE), or two (2) feet above highest adjacent grade where BFE is not available, or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air conditioning, plumbing, duct systems, and other equipment and service facilities shall, if replaced as part of a substantial improvement, meet all the requirements of this section.

**(5) TANKS**

- A. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- B. Above-ground tanks shall be installed one (1) foot above the Base Flood Elevation (BFE), or two (2) feet above highest adjacent grade where BFE is not available, or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

**(6) SUBDIVISION PROPOSALS & OTHER PROPOSED DEVELOPMENTS**

- A. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
- B. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:
  1. Be consistent with the need to minimize flood damage.
  2. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
  3. Have adequate drainage provided to reduce exposure to flood hazards.

**(7) USE OF OTHER BASE FLOOD ELEVATION DATA**

When Base Flood Elevation data has not been provided in accordance with section 9.623 (b) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section 9.625. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section 9.625 (a) (6).

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within an unnumbered A Zone shall be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc. where available.

Residential structures and non-residential structures within an unnumbered A Zone that are not dry floodproofed must be elevated such that the lowest floor is a minimum elevation of two feet above highest adjacent grade. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

**(8) STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES**

In coordination with the State of Oregon Specialty Codes:

- A. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
- B. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

**(9) NEW DEVELOPMENT**

- A. New development, including the construction of dwelling units and other structures, is not allowed on undeveloped properties within special flood hazard areas established in Section 9.623(b), unless no practicable site outside the special flood hazard area is available. For purposes of this section, a property, on which the area outside the SFHA is less than 2,500 square feet and a 35X35-foot square cannot fit within the area unincumbered by the SFHA is presumed to have no practical, non-floodplain site available. A finding based on this standard is an administrative action by the Floodplain Manager and does not require approval by the City Council. The burden of proof that such sites are not available, as described herein, rests with an applicant.
- B. Exception to (A) above: New development of recreational facilities and commercial facilities along the shores of Dexter Reservoir under the control of the US Army Corps of Engineers for which a permit has been issued by the Corps, may be permitted conditional upon such development meeting the requirements of this section.
- C. Additional development and redevelopment of currently developed lots within the floodplain is permitted conditional upon such development meeting the requirements of this code.

(b) **SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES**

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 9.625 (a) of this code.

(1) **FLOOD OPENINGS**

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- A. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- B. Be used solely for parking, storage, or building access;
- C. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
  - 1. A minimum of two openings,
  - 2. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
  - 3. The bottom of all openings shall be no higher than one foot above grade.
  - 4. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
  - 5. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

(2) **GARAGES**

- A. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
  - 1. If located within a floodway the proposed garage must comply with the requirements of section 9.625 (b) (4).
  - 2. The floors are at or above grade on not less than one side;
  - 3. The garage is used solely for parking, building access, and/or storage;
  - 4. The garage is constructed with flood openings in compliance with section 9.625 (b) (1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
  - 5. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
  - 6. The garage is constructed in compliance with the standards in section 9.625 (a); and

7. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- B. Detached garages must be constructed in compliance with the standards for appurtenant structures in section 9.625 (b) (3)(F) or non-residential structures in section 9.625 (b) (3)(C) depending on the square footage of the garage.
- (3) **FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS**

In addition to the general standards listed in section 9.625 (a) the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

**A. BEFORE REGULATORY FLOODWAY**

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

**B. RESIDENTIAL CONSTRUCTION**

1. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at or above one (1) foot above the Base Flood Elevation (BFE).
2. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 9.625 (b) (1).

**C. NON-RESIDENTIAL CONSTRUCTION**

1. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall have the lowest floor, including basement elevated to at or above one (1) foot above the Base Flood Elevation (BFE). Or, together with attendant utility and sanitary facilities:
  - i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this



section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section 9.624 (b) (2).

2. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section 9.625 (b) (1).
3. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.

Additional Recommended Language Provided in Appendix B

**D. MANUFACTURED DWELLINGS**

1. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with section 9.625 (b) (1);
2. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
3. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for additional techniques), and;
4. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

**E. RECREATIONAL VEHICLES**

Recreational vehicles placed on sites are required to:

1. Be on the site for fewer than 180 consecutive days, and
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of section 9.625 (b) (3)(D), including the anchoring and elevation requirements for manufactured dwellings.

**F. APPURTENANT (ACCESSORY) STRUCTURES**

Relief from elevation or floodproofing requirements for residential and nonresidential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures that meet the following requirements:

1. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section 9.625 (b) (4).
2. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
3. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.
4. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
5. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
6. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 9.625 (b) (1);
7. Appurtenant structures shall be located and constructed to have low damage potential;
8. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with section 9.625 (a) (5).
9. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

Additional Optional Language Provided in Appendix B

**(4) FLOODWAYS**

Located within the special flood hazard areas established in section 9.623 (b) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
  1. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within

the community during the occurrence of the base flood discharge;

Or,

2. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

- B. If the requirements of section 9.625 (b) (4) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 9.625.

**(5) STANDARDS FOR SHALLOW FLOODING AREAS**

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

**A. STANDARDS FOR AH ZONES**

Development within AH Zones must comply with the standards in sections 9.625 (a), 9.625 (b), and 9.625 (b) (5).

**B. STANDARDS FOR AO ZONES**

In AO zones, the following provisions apply in addition to the requirements in sections 9.625 (a) and 9.625 (b) (5):

1. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.
2. New construction, conversion to, and substantial improvements of nonresidential structures within AO zones shall either:
  - i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) (at least two (2) feet if no depth number is specified); or

- ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 9.625 (b) (3)(C).
- 3. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:
  - i. Be on the site for fewer than 180 consecutive days, and
  - ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - iii. Meet the elevation requirements of section 9.625 (b) (5)(B)(1), and the anchoring and other requirements for manufactured dwellings of section 9.625 (b) (3D).
- 4. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section 9.625 (b) (3F).
- 5. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section 9.625 (b) (1).

~~SECTION 9.620 — FLOOD HAZARD DEVELOPMENT.~~

~~The City of Lowell's only Floodplain area is along the shore of Dexter Reservoir and development in that area is restricted and controlled by the Corps of Engineers.~~

~~SECTION 9.621 — PURPOSE.~~

~~(a) — It is the purpose of this Code to minimize public and private losses due to flood~~

~~conditions in specific areas by provisions designed:~~

- ~~(1) — To protect human life and health.~~
  - ~~(2) — To minimize expenditure of public money and costly flood control.~~
  - ~~(3) — To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.~~
  - ~~(4) — To minimize prolonged business interruptions.~~
  - ~~(5) — To minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges located in areas of special flood hazard.~~
  - ~~(6) — To provide for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.~~
  - ~~(7) — To ensure that potential buyers are notified that property is in an area of special flood hazard.~~
  - ~~(8) — To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.~~
- ~~(b) — In order to accomplish its purposes, this Code includes methods and provisions for:~~
- ~~(1) — Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.~~
  - ~~(2) — Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.~~
  - ~~(3) — Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.~~
  - ~~(4) — Controlling filling, grading, dredging, and other development which may increase flood damage.~~
  - ~~(5) — Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.~~

#### ~~SECTION 9.622 — GENERAL PROVISIONS.~~

- ~~(a) — This Section shall apply to all areas of special flood hazards within the jurisdiction of the City of Lowell. The degree of flood protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Code shall not create liability on the part of the City of Lowell, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Code or any administrative decision lawfully made thereunder.~~

- ~~(b) The areas of special flood hazard identified by the Flood Insurance Study for Lane County and incorporated areas and the Flood Insurance Rate Map (FIRM) Number 41039C1695 F, dated June 2, 1999, and any revision thereto, are adopted by reference and declared to be a part of this Code.~~
- ~~(c) New development, including the construction of dwelling units and other structures, is not allowed on undeveloped properties within the 100-year floodplain as identified on FIRM, or as may be established on subsequent updates unless no practicable, non-floodplain sites are available. The burden of proof that such sites are not available rests with an applicant. A finding that no practicable, non-floodplain sites are available must be approved by the City Council to allow floodplain development.~~
- ~~(d) Exception to (c) above: New development of recreational facilities and commercial facilities along the shores of Dexter Reservoir under the control of the US Army Corps of Engineers for which a permit has been issued by the Corps, may be permitted conditional upon such development meeting the requirements of this section.~~
- ~~(e) Additional development and redevelopment of currently developed lots within the floodplain is permitted conditional upon such development meeting the requirements of this section.~~
- ~~(f) A Development Permit shall be required before construction or development begins within designated 100-year floodplain. The permit shall apply to all structures including manufactured dwellings and all other development including fill and other activities. The following additional information shall be submitted:~~
- ~~(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.~~
  - ~~(2) Elevation in relation to mean sea level to which any structure has been floodproofed.~~
  - ~~(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the flood hazard development standards of this Section.~~
  - ~~(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~
- ~~(g) The City Administrator is the Permit issuing authority. The issuing authority shall:~~
- ~~(1) Determine that the requirements of this Code have been satisfied.~~
  - ~~(2) Determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.~~
  - ~~(3) Review all development proposals to determine if proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this Code, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.  
A. If it is determined that there is no adverse effect, then the proposal shall be granted consistent with provisions of this Code without further consideration of these effects.~~

- ~~B. — If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.~~
- ~~(4) — When base flood elevation data has not been provided, the City Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer this Section.~~
- ~~(5) — Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of **Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76).**~~
- ~~(6) — Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.~~
- ~~(7) — Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.~~
- ~~(8) — Information to be obtained and maintained:~~
- ~~A. — Where base flood elevation data is provided through the Flood Insurance Study, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.~~
- ~~B. — For all new or substantially improved floodproofed structures:~~
- ~~1. — Verify and record the actual elevation (in relation to mean sea level), and;~~
  - ~~2. — Maintain the floodproofing certifications required in Section 4.1 (3) of the NFIP.~~
- ~~C. — Maintain for public inspection all records pertaining to the provisions of this Code.~~
- ~~(g) — In approving or disapproving a Flood Hazard development proposal, the deciding authority shall also consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and:~~
- ~~(1) — The danger that materials may be swept onto other lands to the injury of others.~~
  - ~~(2) — The danger to life and property due to flooding or erosion damage.~~
  - ~~(3) — The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.~~
  - ~~(4) — The importance of the services provided by the proposed facility to the community.~~
  - ~~(5) — The necessity to the facility of a waterfront location, where applicable.~~
  - ~~(6) — The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage.~~
  - ~~(7) — The compatibility of the proposed use with existing and anticipated development.~~
  - ~~(8) — The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area.~~
  - ~~(9) — The safety of access to the property in times of flood for ordinary and emergency vehicles.~~

- ~~(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.~~
- ~~(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~

