

City of Lowell
Planning Commission
Regular Meeting Agenda
Wednesday, January 4, 2023 at 7:00 p.m.

Lowell Fire Department
389 N Pioneer St
Lowell, OR 97452

Members of the public are encouraged to provide comment or testimony through the following:

- Joining by phone, tablet, or personal computer. For details, click on the event at www.ci.lowell.or.us.
- In writing, by using the drop box at Lowell City Hall, 107 East Third Street,
- Lowell, OR 97452.
- By email to: admin@ci.lowell.or.us.

Meeting Agenda

Call to Order/Roll Call/Pledge of Allegiance

Commissioners: Dragt ___ Kintzley ___ Hall ___ Pickett ___ George ___

Approval of Agenda

Approval of Minutes

- Approval of the September 7, 2022 meeting minutes
- Approval of the November 2, 2022 meeting minutes
- Approval of the November 16, 2022 meeting minutes
- Approval of the December 7, 2022 meeting minutes

Old Business

New Business

1. Review and make recommendations to City Council on proposed Ordinance 309, "An Ordinance Adopting Text Amendments to Lowell's Development Code and Text Amendments to Lowell's Comprehensive Plan Codifying the Lowell Downtown Master Plan." – Discussion/ Possible action
 - a. The public hearing is now open at ___ (state time)
 - b. Staff report – Jacob Callister, Principal Planner, Lane Council of Governments
 - c. Public comment
 - d. The public hearing is now closed at ___ (state time)
 - e. Vote on Planning Commission recommendation to City Council on Ordinance 309

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or other accommodations for persons with disabilities must be made at least 48 hours before the meeting to City Clerk Sam Dragt at 541-937-2157.

2. Review and make recommendations to City Council on proposed Ordinance 310, “An Ordinance Approving the Rezoning of Properties Contained within the Boundaries of the Regulating Plan, Adopting a New Zoning and Comprehensive Plan Map, and a Revised Regulating Plan Map.”
 - Discussion/ Possible action
 - a. The public hearing is now open at ____ (state time)
 - b. Staff report – Jacob Callister, Principal Planner, Lane Council of Governments
 - c. Public comment
 - d. The public hearing is now closed at ____ (state time)
 - e. Vote on Planning Commission recommendation to City Council on Ordinance 310

3. Refresher training on the standards and criteria on which to base land use decisions (15 minutes) – Discussion
Commission sponsor: Lon Dragt

Other Business

Adjourn

**City of Lowell, Oregon
Minutes of the Planning Commission Meeting
September 7, 2022**

The meeting was called to order at 7:00 PM by Commissioner Chair Dragt.

Members Present: Lon Dragt, Suzanne Kintzley, William Priser

Members Absent: Mary Wallace

Staff Present: CA Jeremy Caudle, City Planner Henry Hearley LCOG

Approval of the Agenda: Commissioner Kintzley moved to approve, second by Commissioner Priser. PASS 3:0

Approval of Minutes: Commissioner Kintzley moved to approve the minutes from March 3, 2022, second by Commissioner Priser. PASS 3:0

New Business:

Land Use application #2022-02 – Review and render a decision on “Mixed-use development on North Shore (Phase 1).”

Open Public Hearing: 7:01 PM

Staff Report – Henry Hearley City Planner, LCOG, presented report, Mixed-use development on North Shore (Phase 1).”. With 15 recommended conditions of approval.

Public Testimony – none

Close Public Meeting: 7:40 PM

Commission Deliberation: Commissioner Kintzley made a motion to continue the hearing for Land Use application #2022-02 “Mixed-use development on North Shore (Phase 1) until November 2, 2022, at which time they will come back to review the additional items submitted by the applicant. The planning commission is requesting an exterior lighting plan, a landscaping plan, a grading plan, and an updated site plan that shows off street parking. All plans should be in conformance with the Lowell development code standards. The planning commission will reconvene on November 2, 2022, to review the full plans and issue a determination. Seconded by Commissioner Priser. PASS 3:0

Open Public Hearing: 8:11 PM

Land Use application #2022-07, “Paul Fisher Park/City Hall partition – city property

Staff Report – Henry Hearley City Planner, LCOG, presented report, 2022-07, ““Paul Fisher Park/City Hall partition - city property.” With two conditions of approval.

Public Testimony – Hall O’Regan- 62 E 3rd Street Lowell, he is concerned with the future plans for the property

Public Hearing Closed: 8:09 PM

Commission Deliberation: Commissioner Kintzley made a motion approve the application #2022-07, “Paul Fisher Park/City Hall partition – city property based on the standards, findings, and recommendations stated in the staff report. Seconded by Commissioner Priser. PASS 3:0

Open Public Hearing: 8:11 PM

Land Use application # 2022-08, “Rolling Rock Park partition - city property.”

Staff Report – Henry Hearley City Planner, LCOG, presented report, 2022-08, “Rolling Rock Park partition - city property.”

Public Testimony: Jerry Valencia – Wondering what the use for the parcel will be used for and questioned the parking situation.

Public Hearing Closed: 8:17 PM

Commission Deliberation: Commissioner Kintzley made a motion approve the application #2022-08, “Rolling Rock Park partition - city property, based on the standards, findings, and recommendations stated in the staff report. Seconded by Commissioner Priser. PASS 3:0

Reconvene Public Meeting: 8:20 PM

Other Business: None

Adjourn: 8:21 PM

Approved: _____
Lon Dragt - Chair

Date: _____

Attest: _____
Jeremy Caudle, City Recorder

Date: _____

**City of Lowell, Oregon
Minutes of the Planning Commission Meeting
November 2, 2022**

The meeting was called to order at 7:00 PM by Commissioner Chair Dragt.

Members Present: Lon Dragt, Suzanne Kintzley, Jason Pickett, Bill George

Members Absent: Lloyd Hall

Staff Present: CA Jeremy Caudle, City Planner Henry Hearley LCOG

Approval of the Agenda: Commissioner Kintzley moved to approve, second by Commissioner Pickett. PASS 4:0

Approval of Minutes: Commissioner Kintzley moved to approve the minutes from September 7, 2022, second by Commissioner Pickett. PASS 4:0

Old Business:

- **Public Hearing regarding reconsideration of Land Use file #2022-02, “Mixed-use development on North Shore (Phase 1).”**

Open Public Hearing: 7:02 PM

Staff Report – Henry Hearley City Planner, LCOG, presented report, Mixed-use development on North Shore (Phase 1).” With recommended conditions of approval.

Commissioner questions:

- Commissioner George inquired about any issues from the property’s previous vehicle storage and any contamination possibility. City Planner spoke about a previous study that was approved
- CA Caudle asked for clarification about the City’s recoument of the costs for the improvements done in the Lowell right-of-way. City Planner Hearley offered to make this a condition of approval as item #15
- Commissioner Kintzley had a question about the condition stating that prior to the issuance of the Certificate of Occupancy there are still items that need to be completed. Commissioner Dragt clarified that the planning commissions duty is to say that they can or cannot build, the City is responsible for any other condition resolutions.

Public Testimony – none

Close Public Meeting: 7:18 PM

Reconvene Public Meeting: 7:18 PM

Commission Deliberation: Commissioner Kintzley made a motion to approve Land Use application #2022-02 “Mixed-use development on North Shore (Phase 1) based on the standards, findings, and recommendations stated in the staff report and with addition of Condition number 15. Seconded by Commissioner Pickett PASS 4:0

New Business: none

Other Business: None

Adjourn: 7:23 PM

Approved: _____
Lon Dragt - Chair

Date: _____

Attest: _____
Jeremy Caudle, City Recorder

Date: _____

**City of Lowell, Oregon
Minutes of the Planning Commission Meeting
November 16, 2022**

The meeting was called to order at 7:00 PM by Commissioner Chair Dragt.