~~(h) Flood Hazard Development Permit Fee Established.~~

- ~~(1) The City, by resolution, will establish fees for application and issue of floodplain and floodway development permits.~~
- ~~(2) If any development activity occurs prior to issuing a permit under this section, the fee for approval of the permit, after the fact, will be five (5) times the normal cost of the permit as established by resolution. If a permit is not subsequently issued, the property owner is responsible, in addition to the permit fee, for all costs to remove the development. If not approved, the development must be removed within 90 days of the date of notice of disapproval.~~

**~~SECTION 9.623 FLOOD HAZARD DEVELOPMENT STANDARDS.~~**

~~In all areas of special flood hazards the following standards are required:~~

~~(a) Anchoring~~

- ~~(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.~~
- ~~(2) All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame ties to ground anchors (Reference FEMA's "Manufactured Dwelling Installation in Flood Hazard Areas" guidebook for additional techniques).~~

~~(b) Construction materials and methods~~

- ~~(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~
- ~~(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.~~
- ~~(3) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~

~~(c) Utilities~~

- ~~(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.~~



- ~~(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate Infiltration of flood waters into the systems and discharge from the systems into flood waters.~~
- ~~(3) On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.~~

~~(d) Subdivision proposals~~

- ~~(1) All subdivision proposals shall be consistent with the need to minimize flood damage.~~
- ~~(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.~~
- ~~(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.~~
- ~~(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development.~~

~~(e) Review of building permits~~

~~Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these Districts may result in higher insurance rates.~~

~~(f) Residential construction~~

- ~~(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot or more above base flood elevation.~~
- ~~(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 
  - ~~A. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~
  - ~~B. The bottom of all openings shall be no higher than one foot above grade.~~
  - ~~C. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~~~

~~(g) Nonresidential construction~~

~~New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:~~

- ~~(1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.~~
- ~~(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.~~
- ~~(3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Turner Planning Commission.~~
- ~~(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 5.2-1(2) of the NFIP.~~
- ~~(5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).~~

~~(h) Manufactured dwellings~~

~~All manufactured dwellings to be placed or substantially improved within Districts A1 through A30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured dwelling is one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 9.923 (a) (2).~~

~~(i) Recreational Vehicles~~

~~Recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:~~

- ~~(1) Be on the site for fewer than 180 consecutive days.~~
- ~~(2) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has on permanently attached additions; or~~
- ~~(3) Meet the requirements of (h) above and the elevation and anchoring requirements for manufactured dwellings.~~

~~(j) Placing Fill in the Floodplain~~

- ~~(1) Placing any amount of fill material within the floodplain or floodway in a manner that would alter the direction of stormwater flow or otherwise divert stormwater from its normal course requires review a flood hazard development permit.~~
- ~~(2) Notwithstanding subsection (1) above, placement of up to 50 cubic yards of fill, either temporarily or permanently, is allowed without a City permit if such fill just raises the land surface without diverting or altering flow but may require permits from other agencies. If there is any question as to impact on stormwater flow, subsection (1) above applies.~~

- ~~(3) A fill permit application will not be processed without a full explanation of the purpose of the fill, The maximum quantity of fill to be placed, the exact location of the proposed fill, and submission of a certificate by a registered professional engineer or registered architect demonstrating that the proposed fill will not increase flood levels during the occurrence of a base flood discharge or otherwise negatively impact the property of others.~~

~~(k) Floodways~~

~~Development within areas of special flood hazard designated as floodways is extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, and the following additional provisions shall apply:~~

- ~~(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~
- ~~(2) If item (1) above is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.~~

~~In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zone AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.~~

~~SECTION 9.624 — FLOOD HAZARD DEFINITIONS.~~

~~**Area Of Special Flood Hazard** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.~~

~~**Base Flood** means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.~~

~~**Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.~~

~~**Fill** means any material deposited, excavated or moved upon property, including but not limited to, dirt, rocks and boulders, processed or unprocessed aggregate, asphalt or cement, logs or tree stumps or any other material that will displace water when deposited.~~

~~**Flood Or Flooding** 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 and/or~~
- ~~(2) The unusual and rapid accumulation of runoff of surface waters from any source.~~

~~**Flood Insurance Rate Map (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.~~

~~**Flood Insurance Study** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.~~

~~**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

~~**Lowest Floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code.~~

~~**Manufactured Dwelling** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured dwelling" does not include park trailers, travel trailers, and other similar vehicles.~~

~~**Manufactured Dwelling Park Or Subdivision** means a parcel (or contiguous parcels) or land divided into two or more manufactured dwelling lots for rent or sale.~~

~~**New Construction** means structures for which the "start of construction" commenced on or after the effective date of this Code.~~

~~**Start Of Construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.~~

~~**Structure** means a walled and roofed building including a gas or liquid storage tank that is principally above ground.~~

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

- ~~(1) Before the improvement or repair is started, or~~
- ~~(2) If the structure has been damaged or 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 correct existing violations of state or local health, sanitary, or safety codes.~~
- ~~(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~

**SECTIONS 9.625 through 9.629 reserved for expansion.**

## **SECTION 9.630 HILLSIDE DEVELOPMENT**

The purpose of this Section is to provide standards governing development of hillside land within the City to alleviate harmful and damaging effects of on-site erosion, sedimentation, runoff, access issues and to regulate the effects of excavation and grading on hillsides.

### **SECTION 9.631 SCOPE.**

This Section shall apply to all areas of the City where the slope of the land is 15 percent or greater. In all areas of the City, concurrent with application for a building permit, excavation or fill permit or land division, the applicant shall provide elevation data adequate to determine slope characteristics of the property or portions thereof being developed. If the City determines that the property does have areas of 15 percent slope or greater, then the proposed development shall, in addition to other applicable City ordinances, rules and regulations, also be reviewed for compliance with the requirements of **Sections 9.630 through 9.635**.

### **SECTION 9.632 HILLSIDE DEVELOPMENT STANDARDS**

- (a) General grading. Any grading performed within the boundaries of a hillside development shall be kept to a minimum and shall take into account the environmental characteristics of that property, including but not limited to prominent geological features, existing streambeds, drainage ways, and vegetative cover.
- (b) Slope stability. Potential slope instability problems such as slip planes, clay layers and dome-shaped bedrock shall be identified. Mitigation measures sufficient to render these areas safe for structures and infrastructure development shall be applied.

(c) Building sites. Building sites shall be designed to minimize the need to alter the natural grade during construction of individual buildings. Mass pad grading or continuous terracing of building sites is not allowed. Lot development plans must demonstrate that the lot is large enough to safely accommodate both the planned structure(s) and the needed cuts and/or fills.

(d) Retaining walls. Especially on cutbanks, retaining structures are preferred in lieu of larger excavations to minimize the amount of disturbed area. Retaining walls over 4 feet high shall be engineered. Smaller walls shall be constructed in conformance with the soils and geology report recommendations and the engineer's plans. Designs for retaining structures shall give consideration to aesthetics and shall use mitigations such as terracing and/or landscaping plants to reduce the structures' apparent height and mass.

(e) Cut and Fill Standards.

(1) All cut and fill slopes generally must not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (i.e. 1:1/2 or 1:1) may be conditionally approved by the City upon certification, by a qualified engineer that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the engineer.

(2) Cuts and fills shall be designed to avoid movement or episodic erosion during heavy rains or earthquakes, mechanical overloading of underlying soils and undercutting of adjacent areas. Fills shall be benched as required to provide a proper bond with the existing terrain.

(3) Unless proven otherwise by specific soils information to the contrary, cuts shall be presumed to be incapable of revegetation without special treatments, such as importation and retention of topsoil. Plans must be submitted for all cuts in excess of 2 feet deep, showing either a covering for the cut, such as stonework, or a revegetation plan that does not rely on the ability of the exposed subsoil to support plant growth.

(f) Revegetation. Earthwork shall be designed so that all disturbed areas will be restored to have at least 6" of topsoil. Revegetation of projects exposing soil shall be aggressively pursued so that bare ground will not be unnecessarily exposed to the weather between November 1 and May 30. Construction schedules shall be drawn up to limit the period of time that soil is exposed and unprotected. The existing vegetative ground cover should not be destroyed, removed, or disturbed more than 15 days prior to grading or construction of required improvements. Soil exposed during the removal or significant disturbance of ground cover vegetation shall be built upon (i.e. covered with gravel, a slab, foundation or other construction), landscaped (i.e. seeded or planted with ground cover) or otherwise protected within 15 days of grading or other pre-development activity. Provided, however, that these restrictions do not apply during the months of June, July, August and September.

(g) Modification of Public Street Standards. Street width, grade and alignment, right-of-way width, and sidewalks in hillside areas shall be designed to minimize changes to existing topography and provide adequate access to adjacent properties. Cuts and fills in excess of four feet deep shall be considered significant and should be avoided where feasible. Modifications to established standards, if necessary to meet these requirements, shall be made as provided below.

- (1) Street grades may exceed the maximum grade standards of the Lowell *Standards for Public Improvements* where topographical conditions make it impractical to meet those standards, subject to the following conditions:
  - A. Driveways and intersections shall not be permitted where street grades exceed 15 percent.
  - B. Street grades of over 15 percent shall not be permitted for a distance of more than 200 feet in any 600 foot long section of street.
  - C. Street grades shall not exceed 20 percent for any distance.
  
- (2) Requirements specified in the Lowell *Standards for Public Improvements* for public right-of-way width, pavement width, and/or installation of sidewalk may be modified where topographical conditions make it impractical to meet those standards, subject to the following conditions:
  - A. Reduction in public right-of-way width may be made if the proposed right-of-way is large enough to accommodate the street and sidewalk(s), and 5-foot public utility easement is provided on each side of the right-of-way and slope easement is provided where required.
  - B. Reduction in pavement width to 21 feet may be made for access lanes with less than 250 vehicle trips per day, that are not dead-end, and that will be no parking on one side. For not more than one 200 foot section of street per block, any road may be reduced to 20 feet if the road is not dead-end, will be no parking on both sides along the narrowed portion, and if at least one parking space is provided for each lot taking driveway access from the narrowed portion; said parking shall be within 200 feet of the driveway access. On all other roadways, the City Council may allow the above described pavement width reductions only after consultation with the City Engineer and the local fire official, and upon a finding that the proposed width will provide adequate parking and emergency vehicle access. All no parking areas shall be signed and curbs shall be painted yellow.
  - C. All sidewalks shall be a minimum of 5 feet wide. All streets shall have vertical curbs adjacent to sidewalks. For short distances, street-side sidewalks may be relocated to an off-street location that will provide equivalent service, conditional upon right-of-way being available or public access easements being provided. Sidewalks may be approved for only one side of the street for access lanes with less than 250 vehicle trips per day. On all other roadways, the City Council may allow sidewalks on only one side upon a finding that a single sidewalk will provide adequate pedestrian safety.
  