Members Present: Lon Dragt, Bill George, Jason Pickett, Lloyd Hall, Suzanne Kintzley

Members Absent:

Staff Present: CA Jeremy Caudle, City Planner Henry Hearley LCOG

Approval of the Agenda: Commissioner Kintzley moved to approve, second by Commissioner Pickett. PASS 5:0

New Business:

Land Use application #2022-01 – Review and render a decision on “Dollar General zone change application - Assessor’s Map 19- 01-11-33, Tax Lot 06502”

Land Use application #2022-04 – Review and render a decision on “Partition application for Dollar General/Multiple-family Development zone change application - Assessor’s Map 19- 01-11-33, Tax Lot 06502”

Land Use application #2022-06 – Review and render a decision on “Site plan review for Dollar General retail store and townhome multi-family residential development- Assessor’s Map 19- 01-11-33, Tax Lot 06502”

Open Public Hearing: 7:02 PM

Staff Report – Henry Hearley City Planner, LCOG, presented report, LU 2022 001 - Dollar General zone change application, LU2022-04 - Partition application for Dollar General/Multiple-family Development zone change application, LU2022-06 - Site plan review for Dollar General retail store and townhome multi-family residential development. Stating that the City received a request from the applicant that the hearing be continued until the February 1, 2023, Planning commission meeting.

Public Testimony – none

Commission Deliberation: Commissioner George made a motion for the continuance of the Land Use application #2022-01 –on “Dollar General zone change application - Assessor’s Map 19- 01-11-33, Tax Lot 06502”. Land Use application #2022-04 –on “Partition application for Dollar General/Multiple-family Development zone change application - Assessor’s Map 19- 01-11-33, Tax Lot 06502”. Land Use application #2022-06 –on “Site plan review for Dollar General retail store and townhome multi-family residential development- Assessor’s Map 19- 01-11-33, Tax Lot 06502”. Seconded by Commissioner Hall. PASS 5:0

Public Hearing continued until February 1, 2023

Reconvene Public Meeting: 7:07PM

Other Business: None

Adjourn: 7:07 PM

Approved: _____
Lon Dragt - Chair

Date: _____

Attest: _____
Jeremy Caudle, City Recorder

Date: _____

**City of Lowell, Oregon
Minutes of the Planning Commission Meeting
December 7, 2022**

The meeting was called to order at 7:00 PM by Commissioner Chair Dragt.

Members Present: Lon Dragt, Bill George, Jason Pickett, Lloyd Hall, Suzanne Kintzley

Members Absent:

Staff Present: CA Jeremy Caudle, City Planner Henry Hearley LCOG

Approval of the Agenda: Commissioner Kintzley moved to approve, second by Commissioner George. PASS 5:0

Approval of Minutes: Commissioner Kintzley moved to approve the minutes from November 2, 2022, second by Commissioner Hall. PASS 5:0

New Business:

Land Use application #2022-05 – Review and render a decision on Lowell High School Gym/Classroom Expansion. 19-01-14-23-08100

Open Public Hearing: 7:02 PM

**Commissioner Pickett stated that he was the applicant and will recuse himself from the vote
Commissioner Kintzley stated that she is a member of the Lowell School Board**

Staff Report – Henry Hearley City Planner, LCOG, presented report, Lowell High School Gym/Classroom Expansion LU 2022 05. With 5 recommended conditions of approval.

Public Testimony – none

Close Public Meeting: 7:11 PM

Reconvene Public Meeting: 7:11 PM

Commission Deliberation: Commissioner George made a motion to approve Land Use application #2022-05 “Lowell High School Gym and Classroom Expansion, map and tax lot #19-01-14-23-08100.”. Seconded by Commissioner Hall. PASS 5:0

Other Business: None

Adjourn: 7:12 PM

Approved: _____
Lon Dragt - Chair

Date: _____

Attest: _____
Jeremy Caudle, City Recorder

Date: _____

EXHIBIT A
FINDINGS OF FACT
ADOPTION OF TEXT AMENDMENTS TO LOWELL DEVELOPMENT CODE;
ADOPTION OF TEXT AMENDMENTS TO LOWELL COMPREHENSIVE PLAN;
ADOPTION OF NEW ZONE/PLAN MAP; ADOPTION OF REVISED REGULATING PLAN; AND
REZONE OF CERTAIN PROPERTIES