- (3) The City may require modification of street improvement construction standards for any portion of proposed street improvements being constructed in areas of special concern identified in the Soils and Geology Report.

(h) Storm Drainage. In addition to City-wide storm drainage system development standards contained in **Section 9.520**, hillside storm drainage systems shall be designed to:

(1) Protect cuts, fills, roadways, retaining walls and structures from saturation, slope failure and settling.

(2) To anticipate and mitigate the rapid movement of debris into catch basins, and storm water flows bypassing catch basins.

(3) Insure that concentrated storm water is disposed of in a controlled manner does not create significant erosion or adverse effects on downhill properties.

(i) Preservation of Trees and Existing Vegetation. Construction shall be done in a manner that avoids unnecessary disruption to vegetation and trees. Temporary protective fencing shall be established around all trees designated for protection prior to the commencement of grading or other soil disturbance. Grade changes and trenching shall not be made within 5 feet of the dripline of such trees without written concurrence from an arborist that such changes will not cause permanent damage to the tree.

### **SECTION 9.633 SUBMISSION REQUIREMENTS FOR LAND DIVISIONS.**

When land division application is submitted in which all or a portion of the development contain slopes which are 15% or greater, the following additional reports and plans shall be submitted:

(a) Surveyor's Report. A scale drawing of the property prepared by a licensed surveyor, showing existing topography at two-foot contour intervals, watercourses both permanent and intermittent, and natural physical features such as rock outcroppings, springs and wetlands. Also show the location and dimensions of any existing buildings or structures on the property where the work is to be performed, the location of existing buildings or structures on land of adjacent owners that are within 100 feet of the property.

(b) Soils and Geology Report. This report shall be prepared by a suitably experienced and qualified licensed engineering geologist or geotechnical engineer, and shall include the following for each proposed lot and for public right-of-way areas proposed for development which have slopes greater than 15%:

(1) Data regarding the subsurface condition of the whole site such as the nature, depth and strength of existing soils, depth to bedrock, location of soft soils, hard stratum, potential slip planes, geological weak zones, clay seams or layers, unconsolidated deposits, and previous grading activities. The report shall also address existing water tables, springs, watercourses and drainage patterns, seismic considerations, and any offsite geologic features or conditions that could impact or be impacted by onsite development. Locations of exploratory boreholes shall take into consideration the terrain and geology of the site instead of following a general grid pattern.

(2) Conclusions and recommendations regarding the stability of underlying slopes and of proposed cuts and fills, any remedial or preventative actions that are required, any limitations upon the use of the site, grading procedures, requirements for vegetation preservation and revegetation, special coverings or treatments for areas that cannot be readily revegetated, erosion control methods, drainage systems, setbacks from slopes or other geologic features, foundation and building design, and backfills.

(c) Engineer's Plans. Detailed plans shall be prepared for all proposed public improvements by a suitably qualified licensed civil engineer. Detailed plans for private development on each parcel may also be provided and if provided, will be accepted as required building permit



submittals. These plans shall be based upon the findings of the required soils and geology report, and shall include the following information:

(1) **Infrastructure Plan.** A scale drawing plan showing the location and approximate grade of all proposed streets, walkways and alleys, and the location of proposed easements, lots, common areas, parks, open space and other land proposed for dedication to the City. Also indicate the locations of utilities such as sewer and water lines.

(2) **Grading Plan.** A scale drawing grading plan of the property, showing existing and proposed finished grades at two-foot contour intervals, retaining walls or other slope stabilization measures, cuts and fills, and all other proposed changes to the natural grade. Include cross-sectional diagrams of typical cuts and fills, drawn to scale and indicating depth, extent and approximate volume, and indicating whether and to what extent there will be a net increase or loss of soil.

(3) **Drainage Plan.** Detailed plans and locations of all proposed surface and subsurface drainage devices, catch basins, area drains, dewatering provisions, drainage channels, dams, sediment basins, storage reservoirs, and other protective devices together with a map showing drainage areas, the complete drainage network, including outfall lines and natural drainageways which may be affected by the proposed development, and the estimated run-off of the area(s) served by the drains.

(4) **Erosion Control Plan.** Descriptions and/or drawings of proposed changes to soils and/or existing vegetation on the site; specific methods proposed to restore disturbed topsoil, minimize the identified potential erosion problems, and revegetate areas which will be stripped of existing vegetation; and a schedule showing when each stage of the project will be started and completed, including the total area of soil surface which is to be disturbed during each stage and the length of time soils will be left exposed.

(5) **Affidavit.** The authoring engineer shall include a statement that the plans are consistent with the soils and geology report required by this Section, and with the standards of Section 9.632.

(d) One copy of each individual lot survey, geotechnical report and development engineering plans submitted and approved with the tentative plan shall be filed with the City at the time of submission of the final plat and one copy shall be provided to the purchaser of the individual lot.

#### **SECTION 9.634 SUBMISSION REQUIREMENTS FOR BUILDING PERMITS.**

The requirements of this shall section apply to all submissions for building permits and for excavation and grading permits applied for separately from a building permit.

(a) **Surveyor's Report.** A scale drawing of the property prepared by a licensed surveyor, showing existing topography at two-foot contour intervals, watercourses both permanent and intermittent, and natural physical features such as rock outcroppings, springs and wetlands. This information is in addition to required development site plan submittal requirements.

(b) **Soils and Geology Report.** This report shall be prepared by a suitably experienced and qualified licensed engineering geologist or geotechnical engineer, and shall include the following for areas to be developed having 15% or greater:

(1) Data regarding the subsurface condition of the site such as the nature, depth and strength of existing soils, depth to bedrock, location of soft soils, hard stratum, potential slip planes, geological weak zones, clay seams or layers, unconsolidated deposits, and previous grading activities. The report shall also address existing water tables, springs, watercourses and drainage patterns, seismic considerations, and any offsite geologic features or conditions that could impact or be impacted by onsite development.

(2) Conclusions and recommendations regarding the stability of underlying slopes and of proposed cuts and fills, any remedial or preventative actions that are required, any limitations upon the use of the site, grading procedures, requirements for vegetation preservation and revegetation, special coverings or treatments for areas that cannot be readily revegetated, erosion control methods, drainage systems, setbacks from slopes or other geologic features, foundation and building design, and backfills.

(c) Blueprints. Detailed plans shall be prepared for all proposed development on the lot. These plans shall become part of the working drawings kept on the jobsite, shall be based upon the findings of the required soils and geology report, and shall include the following information, in addition to the requirements of the relevant building codes and other City regulations:

(1) Grading Plan. A grading plan of the property, drawn to scale, showing existing and proposed finished grades at two-foot contour intervals, retaining walls or other slope stabilization measures, cuts and fills, and all other proposed changes to the natural grade. Include cross-sectional diagrams of typical cuts and fills, drawn to scale and indicating depth, extent and approximate volume, and indicating whether and to what extent there will be a net increase or loss of soil.

(2) Drainage Plan. Detailed plans for collecting on-site drainage including the locations of all proposed surface and subsurface drainage devices, roof drains, foundation drains, catch basins and area drains showing clearly where and how they discharge into the public storm drainage system shall be provided. The direction of surface stormwater flows shall be indicated with arrows.

(3) Erosion Control Plan. Descriptions and/or drawings of proposed changes to soils and/or existing vegetation on the site; specific methods proposed to restore disturbed topsoil, minimize the identified potential erosion problems, and revegetate areas which will be stripped of existing vegetation; and a schedule showing when each stage of the project will be started and completed, including the total area of soil surface which is to be disturbed during each stage and the length of time soils will be left exposed.

(4) Elevations. Elevation views of all four sides of proposed structures shall be prepared which clearly show the existing and proposed grades, across the entire length of the structure all the way to the property lines on each side.

(5) Trees. Location of any trees to be retained and the location of protective fencing to be installed prior to construction shall be shown.

(6) Special Inspections. If any special soils or foundation inspections are required, this shall be noted on the plans.

(7) Affidavit. The authoring engineer shall include a statement that the plans are consistent with the soils and geology report required by this Section, with standards of **Section 9.632** and with any conditions of approval for the underlying development.

**SECTION 9.635 APPROVAL PROCESS AND AUTHORITY.**

(a) Land Divisions. For land divisions, review and approval under this Section shall be undertaken as a part of the land division development approval process in accordance with **Sections 2.320 through 2.340.**

(b) Building Permits. Submissions for Building Permits subject to requirements of **Section 9.634** shall be reviewed by the City and approved by the City Administrator.

(c) Excavation and Fill Permits. Submissions for excavations or fills of greater than 50 cubic yards on property subject to hillside development standards and requiring submissions in accordance with **Section 9.634** will be reviewed by the City and approved by the City Administrator.

**SECTION 9.636 FEES AUTHORIZED.**

The City Council, by Resolution, may establish a fee for review and approval of hillside development applications.

(a) For land divisions, the fee shall be per lot for every lot containing any slopes which are 15% or greater and shall be in addition to the land division application fee.

(b) For building and excavation and fill permits requiring review and approval by the City, a flat fee shall be established that is in addition to the established building permit fee schedule.

(c) Fees shall be set no higher than the cost for paid and contracted staff to review and approve the submittals and reasonable overhead.

**SECTIONS 9.637 through 9.699 reserved for expansion.****ARTICLE 9.7 USE STANDARDS****SECTION 9.701 USE STANDARDS**

In addition to the Development Standards specified in **Articles 9.5 and 9.6**, there are also uses that may occur in more than one district. The following Sections specify development standards applicable to specialized uses within the City of Lowell.

**SECTION 9.702 HOME OCCUPATION STANDARDS**

A Home Occupation is a Conditional Use Type III process for all zoning districts outside of the boundaries of the Regulating Plan for any single family home and must comply with the Conditional Use provisions of **Section 9.251** and the following additional standards:

- (a) The home occupation shall be secondary to the main use of the dwelling as a residence.
- (b) All aspects of the home occupation shall be contained and conducted within a completely enclosed building.
- (c) The home occupation shall be limited to either a pre-existing garage or accessory

structure, or not over 25% of the living area of the dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over 500 square feet of floor area.

- (d) No structural alteration, except the provision of an additional entrance, shall be permitted to accommodate the home occupation. Such structural alteration shall not detract from the outward appearance of the property as a residential use.
- (e) No persons other than those residing within the dwelling shall be engaged in the home occupation unless approved by the Planning Commission.
- (f) No window display or sample commodities displayed outside the dwelling shall be allowed.
- (g) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or any other factor.
- (h) No parking of customer vehicles in a manner or frequency that would cause disturbance or inconvenience to nearby residents or that would necessitate the provision of additional off-street parking shall be allowed.
- (i) No signs shall be permitted except for a single name plate not to exceed 1.5 square feet in area.

### **SECTION 9.703 BED AND BREAKFAST STANDARDS.**

A Bed and Breakfast is a Conditional Use for any single-family home and must comply with the Conditional Use provisions of **Section 9.251** and the following additional standards:

- (a) That all residences used for Bed and Breakfasts be either business-owner occupied or the business-owner must reside adjacent to the Bed and Breakfast. The business-owner shall be required to reside on or immediately adjacent to the property to the property occupied by the Bed and Breakfast, and occupancy shall be determined as the Bed and Breakfast or adjacent dwelling location being the primary residence of the owner during the operation of the Bed and Breakfast. "Business-owner" shall be defined as a person or persons who own the property and Bed and Breakfast outright; or who have entered into a lease agreement with the property owner(s) allowing for the operation of the Bed and Breakfast. Such lease agreement to specifically state that the property owner is not involved in the day-to-day operation or financial management of the Bed and Breakfast, and that the business-owner is wholly responsible for all operations associated with the Bed and Breakfast, and has actual ownership of the business.
- (b) That no more than three (3) units (sleeping rooms) are provided on a daily basis or weekly period, not to exceed 14 consecutive days, for the use of travelers or transients for a charge or fee. Provision of a morning meal is customary as implied by this title.
- (c) That only one ground or wall sign, constructed of a non-plastic material, non-interior illuminated of 6 square feet maximum size be allowed. Any exterior illumination of

signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the Bed and Breakfast.

- (d) That each Bed and Breakfast until shall have one off-street parking space , and the owner occupant shall have two parking spaces. Off- street parking must comply with safety regulations in paragraph (i) of this section.
- (e) That the primary resident on site be at least 21 years old.
- (f) The primary residence may be altered or adapted for Bed and Breakfast use, including expansion of floor area. Additional structures may be allowed to accommodate additional units, but must be in conformance with all setbacks and lot coverage of the underlying zone.
- (g) Transfer of business ownership of a Bed and Breakfast shall be subject to all requirements of this Section, and subject to Conditional Use Permit approval and conformance with the criteria of this Section. All Bed and Breakfasts receiving their initial approvals prior to the effective date of adoption of this code section shall be considered as approved, conforming uses, with all previous approvals, conditions and requirements remaining in effect upon the change of business ownership. Any further modifications beyond the existing approvals shall be in conformance with all requirements of this Section.
- (h) An annual inspection by the Lane County Health Department shall be conducted as required by the laws of Lane County or the State of Oregon.
- (i) Off-street parking, ingress and egress must meet the minimum requirements of the Lowell Fire District.

#### **SECTION 9.704 RESIDENTIAL CARE HOME STANDARDS**

A Residential Care Homes for 5 or less people and Group Child Care Homes for 12 or less children are a Permitted Use in a dwelling located within any residential district with the following additional standards:

- (a) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (b) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (c) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

**SECTION 9.705 RESIDENTIAL CARE FACILITY STANDARDS**

A Residential Care Facility other than a private residence for more than 12 children or for more than 5 adults is a Permitted Use in the Multi-family Residential District, R-3 and may be allowed in accordance with the Conditional Use provisions of **Section 9.251** in the Single-family Residential R-1 District with the following additional standards:

- (a) Access shall be from a designated arterial or collector street.
- (b) Requirements for front, rear, side and street side yards, for Care Facilities shall comply with the District standards in which the facility is located.
- (c) Additional landscaping, privacy fencing, buffers or other screening devices may be required to screen or protect the facility or adjacent properties.
- (d) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (e) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (f) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

**SECTION 9.706 MULTIPLE-FAMILY STANDARDS**

Medium density multiple-family housing is allowed in the R-3 residential district up to 15 units per acre and high density Multiple-family housing may be allowed in accordance with the Conditional Use provisions of **Section 9.251**.

- (a) Access shall be from a designated arterial or collector street.
- (b) Requirements for front, rear, side and street side yards, for high density shall comply with the R-3 District standards.
- (c) On-site bicycle storage facilities, bicycle paths and pedestrian ways shall be provided for developments exceeding six dwelling units.
- (d) The City may require conditions of approval when deemed necessary for the mitigation of potential adverse impacts on a neighborhood or adjacent areas:
- (e) The City may regulate the type of dwelling units for high density multiple-family to mitigate potential adverse impacts on a neighborhood or adjacent areas.
- (f) Additional landscaping or screening on the property boundary may be required to mitigate potential adverse impacts on adjacent properties.

~~**SECTION through 9.709 reserved for expansion.**~~

**SECTION 9.707 ACCESSORY DWELLING UNIT (ADU) STANDARDS**

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure, pursuant to **Section 9.203**, and shall conform to all of the following standards:

(a) One unit.

(1) A maximum of one ADU is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).

(b) Two units.

(1) A maximum of two ADUs area allowed per legal single-family dwelling. One unit must be detached accessory building (e.g., above a garage or workshop) and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).

(c) Floor area.

(1) A detached ADU shall not exceed 900 square feet, or 85 percent of the primary dwelling's floor area, whichever is smaller.

(2) An attached or interior ADU shall not exceed 900 square feet of floor area, or 85 percent of the primary dwelling's floor area, whichever is smaller. Except, an ADU that results from the conversion of a level of floor (e.g., basement, attic, or upper story) of the primary dwelling may occupy the entire level of the floor, even if the floor area of the ADU exceeds 900 square feet.

(d) Other Development Standards. ADUs shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

(1) Conversion of an existing legal non-conforming structure to an ADU is allowed, provided that the conversion does not increase the non-conformity;

(2) No off-street parking is required for an ADU;

(3) In all zoning districts where ADUs are permitted, properties with two ADUs are allowed an additional 20 percent greater lot coverage. ~~The 20 percent increase shall be additive to the already expanded lot coverage provided for in the initial ADU;~~ and

(4) ADUs are not included in density calculations.

**SECTION 9.708 COTTAGE CLUSTER STANDARDS**

Cottage cluster developments, where permitted, are subject to review and approval through a Type I procedure pursuant to Section 9.203, and shall conform to the following standards:

(a) Cottage cluster housing development and design standards.

(1) Table XX Development Standards.

<p><u>Cottage Size</u></p>	<p><u>The gross floor area of each cottage shall not exceed 1,200 square feet</u></p> <p><u>At least 50% of the cottages in each cluster shall have a gross floor area less than 1,200 square feet.</u></p> <p><u>“Gross floor area” does not include: a) interior space with a ceiling height of six feet or less; b) basements; c) architectural projections, such as bay windows, fireplaces, or utility closets, that are less than 24 inches deep and six feet wide; d) attached, unenclosed porches; and e) garages or carports.</u></p> <p><u>The footprint may not exceed 1,000 square feet.</u></p>
<p><u>Density</u></p>	<p><u>A cluster shall consist of no more than ten and no fewer than four units.</u></p>
<p><u>Setbacks</u></p>	<p><u>Setbacks shall conform to the setback standards for the underlying zoning district.</u></p> <p><u>Cottages shall be no more than 30 feet from the common open space, measured from the façade of the cottage to the nearest delineation of the common open space.</u></p> <p><u>Distance between structures shall be a minimum of five feet.</u></p>
<p><u>Maximum Height</u></p>	<p><u>25 feet</u></p>
<p><u>Maximum Lot Coverage</u></p>	<p><u>Maximum for all structures in cottage developments shall not exceed 60%</u></p>

(b) Design Standards.

- (1) Each cottage shall have a primary entry oriented to a common open space.

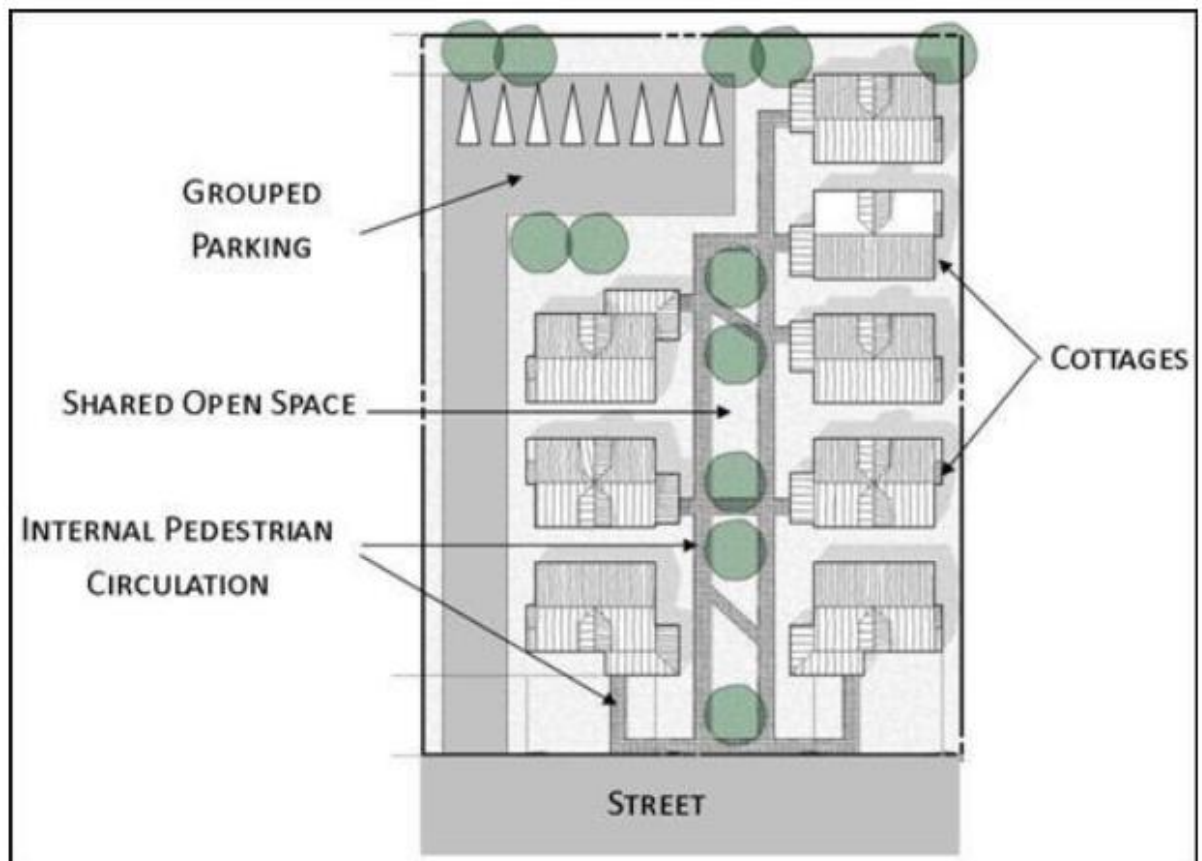


(2) Off-Street Parking Requirements.