I. BACKGROUND

The proposed code amendments to Lowell’s Development Code codify elements of the Downtown Master Plan, which was adopted in 2019 by the City Council. One of the first recommendations and actions from the Downtown Master Plan was for the City to undertake an update to its Development Code. With the assistance from the State of Oregon’s Transportation Growth Management (TGM) Program, the City officially began the process of updating its Development Code in the summer of 2020. Throughout the two-year process, the proposed amendments were guided by a Code Committee. The Code Committee was formed of local residents, business owners, and sitting Planning Commissioners. Routinely, the City and consultant would present concepts and draft amendments to the Code Committee at in-person and remote meetings. The Code Committee provided vital feedback and direction on the proposed amendments. The City also held two Community Open Houses in which the public was invited to presentations put on by the consultant and were offered an opportunity to review and provide detailed feedback on the proposed amendments. The second Community Open House was very well attended with about 30 individuals attending, including several City Council members and numerous stakeholders of the community. A complete listing of the public’s involvement and meetings that were held with respect to this project is provided for below in **Section II**.

The City’s efforts to update its Development Code involve more than just updating the text of the Development Code. Included in this project are amendments to the Comprehensive Plan to introduce a revised Downtown Master Plan Regulating Plan, as well as amendments to Lowell’s Zoning Map to implement the Regulating Plan.

The proposed amendments to Lowell’s Development Code codify the Downtown Master Plan and codify the development standards for each zone contained in the Regulating Plan.

In addition to implementation of the Downtown Master Plan, the City also requested support to perform some other updates to its Development Code. These updates include proposed reduction of minimum lot sizes in all residential zones, implementation of a “types” based land use application system, expansion of the types of permitted dwelling types in all residential zones, and general housekeeping to make the code consistent with changing state laws, and clearer.

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These findings will address the following proposed land use actions:

- Adoption of text amendments to the Lowell Development Code;
- Adoption of text amendments to the Lowell Comprehensive Plan;
- Adoption of new Zoning Districts and Comprehensive Plan Map (the rezoning of properties contained within the boundaries of the Regulating Plan); and
- Adoption of a revised Downtown Master Plan Regulating Plan.

The above-mentioned actions will all be adopted by ordinance to be passed by the City Council and will follow the legislative decision process.

II. PUBLIC PARTICIPATION PROCESS

As alluded to in Section I, the proposed code amendments were part of a two-year long process, with which the public and community was regularly engaged. This section enumerates the several public, Code Committee and decision maker meetings and hearings that were held before formal adoption of the amendments were made final.

- *August 25, 2020, community site visit and walking tour with key community members and members of the Economic Development Committee;*
- *December 14, 2020, Code Committee Meeting #1;*
- *January 27, 2021, Community Meeting #1;*
- *March 3, 2021, Planning Commission Work Session;*
- *July 18, 2022, Code Committee Meeting #2;*
- *September 27, 2022, Community Open House Meeting #2;*
- *October 18, 2022, Joint Planning Commission and City Council work session;*
- *January 4, 2023, Planning Commission Public Hearing on proposed amendments; and*
- *January 17, 2023, City Council Public Hearing final action on proposed amendments and first reading of adopting ordinances; and*
- *February 7, 2023, second reading of adopting ordinances.*

Notice of all the proposed amendments, and the public hearings, was published in the Register Guard newspaper on December 6, 2022. Additionally, on December 8, 2022, notice was mailed to all property owners who owned property within the boundaries of the Regulating Plan, and thus would have their property's zoning designation changed, consistent with the Regulating Plan. Further, notice of the proposed amendments, and public hearings was included in the City's monthly utility billing that went out to all ratepayers in Lowell.