- A. One off-street parking space shall be required for each cottage.
- B. One additional guest parking space shall be provided for every four cottages, rounded up to the next whole number, up to a maximum of six guest parking spaces.
- C. The off-street parking requirements may be waived or reduced, by the City Administrator or designee, if sufficient on-street parking is available within 800 feet of the property.

(3) Parking Design.

- A. Parking shall be separated from the common area and public streets by landscaping and/or architectural screening. See image below for visual representation of grouped parking. Image not intended to be actual construction of cottage housing units.



- B. Parking areas shall be accessed only by a private driveway or public alley.
- C. Design of carports and garages, if provided, including roof lines, shall be similar to and compatible with that of the cottages.
- D. Parking areas shall be limited to no more than five contiguous spaces. Parking areas shall be broken up by curbed landscape islands and trees at regular intervals to break large areas of parking surface.

(4) Walkways.

- A. A system of interior walkways shall connect each cottage to at least one other

cottage and to the parking area.

(5) Community Assets.

- A. Common open space. Each cluster of cottages shall have at least 200 square feet of open space per cottage, with a common open space provided in one contiguous, useable space.
- B. Community Building. Single-story community buildings, limited to 1,200 square feet, are permitted so long as they are clearly incidental in use to the dwelling units. A community building converted from an existing building may be larger than 1,200 feet.

**SECTION 9.710 MANUFACTURED DWELLING STANDARDS**

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918 specify the standards and regulations for Manufactured Dwelling (MD) use in the State of Oregon. The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) defines the state standards and **Section 9.711** through **Section 9.717** provide additional supporting standards for all manufactured dwelling developments within the City of Lowell. The standards contained herein are intended to support suitable living environments for residents of manufactured dwellings and to increase compatibility with adjacent land uses.

**SECTION 9.711 GENERAL MANUFACTURED DWELLING PROVISIONS**

- (a) **Definitions.** The definitions of terms used are as defined in the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) or **Section 9.190** of this Code.
- (b) **Relationship to Deed Restrictions.** Nothing in these provisions shall be interpreted as superseding more restrictive deed covenants, conditions or restrictions (CC&R's). The Standards contain herein are the "minimum requirements" of the City. Applicant/Owners may specify more restrictive standards for their development as part of their CC&R's.
- (c) **Manufactured Dwelling Construction & Safety Standards.** All manufactured dwellings must comply with the minimum construction standards in effect at the time of construction, and all associated rules, regulations, amendments and interpretations of both federal and state authorities. All manufactured dwellings placed in the City of Lowell must bear a U.S. Department of Housing and Urban Development, HUD, certification label or a State of Oregon Manufactured Dwelling Insignia of Compliance.
- (d) **Building Permit.** The owner of a lot upon which a manufactured dwelling is to be installed shall, before installation, obtain a Manufactured Dwelling Building Installation Permit, and any other required permits, from the City. In applying for and obtaining said permit, the owner of a lot shall be deemed to have agreed to comply with Oregon State Standards and the terms of this Code.
- (e) **Inspection.** The manufactured dwelling shall be inspected by the Building Inspector, who shall determine that the manufactured dwelling complies with State standards for manufactured dwelling construction and siting, the standards set forth in this Code and, prior to approval of installation, require the owner of said manufactured dwelling to bring the manufactured dwelling up to the required standards by repair and improvement.

No reconstruction or equipment installation shall have been made to the manufactured dwelling unless it has been state approved as evidenced by an appropriate State of

Oregon insignia.

- (f) **Perimeter Enclosures & Support Systems.** All load bearing foundations, supports, and enclosures shall be installed in conformance with state regulations and with the manufacturer's installation specifications. There are two primary types of perimeter enclosures permitted:
- (1) **Perimeter Skirting:** Skirting shall be constructed in accordance with the Oregon Manufactured Dwelling Standards. Permitted perimeter skirting materials are any material or system approved by the State of Oregon.
  - (2) **Perimeter Foundations:** shall be constructed in accordance with the Council of American Building Officials (CABO) One and Two Family Dwelling Code in addition to the Oregon Manufactured Dwelling Standards. Permitted perimeter foundation materials are concrete or masonry.
- (g) **Accessory Structures.** All accessory structures must be constructed to the Oregon State One and Two Family Dwelling Code.
- (h) **Removal.** If a manufactured dwelling is removed, the owner shall immediately disconnect and cap all sewer, water and utility services. The owner of the property shall within (6) months of said removal, make application for and replace said manufactured dwelling with an approved manufactured dwelling, or remove the foundation and all protrusions above the slab or ground level. Should the property owner fail to comply, the city may contract for removal and disconnection, and collect the costs thereof from the property owner or place a lien against the real property for the unpaid amount.
- (i) **Continued Use.** Any manufactured dwelling in place at the time of passing this Code and appropriately connected to a sewer and water system, but otherwise not conforming to the above requirements, may be maintained in the place of location. Any replacement of or addition to said manufactured dwelling shall comply with the requirements stated herein and The State of Oregon Installation Standards.

## SECTION 9.712 CLASSIFICATION OF MANUFACTURED DWELLINGS

For purposes of these regulations, manufactured dwellings are divided into two classes, "A" and "B". The classes are segregated by the size of the manufactured dwelling. All manufactured dwellings placed within the City after the effective date of this Code must comply with the following placement standards.

- (a) **Class "A":** A Class "A" manufactured dwelling is one that complies with the following standards:
- (1) A double-wide or multi-sectional unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official is required prior to placement.

- (2) The manufactured dwelling shall be multi-sectional and enclose a space of not less than 1,000 square feet
    - (3) The manufactured dwelling shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located no more than 12 inches above grade.
  - (4) The manufactured dwelling shall have a pitched roof, except no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
  - (5) The manufactured dwelling shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City.
  - (6) The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under state building code as defined in ORS 455.010.
  - (7) The manufactured dwelling shall have a garage or carport constructed of like materials.
  - (8) Placement: Class "A" manufactured dwellings are permitted on all individual lots in all Residential Districts and in all approved manufactured dwelling parks. Class "A" manufactured dwellings are also permitted for approved temporary uses specified in **Section 9.714**
- (b) **Class "B":** A Class "B" manufactured dwelling is one that complies with the following standards:
- (1) A single-section unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official required prior to placement.
  - (2) Contains more than five hundred (500) square feet of occupied space in a single or expanded unit.
  - (3) Placed onto a permanent foundation system with piers, perimeter foundations or perimeter skirting. Wheels, axles, and hitch mechanisms shall be removed in accordance with approved state installation standards.
  - (4) Minimum roof pitch shall be 3 inch rise for each 12 inches of run with materials commonly used for site-built houses such as composition, wood or tile shingles.

- (5) Exterior materials shall be similar to those used on site-built houses.
- (6) Placement: Class "B" manufactured dwellings are permitted in all manufactured dwelling parks and approved temporary uses specified in **Section 9.714**. Class "B" manufactured dwellings may also be permitted by Conditional Use on individual lots as specified in **Section 9.713**.
- (c) Manufactured dwellings that do not meet the standards of either Class "A" or Class "B" are not permitted to be placed within the City of Lowell.

### **SECTION 9.713 PLACEMENT ON INDIVIDUAL LOTS**

- (a) Class "A" Manufactured Dwellings are permitted on individual parcels outside of Manufactured Dwelling Parks in the City's Residential Districts, R-1 and R-3 in accordance with the standards of this Section and all other provisions of the Lowell Land Development Code for conventional built dwellings placed within a Residential District.
- (b) Conditional Use approval is required for placement of a Class "B" manufactured dwelling on an individual lot. In order to be approved, the unit must be found to have design compatibility with other dwellings within 500 feet of the subject lot or parcel. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:
  - (1) The placement of the manufactured dwelling and accessory structures upon the lot shall be consistent with other dwellings in the review area in terms of setback dimensions, angle to the street, location of garage or carport, and any other special features of the neighborhood or vicinity.
  - (3) The location and design of porches, patios, driveways, walkways, and landscaping shall be similar to and complementary to the features of other dwellings in the vicinity.
  - (3) The manufactured dwelling shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located no more than 12 inches above grade.
  - (4) The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under state building code as defined in ORS 455.010.
  - (5) The manufactured dwelling shall have a garage or carport constructed of like materials.

### **SECTION 9.714 TEMPORARY MANUFACTURED DWELLING USE**

- (a) **Application:** Applicants for a temporary use permit shall make written application for a Site Plan Review on the City's Application Form. The City Administrator or designee Planning Commission may grant approval for a Temporary Manufactured Dwelling use subject to the procedures of **Section 9.250**. The Applicant shall provide a statement of intended use and the estimated length of time for the temporary use on the application form

and shall submit the site plan information specified in **Section 9.204**.

- (b) **Approved Uses:** A temporary Manufactured dwelling use may be granted for the following uses:
- (1) A manufactured dwelling as a temporary accessory dwelling to a residence for designated members of the immediate family. The temporary use shall be subject to a Periodic Review by the City Administrator or designee Planning Commission. The manufactured dwelling and all accessory elements shall be removed within 60 days of non occupancy by the designated family members.
  - (2) Temporary on-site residence for owners whose dwelling is under construction or a dwelling that has been destroyed.
  - (3) Caretaker residence for a commercial or industrial facility.
  - (4) Temporary offices accessible to the general public for use during construction or remodeling.
  - (5) Temporary building space for public and semi-public agencies.
  - (6) Other temporary uses may be considered by the Planning Commission under the Conditional Use procedures specified in **Section 9.251**.
- (c) **Conditions of Use:** The Temporary Use Permit may be limited to a specified time period and shall be a Class "A" or "B" Manufactured Dwelling for use on a single lot in accordance with the following provisions:
- (1) Compliance with the State of Oregon Manufactured Dwelling Installation Standards.
  - (2) Manufactured dwellings shall not be included or sold as a part of any property on which it is located.
  - (3) Manufactured dwellings shall not be expanded or attached to a permanent structure.
  - (4) Manufactured dwellings shall have an approved perimeter enclosure permitted by the State of Oregon.
  - (5) Manufactured dwellings shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral.
  - (6) Use shall be limited to the function as set forth in the application for the temporary permit.
  - (9) The manufactured dwelling shall comply with residential setback requirements and shall be sited so as to have the least possible impact on adjacent properties or adjoining streets.
- (d) **Renewal:** The permit as issued shall not exceed the designated approval period. The City shall notify holders of a permit at least thirty (30) days prior to the date of expiration. Applicants for renewal of a temporary use permit shall reapply and submit the same information as required for the original permit.
- (e) **Right of Revocation:** The City shall have the right to revoke any Temporary Use Permit granted under this section with thirty (30) days notice, if upon inspection, the use is found to be in noncompliance with the application for which the permit is issued.
- (f) **Removal:** If the Manufactured Dwelling is required to be removed from the site, the owner of the property shall remove the foundation and all additions to the Manufactured Dwelling and permanently disconnect and secure all utilities. The City may perform the work and place a lien against the property for the cost, after 60 days from the date on

which the Manufactured Dwelling is required to be moved from the site. This condition shall not apply in the event that another approved Manufactured Dwelling is placed on the original foundation within 60 days of the removal of the original unit.

### **SECTION 9.715 MANUFACTURED DWELLING PARKS**

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918, and Chapter 10 of the OMDS specify the standards and regulations for Manufactured Dwelling Parks in the State of Oregon. This Section contains additional supporting standards for all Manufactured Dwelling Parks located within the City of Lowell as permitted in Chapter 10 of the OMDS. In cases of conflict, the state standards of Chapter 10 shall govern.

- (a) **Where Permitted:** Class "A" or "B" Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. Manufactured dwelling parks are permitted in the City's R-3 Residential District, in accordance with the standards of **Section 9.716 and 9.717** and the provisions for Conditional Use approval, **Sections 9.251**.
- (b) **Minimum Site Area:** An area that provides space for four or more manufactured dwellings together with all conditions and standards required by Chapter 10 of the OMDS and the standards contained in this Section.
- (c) **Density:** Maximum density of the park shall not exceed 10 units per gross acre.
- (d) **Access:** Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.
- (e) **Permitted Uses:** Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.
- (f) **Conditions:** Upon granting site plan approval for a manufactured dwelling park, the Planning Commission may require conditions of approval including but not limited to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:
  - (1) Limit the type of units to be installed to Class "A" or Class "B" or both.
  - (2) Additional landscaping or screening on the park boundary.
  - (3) Increased setbacks from park boundaries.

### **SECTION 9.716 IMPROVEMENT STANDARDS**

Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) within the Park boundary and shall conform to City Standards when abutting public streets.

- (a) **Streets:** Public streets located within the Park and the first 100 feet of Park streets connecting to a public street shall conform to City standards.
- (b) **Perimeter Setbacks:** Distance of a manufactured home or accessory structure from an exterior park boundary or public right of way shall be 20 feet.
- (c) **Landscaping:** All common areas within a manufactured dwelling park; exclusive of required buffer areas, buildings, and roadways; shall be landscaped and maintained in accordance with the following minimum standards per each 1,000 square feet of open area:
  - (1) One tree at least six feet in height.
  - (2) Five shrubs or accent plants.
  - (3) The remaining area containing walkways and attractive ground cover at least 50% of which must be living ground cover within one year of planting.
  - (4) All manufactured dwelling spaces shall be similarly landscaped within six months of manufactured dwelling placement. Such landscaping shall be the responsibility of the park owner.
- (d) **Perimeter Property Screening:** The entire perimeter of the manufactured dwelling park shall be screened except for driveways and the Clear Vision Area. The following minimum standards shall apply:
  - (1) At least one staggered row of trees:
    - A. Deciduous trees - 10 feet high, spaced 30 feet apart
    - B. Evergreen trees - 5 feet high, spaced 15 feet apart.
  - (2) At least five 5-gallon shrubs or ten 1-gallon shrubs per 1,000 square feet of area.
  - (3) One row of evergreen hedge at least four feet in height within two years of planting, or;  
A six-foot high fence or masonry wall providing a uniform sight-obscuring screen, or;  
An earth berm combined with a fence or evergreen hedge which forms a sight obscuring screen at least six feet in height. Plantings shall obtain the required height within two years of installation.
  - (4) The remaining area shall contain an attractive ground cover.
- (e) **Utilities:** All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, municipal water, electric and communication cables, including telephone and television cables. All utilities shall be located underground and there shall be no exposed radio or TV antenna. Easements shall be dedicated where necessary to provide service to all utilities. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.



**SECTION 9.717 DESIGN AND SUBMISSION REQUIREMENTS**

- (a) **Professional Design Team:** The applicant for a proposed Manufactured Dwelling Park shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.
- (b) **Site Plans Required:** The Conditional Use Application for a new or expansion of an existing Manufactured Dwelling Park shall be accompanied by 10 copies of the site plan of the proposed park containing the following information in addition to that required in **Section 9.204** for Application Site Plans. The plot plan shall show the general layout of the entire Park and shall be drawn to a scale not smaller than one inch representing 40 feet. The drawing shall include all of the following information:
- (1) Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.
  - (2) A vicinity plan showing streets and properties within 500 feet of the development site.
  - (3) Plot plan of park boundaries and the location, dimensions and number of Manufactured Dwelling spaces. Number each space and demonstrate that planned spaces can reasonably accommodate the proposed Manufactured Dwelling types.
  - (4) Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas. Heights shall not exceed the maximums specified for the zoning District.
  - (5) Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.
  - (6) Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
  - (7) Location of lighting fixtures for park spaces and grounds.
  - (8) Location and area of recreation spaces and buildings in square feet.
  - (9) Locations where park water, sewer, drainage and utility systems connect to City systems including easement locations.
  - (10) Location of existing and proposed fire and irrigation hydrants.
  - (11) Enlarged plot plan of a typical Manufactured Dwelling space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.
  - (12) Architectural drawings and sketches demonstrating the planning and character of the proposed development.

- (13) A construction time schedule and development phasing plan.
- (14) Detailed plans required. Prior to application for a building permit to construct an approved Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:
- A. A legal survey.
  - B. Plans of new structures.
  - C. Water, sewer and utility systems.
  - D. Utility easements.
  - E. Road, sidewalk, and patio construction.
  - F. Drainage system, including existing and proposed finished grades.
  - G. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.
  - H. Landscaping and irrigation plans.

**SECTIONS 9.718 through 9.719 reserved for expansion.**

#### ~~SECTION 9.720 — RESIDENTIAL STRUCTURES IN COMMERCIAL DISTRICTS~~

- ~~(a) — **Existing Houses:** In **commercial** districts pre-existing residential structures may be occupied by commercial uses permitted in the commercial district provided the structure meets minimum building and safety standards as provided in the Building Code and provided further that the City approves a development plan for vehicular access and parking, signing, and exterior lighting in accordance with the Site Plan Review provisions of **Section 9.250**.~~
- ~~(b) — **Second Story Residences:** Single family or Multi family housing may be permitted above or behind a **commercial** business in the C-1 and C-2 Districts in accordance with the Conditional Use provisions of **Section 9.251** and the standards contained herein. Setback and siting standards of the single-family or multi-family District shall apply when located behind the commercial business.~~
- ~~(1) — On-site Parking shall be provided for both the commercial and residential uses in accordance with **Section 9.514**.~~
- ~~(2) — There are no yard setbacks or open space required for second story residences.~~

#### **SECTION 9.721 PUBLIC & SEMI-PUBLIC STANDARDS**

Public and Semi-public uses represent a wide range of "Civic" use types that include utilities, public safety, maintenance, governmental, recreational, educational, cultural, religious, and civic assembly uses or facilities. Public and semi-public uses shall comply with the following additional standards in addition to the standards of the land use district in which the public use is located:

- (a) Public and Semi-public uses in residential districts may be permitted in accordance with the Conditional Use provisions of **Section 9.251** and the standards contained herein.
- (b) Public and Semi-public uses in **commercial** or industrial districts may be permitted in accordance with the Site Plan Review provisions of **Section 9.250** and the standards contained herein.
- (c) Requirements for front, rear, side and street side yards, for public uses shall not be less than that specified for the Primary or Overlay District unless specifically approved as part of the conditional use or site plan review procedures. Yard setbacks may be increased by one (1) foot for each foot by which the structure height exceeds that specified for the district.
- (d) Additional landscaping, fencing, buffers or other screening devices may be required to screen or protect adjacent properties or the street.
- (e) Off-street parking for the specified use shall comply with **Section 9.514**.
- (f) In a residential district, all equipment and material storage shall be within an enclosed building unless it is deemed necessary and approvable in accordance with the Conditional Use provisions of **Section 9.251**.
- (g) Exterior lighting shall be directed away from abutting residential properties in conformance with **Section 9.529**.
- (h) Offices and workshops should be located in the commercial or industrial districts whenever possible and should not be permitted in a residential district unless it is deemed necessary and approvable in accordance with the Conditional Use provisions of **Section 9.251**.
- (i) Public utility facilities including treatment, maintenance and storage areas should not be permitted in a residential or commercial district unless it is deemed necessary and approvable in accordance with the Conditional Use or Site Plan Review provisions of **Section 9.251 or Section 9.250**.
- (j) The minimum lot size requirement may be waived on finding that the waiver will not result in noise or other detrimental impacts to adjacent or nearby property.

## **SECTION 9.722                    AGRICULTURAL USE STANDARDS**

Limited agricultural use of property in the City is allowed under the following conditions and standards:

- (a) The raising of crops in the general field of horticulture including berry, brush, tree, flower and vegetables for on-site home consumption is allowed on any lot within the city, as long as such crops are controlled and don't become a nuisance to neighboring properties.

- (b) The raising of crops in the general field of horticulture including berry, brush, tree, flower and vegetables for sale is a Home Occupation Conditional Use in all residential districts.
- (c) The raising of pigs and roosters is not permitted within Lowell. The raising of other farm animals in the general field of animal is permitted within the Residential or Industrial Districts under the following conditions:
- (1) Fencing must be designed and constructed to confine all animals within the property line.
  - (2) A Setback of 100 feet from any off-site residence is required for all farm animal housing, feeding and watering facilities. Exception: fowl, rabbits and similarly sized animal require no additional setbacks.
  - (3) Proper sanitation shall be maintained in conformance with applicable health standards for all farm animals. Proper sanitation includes:
    - A. Not allowing animal waste to accumulate.
    - B. Not allowing animal waste to contaminate groundwater or drainageways.
    - C. Taking the necessary steps to ~~ensure~~ ~~insure~~ odors resulting from farm animals is not detectable beyond the property line.
    - D. Storing all farm animal food in metal or other rodent proof containers.
  - (4) Minimum area requirements include:
    - A. Minimum property area of 3 acres. Exception: fowl, rabbits and similarly sized animal require no additional lot area.
    - B. Minimum area per large size animal (Similar to cows or horses) over six months of age – one per every two acres.
    - C. Minimum area per medium size animal (Similar to sheep, goats or llamas) over six months of age – one per every one half acre.
    - D. No more than 10 fowl, rabbits or similarly sized animals may be maintained on each 20,000 sf of property or portion thereof.
  - (5) It is the responsibility of the applicant for a Conditional Use Permit to clearly demonstrate that proper health and sanitation standards will be maintained and that potential nuisance factors such as noise, smell and unsightly conditions are mitigated.
  - (6) Property owners wishing to maintain animals on smaller lots or exceed the maximum number of animals permitted may have those standards modified as a Conditional Use in accordance with **Section 9.251.**”
- (d) It is the continuing responsibility of the owner to properly contain or restrain all animals or fowl and to maintain proper sanitation at all times, and further provided that such raising activities are not part of nor conducted in conjunction with any live stock sales yard, slaughter house, or animal by-product business.