III. STAFF REVIEW OF APPLICABLE APPROVAL CRITERIA

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Criteria from the Lowell Development Code and Lowell Comprehensive Plan appear as **bold italic** text in these findings.

Section 9.253 Amendments. It is recognized that this Code or the Lowell Comprehensive Plan may require amendments to adjust changing circumstances. An amendment may require either, a Legislative Decision as defined in Section 9.303(b) or a Quasi-judicial 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 and a Zoning Districts Map, therefore a zone change map amendment is an amendment to the Lowell Comprehensive Plan and the Lowell Development Code.

(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.

FINDING: To address approval criterion #1, staff turn to a review and discussion of relevant policies, goals and provisions of the Lowell Comprehensive Plan.

Section 9.914(d) Plan Amendments and Local Plan Changes, Plan Amendments and Local Plan Changes.

Plan Amendments should be made as needed to maintain the Plan as an up-to-date guideline for urban development in Lowell. Section 9.253 of the Land Development Code provides the procedures for Code or Plan Amendments.

FINDING: Section 9.914(d) of the Lowell Comprehensive Plan envisions future revisions and amendments will be necessary to keep the Plan up-to-date and remain a guideline for development in Lowell. The proposed code amendments, and associated zone changes have been developed to address community needs as directed by community requests and feedback. The revisions are necessary to maintain the Plan and guide growth and development in Lowell.

A complete Plan review should also be performed at least once every five years to determine if major revisions to the Plan or Code are necessary. A public notice should be issued if it is

determined that amendments are needed.

FINDING: The primary impetus for the proposed code amendments, and associated zone changes, was the City's review of its Downtown District, which resulted in the City seeking funding for, and ultimately adopting, a Downtown Master Plan. The next logical step, following formal adoption of the Downtown Master Plan was to amend the Development Code to fully implement and codify the recommendations of the Downtown Master Plan. As part of the adoption and hearings process for the amendments, the City has duly noticed affected property owners and the public at-large through mailing, posting, and publishing of notices.

Plan Amendments include text or land use map changes that have widespread and significant impact within the community.

FINDING: The proposed amendments include text amendments to the Development Code, Comprehensive Plan, and the zoning districts/Comprehensive Plan map. These amendments have widespread impact within the community.

The Comprehensive Plan or Land Development Code should be revised as community needs change or when development occurs at a different rate than contemplated by the Plan. Major revisions should not be made more frequently than every five years unless changing conditions warrant this significant action.

Local Plan Changes do not have significant effect beyond an immediate area, such as a request for a Land Use District or Zone Change affecting a single ownership. Local Plan Changes do not represent a policy change relative to the community as a whole. The need and justification for the proposed change should be clearly established. Local changes should be made as needed to maintain the Plan as an up-to-date guideline for community growth and development.

Major Amendments and Local Changes to the Plan or Code must be adopted by the City Council following a recommendation by the Planning Commission based upon citizen involvement, and coordination with other governmental units and agencies. Citizens in the area and affected governmental units will be given an opportunity to review and comment prior to any proposed Plan or Code change.

FINDING: The proposed amendments are major amendments because they affect more than a single area or property owner. The major amendments will be reviewed by the Planning Commission at a public hearing. The Planning Commission will make a recommendation to the City of Lowell

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City Council for final approval. The citizens of Lowell will have an opportunity to review and comment on any proposed amendments, prior to final approval and adoption.

Section 9.914(j) Zoning and the Comprehensive Plan, Plan Amendments and Local Plan Changes.

The Comprehensive Plan, while a guide for zoning actions, is not a zoning regulation. Zoning regulations are detailed pieces of legislation that are intended to implement the proposals of the Comprehensive Plan by providing specific standards for use of land in various districts within the community.

It is important that zone change proposals be considered in relation to the policies and aims of the Comprehensive Plan. Amendments to the Zoning provisions of this Code that are consistent with the Comprehensive Plan can proceed as provided in the Code. However, zoning amendments that are contrary to the intent of the Comprehensive Plan should be reviewed first as a potential Plan change. If the zoning amendment is deemed in the public interest, then the Comprehensive Plan should be so amended before action on the zoning amendment proceeds. This procedure should guarantee essential coordination between the two planning instruments.