- (e) The above standards are the minimum standards applicable to property located within the City of Lowell, additional site area or other standards may be required to comply with Health and Sanitation Standards.

**SECTIONS 9.723 through 9.799 reserved for expansion.**

## **ARTICLE 9.8 IMPROVEMENT REQUIREMENTS AND STANDARDS**

### **SECTION 9.801 IMPROVEMENT PROCEDURES**

In addition to other requirements, public improvements and connections to public facilities installed by a developer or land divider shall conform to the requirements of this Code and all design standards and construction specifications of the City, and shall be installed in accordance with the following procedure. As used in this section, the terms developer and land divider includes the property owner. In the event that the persons making application for a land division or development are not the owner of record, a signed and notarized authorization must be provided by the owner, authorizing the applicant to act in his behalf.

- (a) Improvement work shall not be commenced until plans and specifications have been reviewed and approved by the City. To the extent necessary for evaluation of an Application, the plans may be required before approval of a Site Plan or land division Tentative Plan.
- (b) Improvement work shall not commence until after the City is notified, and if work is discontinued for more than 72 hours, for any reason other than inclement weather, it shall not be resumed until after the City is notified.
- (c) Improvements shall be constructed under the inspection of the City. The City may require changes in the design and construction in the public interest, or if unusual conditions arise during construction to warrant the change.
- (d) Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing, or resurfacing, of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be located to prevent the necessity for disturbing the street improvements when service connections are made.
- (e) "As-built" drawings and specifications of the installed public improvements shall be filed with the City upon completion of the improvements.
- (f) The City, by Resolution, shall establish a fee, as a percentage of construction costs for all off-site and on-site public improvements, for costs to the City associated with the design review, inspection and administration for construction of public improvements required under this Code. If after City design approval, design changes are made which require significant staff time for additional review, the City may require reimbursement of such costs.

**SECTION 9.802 SPECIFICATIONS FOR IMPROVEMENTS**

Design and construction standards have been adopted by the City of Lowell although they may not address each situation. The developer or land divider shall prepare and submit to the City for review and approval, plans and specifications in compliance with this Code and other applicable City ordinances. Where specific City standards are lacking, the plans and specifications shall comply with the intent of this Code based upon engineering standards appropriate for the improvements proposed. Specifications shall be prepared for the design and construction of all required public improvements and such other public facilities the developer installs.

**SECTION 9.803 REQUIRED PUBLIC IMPROVEMENTS**

Those standards and requirements for public improvements contained in Article 9.5, which are determined by the City to be applicable are required to be constructed unless specifically exempted or deferred as a part of the application approval and identified as such in the City's Notice of Decision. The City will not issue a building permit until all required improvements have been constructed and accepted by the City or appropriate security for construction is provided in accordance with **Section 9.806**.

**SECTION 9.804 PUBLIC USE DEDICATIONS**

- (a) Within or adjacent to a residential development, a parcel of land may be required to be set aside and dedicated to the public by the developer for park use in conformance with the Lowell Park Master Plan. If land is dedicated for park space, a Park SDC credit and/or reimbursement will be provided to the development if the dedication qualifies as meeting Park Capital Improvement Plan needs.
- (b) If the City or other public agency indicates it desires to acquire a portion of a proposed land division for a public purpose not already dedicated as a condition of approval, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the City may require that those portions of a land division be reserved for public acquisition

**SECTION 9.805 IMPROVEMENTS AGREEMENT**

Before City final approval of a development, site plan or land division, the developer or land divider shall file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer or land divider. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 9.801 (f)**.

**SECTION 9.806 SECURITY**

- (a) The developer or land divider shall file with the agreement, to assure full and faithful performance thereof, one of the following:
  - (1) A surety or performance bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney; or

- (2) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement to the satisfaction of the City Council; or
  - (3) A cash or negotiable security deposit.
- (b) Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections and other costs.
- (c) Prior to acceptance of required public improvements, the developer or land divider shall file one of the above listed assurances with the City, in an amount equal to 20% of actual construction costs, as a warranty towards defects in materials and workmanship identified for a period of no less than one year after City acceptance of the public improvements. The City may agree to a longer warranty period in lieu of the above required assurances.

#### **SECTION 9.807 NONCOMPLIANCE PROVISIONS**

- (a) If the developer or land divider fails to carry out provisions of the agreement, the City shall provide written notice to the developer or land divider and the surety specifying the details of noncompliance. Unless the City allows more time for compliance because of circumstances beyond the developer or land divider's control, within 30 days after receiving the notice, the developer or land divider or the surety shall commence compliance and proceed diligently to comply with the agreement.
- (b) If the developer or land divider or the surety does not begin compliance within the 30 days or the additional time allowed by the City, or compliance is not completed within the time specified in granting the land division approval, the City may take the following action:
- (1) Notify the developer or land divider and the surety of the developer or land divider's failure to perform as required by this Code and the agreement.
  - (2) Demand payment from the developer or land divider or the developer or land divider's surety for the unfulfilled obligation.
  - (3) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
  - (4) If the security for the obligation is a performance bond, notify the surety that reimbursement for City expenses for fulfillment of the obligation is due and payable to the City. If the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup City expenses.
  - (5) Void all approvals granted in reliance on the agreement.
- (c) If the bond or other required security is not sufficient to compensate the City for expenses incurred to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City upon the entire contiguous real property of the owner of the land subject to the obligation.

- (d) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer or land divider's failure to fulfill the required obligation.
- (e) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
- (f) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the City to pursue any civil remedy permitted by law.

### **SECTION 9.808 DESIGN AND CONSTRUCTION STANDARDS**

The City of Lowell has adopted the public improvement design and construction standards for public improvements contained in the current editions of the following:

- (a) City of Lowell Standards for Public Improvements.
- (b) City of Lowell Public Works Construction Standards, consisting of:
  - (1) Vol. I, Technical Specifications for Public Works Construction, and
  - (2) Vol. II, Standard Details.

### **SECTION 9.809 MODIFICATIONS PERMITTED**

The City Administrator is authorized to approve modifications to the adopted design and construction standards of the City of Lowell. Any modification that is made under this authorization must be upon the recommendation or in consultation with the City Engineer. Such modifications may be initiated by the City Engineer or be made upon written request from a developer or contractor designing and/or constructing public improvements within the City of Lowell. Such modifications may be improved on a one-time basis only. Permanent modifications require the further approval of the City Council.

- (a) **One-time Modifications:** The City Administrator may approve one-time modifications for a particular public improvement upon written request if, after consultation with the City Engineer, it is determined that the requested modification would not adversely impact safety, life span and/or maintenance and repair requirements of the improvement.
- (b) **Permanent Modifications:** If a particular construction standard or specification requirement is no longer appropriate as established in the adopted construction standards, the City Engineer and/or the City Administrator may recommend a permanent modification to the standard. Permanent modifications will be adopted by Resolution by the City Council and become a part of the City's adopted design and construction standards.

### **SECTION 9.810 APPLICABILITY OF LANE COUNTY STANDARDS**

For public improvements that are constructed within the public rights-of-way owned and controlled by Lane County, coordination is required with Lane County Public Works Department



and the required Lane County permits must be obtained. In the event of a conflict between the City of Lowell's adopted design and construction standards with those of Lane County, Lane County standards will take precedence unless jointly agreed upon otherwise by the Lane County Public Works Department and the City Engineer for the City of Lowell.

## **SECTION 9.110 through 9.189 Reserved for Expansion**

### **SECTION 9.190 DEFINITIONS**

(a) **Rules of Construction.** The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this Code:

- (1) **Tense:** Words used in the present tense include the future tense.
- (2) **Number:** Words used in the singular include the plural, and words used in the plural include the singular.
- (3) **Shall and May:** The word "shall" is mandatory; the word "may" is permissive.
- (4) **Gender:** The gender may include the feminine, masculine and neuter which can mean any of those forms.
- (5) **Headings:** If there is any conflict or inconsistency between the heading of an article, section or paragraph of this Code and the context thereof, the said heading shall not be deemed to affect the scope, meaning or intent of such context.

(b) **Definitions.** The words and phrases used in this Code shall have the following meaning:

**ABUT:** Contiguous to or immediately joined. For example, two lots with a common property line are considered to be abutting.

**ACCESS:** The way or means by which pedestrians, bicycles, and vehicles shall have safe, adequate and usable ingress and egress to property.

**ACCESS MANAGEMENT:** Regulation of access to streets, roads, and highways from abutting property, public and private roads and driveways.

**ACCESSWAY:** A right-of-way or easement, not located within a street right-of-way, that provides a space for pedestrian and / or bicycle passage.

**ACCESSORY DWELLING UNIT (ADU): Means an interior, attached, converted, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.**

**ACCESSORY STRUCTURE OR ACCESSORY USE:** A structure or use incidental, appropriate and subordinate to the main use of property and located on the same lot as the main use.

**ADVERSE IMPACT:** An impact that is detrimental to or contrary to the desired effect or so opposed as to cause harmful interference. A negative effect that is detrimental to the public welfare or injurious to people, property or the community environment.

**ALLEY:** A public way which affords only a secondary means of access to property.

**ALTERATION:** Any change, addition or modification in construction or occupancy.

**BASEMENT:** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average level of the adjoining ground.

**BED and BREAKFAST:** A dwelling where travelers are lodged for sleeping and dining purposes under the provisions of local or state law governing such facilities.

**BIKEWAY:** The general term for the four basic types of bikeways:

- (a) **Bikes lanes** are paved 5 to 6-foot wide designated lanes adjacent to (vehicle) travel lanes.
- (b) **Shoulder Bikeways** are where bicyclists travel within the roadway's paved shoulder. Typically, shoulder bikeways are four to six feet in width.
- (c) **Shared Roadways** are roadways where bicyclists and motor vehicles share the travel lane.
- (d) **Multi-Use Paths** are separated from vehicular traffic. They are two-way pathways about 10 feet wide used by pedestrians, bicyclists and joggers.

**BOARDING AND/OR ROOMING HOUSE:** A building where lodging, with or without meals, is provided for compensation, but shall not include Homes for the Aged, Nursing Homes or Group Care Homes.

**BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING HEIGHT:** The vertical distance from the average adjacent building grade to the highest point of the roof.

**BUILDING INSPECTOR:** An individual with duties and authority to enforce all building codes and the provisions of this Code in accordance with Section 9.209, Building Permits.

**BUILDING LINE:** A line on a plat or map indicating the limit, beyond which buildings or structures may not be erected. Also referred to as the Setback line, the area between the building or setback line and the property line is referred to as the "yard."

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

**CITY:** The City of Lowell, Oregon.

**CLINIC:** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a dispensary in each such building to handle only merchandise of a nature customarily prescribed by occupants in connection with their practices.

**CLINIC, SMALL ANIMAL:** A business establishment in which veterinary services are rendered to small domestic pets on an out-patient.

**CLUB:** A facility owned or operated for a social, educational, or recreational purpose, to which

membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

**COMMUNITY CENTER:** A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the neighborhood in which the facility is located or to any resident of the City or surrounding area, provided that the primary purpose of the facility is for assembly, and provided further that no permanent or temporary commercial eating or drinking facilities shall be operated on the premises.

**COMMUNITY SEPTIC SYSTEM:** A sewage treatment and disposal system serving two or more dwelling units.

**COMPREHENSIVE PLAN:** A city plan for the guidance of growth and improvement of the City, including modifications or refinements which may be made from time to time.

**COUNCIL:** The City Council of the City of Lowell, Oregon, which is the governing body of said City.

**DAY NURSERY/DAY CARE CENTER:** Any institution, establishment or place, including nursery schools or private kindergartens, in which children are commonly cared for.

**DECIDING AUTHORITY:** The City Administrator, City Planning Commission or City Council, which ever is responsible for making a decision on an application.

**DEVELOPMENT:** Means any physical change to improved or unimproved real estate, including but not limited to, improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, land clearing, grading, paving, excavation, or drilling operations, but not including maintenance such as grass mowing or planting, vegetation control, removal of noxious plants or non-native vegetation, tree thinning for fire control or diseases, and removal of dangerous trees or materials.

**DRAINAGEWAY:** Means a constructed or natural channel or depression that may at any time collect and convey water. A drainageway and its drainage reserve function together to manage flow rate, volume, and water quality. A drainageway may be permanently or temporarily inundated. In addition, any water course as seen on the City's most recent Local Wetlands Inventory map shall be considered a drainageway.

**DLCD:** Department of Land Conservation and Development.

**DWELLING** A building or portion thereof, which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one (1) or more families.

**DWELLING, MULTI-FAMILY (~~APARTMENT~~):** A building or portion thereof designated for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY:** A detached building, other than a recreational vehicle, designed for and occupied by not more than one family.

**DWELLING, TWO-FAMILY (DUPLEX):** A detached building designed for and occupied by not more than two (2) families living independently of each other.

**DWELLING UNIT:** A single unit providing complete independent living facilities, designed for occupancy by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT:** A grant of the right to land for specific purposes without ownership.

**FAÇADE TRANSPARENCY:** The side of a building that faces a public street having clear glass. Clear glass shall be glass that allows the transfer to light through it and can be seen through. This definition also includes Fenestration.

**FACT:** Something that has actual existence, an actual occurrence or a piece of information presented as having objective reality. In the Land Use Hearing Process, facts are the information submitted as evidence that is relied upon in making a decision on a land use issue. The justification for the decision shall be based on the criteria, standards and facts set forth in the hearing.

**FENCE, SIGHT-OBSCURING:** A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

**FLOOR AREA:** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

**GARAGE, PRIVATE:** A fully enclosed detached accessory building or a fully enclosed portion of the main building for the parking of automobiles of the occupants of the premises.

**GARAGE, PUBLIC:** A building other than a private garage used for the care, repair, parking or storage of automobiles.

**GRADE (GROUND LEVEL):** The average elevation of the finished ground level at the centers of all walls of a building.

**HOME OCCUPATION:** A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence provided the use does not alter the character of the dwelling, there is no exterior display of stock and no employees other than family members.

**HOTEL/MOTEL:** A building or group of buildings used for transient lodging containing more than 5 guest rooms without guest room cooking facilities used primarily for sleeping purposes. On-site restaurant facilities may also be provided.

**LCDC:** Land Conservation and Development Commission.

**LOADING SPACE:** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**LOT CONSOLIDATION:** The legal incorporation of two or more existing lots or parcels of land

to form a single, larger property.

**LOT (PARCEL):** A unit of land that is created by a legal division of land.

**LOT (THROUGH):** A lot that has frontage on two streets, and where the lot frontages do not intersect.

**MANUFACTURED DWELLING:** A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling and is not designated as a "recreational vehicle" or prefabricated structure as defined by the State or Oregon.

**NEIGHBORHOOD ACTIVITY CENTERS:** Schools, parks, and other like sites.

**NONCONFORMING STRUCTURE LOT OR USE:** A lawful existing structure, lot, or use, at the time this Code, or any amendment thereto, becomes effective which does not conform to the standards of the zone or district in which it is located.

**OCCUPANCY:** The purpose for which a building, or part of a building, is used or intended to be used.

**OWNER:** An individual, association, partnership, or corporation having legal or equitable title to land, other than legal title held for purpose of security only.

**PARCEL:** See LOT.

**PARKING SPACE:** An off-street enclosed or unenclosed surfaced area of not less than 180 square feet, not less 8 feet wide and 18 feet in length, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

**PARTITION:** Either an act of partitioning land or an area or tract of land partitioned.

**PARTITION LAND:** To divide land into two or three parcels of land within a calendar year, but does not include:

- (a) A divisions of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning Code.
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan.

**PEDESTRIAN CONNECTION:** A continuous, unobstructed, reasonably direct route intended and suitable for pedestrian use between two points. Pedestrian connections include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges.

**PEDESTRIAN WAY:** A right-of-way for pedestrian traffic.

**PLANNING COMMISSION:** The Planning Commission of the City of Lowell.

**PLAT:** A final subdivision plat, replat or partition plat.

- (a) **Partition Plat:** A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
- (b) **Subdivision Plat:** A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.
- (c) **Replat:** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**PROFESSIONAL OFFICE:** An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

**PROPERTY:** A lot or parcel, or a single unit of land which, at the time of application for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

- (a) **Corner Property:** A lot or parcel at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135°.
- (b) **Through Property:** A lot or parcel having frontage on two parallel or approximately parallel streets other than alleys.
- (c) **Panhandle Property:** A lot or parcel which has access to a right-of-way by means of a narrow strip of land which is part of that parcel.

**PROPERTY LINE:** The legal boundary of a lot or parcel. The division line between two units of land.

- (a) **Front Property Line:** The lot or parcel line separating the property from a street other than an alley, and in the case of a corner property, the shortest property line along a street other than an alley.
- (b) **Rear Property Line:** The lot or parcel line which is opposite and most distant from the front property line.
- (c) **Side Property Line:** Any lot or parcel line not a front or rear property line.

**PROPERTY WIDTH:** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

**PROPERTY LINE ADJUSTMENT:** The relocation of a common property line between two abutting properties.

**PUBLIC AND SEMI-PUBLIC BUILDING OR USE:** A building or use, owned or operated by a religious, charitable, or other nonprofit organization; a public utility; or any social agency such as a church, school, auditorium, meeting hall, library, art gallery, museum, fire station, cemetery, park, playground, community center or similar use.

**REQUIRED BUILD TO LINE (RBL):** Means a set building line on a lot, measured parallel from the front and/or corner side lot line, where the structure must be located. Façade articulation, such as window or wall recesses and projections are not counted as the building façade line, which begins at the applicable façade wall.

**RIGHT-OF-WAY:** A continuous strip of land between property lines allowing a right of passage usually containing a street, railroad or other passageway.

**ROADWAY:** The portion of a street right-of-way developed for vehicular traffic.

**SALE OR SELL:** Every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

**SERVICE STATION, AUTOMOBILE:** A place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

**SEWAGE DISPOSAL SYSTEM:** Any approved method of sewage treatment including but not limited to a municipal system, septic tank and drainfield and sand filter systems.

**SETBACK:** A line within a property boundary defining a locational limit for buildings, 9.511s or other defined uses that creates an area or yard between the property line and the setback line.

**SIDEWALK:** A pedestrian walkway with permanent surfacing.

**SIGN:** Any medium including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes or identification.

**SINGLE-FAMILY ATTACHED:** Means a dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on an adjacent lot. Single-Family Attached shall also be considered to be a “rowhouse,” “attached house,” “townhouse,” or “common-wall house.”

**STORY:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling above. (See basement).

**STREET OR ROAD:** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road," "highway," "lane," "drive" "avenue," "alley" or similar designations.

- (a) **Arterial:** A street of considerable continuity which is primarily a traffic artery for interconnection between large areas.
- (b) **Collector:** A street supplementary to the arterial street system and a means of interconnection between arterials; used for through traffic and access to small areas.
- (c) **Minor street:** A street intended primarily for access to abutting properties.
- (d) **Cul-de-sac:** A short dead-end street terminated by a vehicular turnaround.
- (e) **Half street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.
- (f) **Limited access street:** A means of access to property that is limited by law for public roads or by posting by an owner for private roads.

**STRUCTURAL ALTERATION:** Any change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders or structural change in the roof or in the exterior walls.

**STRUCTURE:** That which is built or constructed, an edifice or building of any kind, or any physical work built up of parts joined together in some definite manner.

**SUBDIVIDE LAND:** To divide an area or tract of land into four or more lots within a calendar year.

**SUBDIVISION:** Either an act of subdividing land or an area or tract of land subdivided.

**TENTATIVE PLAN:** A tentative plan is the application, supplemental data and map showing the general design of the proposed subdivision or partition, submitted to the City for approval under the provisions of ORS 92 and **Section 9.220** of the Lowell Land Development Code.

**USE:** The purpose for which land or a structure is designed, arranged or intended or for which it is occupied and maintained.

**YARD:**

- (a) **Exterior Yard** A yard area abutting a street right-of-way created by a setback line.
- (b) **Interior Yard** A yard area adjacent to a property line created by a setback line that may be either a side yard or rear yard abutting another property.
- (c) **Rear Yard** An interior yard opposite the Front Yard.
- (d) **Front Yard** An exterior yard facing a street. For corner lots the smallest street facing dimension shall be the front of the property.
- (e) **Street Side Yard:** The yard of a corner lot not designated the Front Yard.

**ZERO PROPERTY LINE:** A lot or parcel line having no setback therefrom and may equally divide a common wall in a building.



~~SECTION 9.191 through 9.199 Reserved for Expansion.~~