The City of Lowell has prepared a Land Use Development Code in conformance with the City's Comprehensive Plan and has incorporated the Plan therein to facilitate coordinated decision- making.

To further facilitate coordinated planning efforts, the Zoning Map and the Comprehensive Map have been combined into a single Land Use District Map.

FINDING: The amendments to the text of the Comprehensive Plan are limited and surgical in nature. The scope of work established between the City of Lowell and DLCDC limits amendments to the Comprehensive Plan to those necessary to effectively implement a discrete list of amendments including the addition of the five new zoning districts being proposed, as seen on the Regulating Plan. The new zoning districts are:

- Downtown Flex-Use 1;
- Downtown Flex-Use 2;
- Downtown Residential Attached;
- Downtown Residential Detached; and
- Public Lands – Downtown.

The “Greenspace/Parks” area seen on the Regulating Plan will remain Rolling Rock Park and will not have adopted zoning or building standards for its use. The use, look and feel of Rolling Rock Park is controlled by the Lowell Parks and Open Space Master Plan, and the authority for how it

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is developed will remain with the residents of Lowell, City Administrator and the decision-making bodies of Lowell. It is important to note that Lowell utilizes a singular Zoning Map and Comprehensive Plan Map – they are one in the same. An amendment to the Zoning Map is also an amendment to the Comprehensive Plan map. Concurrent with the adoption of the proposed code amendments, the City is also amending its Zoning Districts and Comprehensive Plan Map to reflect inclusion of the new zoning districts, consistent with the Regulating Plan.

Lastly, the zoning district of “Downtown-Commercial (C-2)” is proposed to be removed entirely as a functional zoning district. This is because the lands that were once within the C-2 zoning district will now be rezoned to either Flex-Use 1 or Flex-Use 2. The uses that were permitted in the C-2 zone will remain permitted uses in the Flex-Use zones; the Flex-Use zones will allow a broader range of uses than the C-2 zoning district. Lowell’s other commercial zoning district, “General Commercial (C-1)” will continue as a zoning district, and the development standards of the C-1 district will remain in the Development Code. The newly adopted zoning and Comprehensive Plan Map will not reflect any lands zoned C-1. The City wishes to retain the C-1 zoning district in the event future commercial uses seek to locate in Lowell that are outside the Downtown Core Area.

Section 9.919 (b) Lowell Planning Goals, Goal 2: To encourage development in a planned and considered manner consistent with the community’s vision, general health, safety and welfare.

FINDING: The proposed amendments to the Development Code and rezoning of properties, consistent with the Regulating Plan, were driven by the community’s vision for planned and future development of both Lowell Downtown and the community as a whole. The community’s vision for growth and development of the Downtown District is encapsulated in the Lowell Downtown Master Plan, which was adopted by City Council 2019. The broader (community-wide) code amendments emerged through long-observed inconsistencies or shortcomings, recent changing needs and other regulatory developments.

Section 9.939(c), Policy 7: The City recognizes the need to create a centralized downtown business district in Lowell and shall encourage new retail, office and service commercial developments to locate there.

FINDING: The proposed amendments, Regulating Plan, and previously adopted Downtown Master Plan, characterize a downtown dynamic the City is supportive of with respect to revitalizing Lowell’s Downtown District. The Regulating Plan creates five new zones, which are all located in the Downtown District of Lowell, that permit mixed uses to include residential and commercial.

Section 9.949(c), Policy 7: The City shall develop standards for mixed housing and commercial use in its downtown commercial core as part of a Downtown Development Plan.

FINDING: The building standards sheets created for each Downtown District zone established by the Regulating Plan, outlines specific building details which development must conform to. This is not a set of comprehensive rules that will result in carbon copy buildings in these zones, but rather a set of broader principles intended to ensure that new development is welcoming and engaging and strengthens and enhances the existing character of the Downtown District consistent with the community's vision for the Downtown District.

Section 9.949(c), Policy 10: Manufactured homes shall continue to be permitted on individual lots subject to siting standards that maintain their compatibility with onsite residential construction.

FINDING: Policy 10 is proposed for deletion. Policy 10 is no longer relevant with the passage of House Bill (HB) 4064. Manufactured homes will continue to be permitted on single family lots, however, with the passage of HB 4064 governments cannot impose siting and design standards on manufactured homes that are not also imposed on regular, stick-built single-family homes.

Section 9.949(c), Policy 11: The City shall support efforts to reduce housing costs by providing enough residentially zoned land to support a mix of housing types and density that address the needs of its citizens.

Section 9.949(c), Policy 14: The City shall support orderly in-fill development of underdeveloped land in existing residential areas.

FINDING: The proposed amendments permit a wider range of dwellings units to be constructed in Lowell. The amendments now permit Accessory Dwelling Units (ADU) to be built on parcels, cottage cluster housing, and mixed-use developments that intertwine commercial and residential uses. The permission of ADUs is a form of in-fill development that encourages the efficient use of land and allows for underutilized portions of a parcel to be redeveloped with additional dwelling units (up to two ADUS are allowed on each parcel). The proposed amendments directly address Policy 11 and Policy 14 for the City to support efforts in reducing housing costs by permitting a mix of housing types and density and to support in-fill development in residential areas.

Section 9.959(b), Goal 4: To provide an inviting Downtown Core Area enhanced with mixed uses, sidewalks, bike lanes, landscaping, distinctive lighting and underground utilities.

FINDING: The building standards sheets, coupled with the proposed amendments to the

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Development Code aid in creating an inviting Downtown District enhanced with mixed uses, sidewalks and other pedestrian amenities. Staff note that the proposed amendments do not directly address landscaping, sidewalks, landscaping, lighting and underground utilities. The aforementioned pedestrian amenities are already adopted standards within Lowell’s existing Development Code and will remain in effect.

Section 9.959(c), Policy 7: The City shall encourage in-fill development on over-sized lots.

Section 9.959(c), Policy 8: The City shall consider mixed use development within the Downtown Core Area.

Section 9.959(c), Policy 10: The City shall complete a Downtown Development Plan to encourage commercial and public uses to locate within the downtown core area.

Section 9.959(c), Policy 14: The City shall encourage redevelopment of existing commercial properties that are underutilized or those that have fallen into disuse.

FINDING: Policies 7, 8, 10, and 14, directly relate to the proposed amendments to the Development Code. The proposed amendments implement five new zones, as seen on the Regulating Plan, that permits mixed use development within the Downtown District. The addition of ADUs on any residentially zoned parcel offers property owners to utilize extra space on parcels for residential in-fill in the form of ADUs. The building standards sheets for properties located in the Downtown District have the ability to facilitate redevelopment of underutilized commercial properties. The redevelopment of underutilized commercial properties facilitate the vision and growth of the Downtown Core Area as set forth in the Downtown Master Plan.

Section 9.978(a), Goal 4: To encourage alternatives to use of private automobiles.

Section 9.978(c), Policy 9: Off-street parking shall be provided by all land uses to improve traffic flow, promote safety, and lessen sight obstruction along the streets.

Section 9.989(b), Goal 6: To promote energy conservation in all developments.

FINDING: Goal 4 is relevant because the proposed amendments exempt off-street parking minimums for developments proposed within the boundaries of the Regulating Plan. Off-street minimums are exempted to encourage the use of existing on-street parking, and alternative modes of transportation such as walking and biking. The vision for the Downtown District is to provide residential and commercial uses combined in one building or area so that transportation via private automobile is not necessary. It’s important to note that just because

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off-street minimum parking requirements are exempted, that does not mean a developer is prevented from providing space for the parking of vehicles off-street. The exemption removes arbitrary parking requirements that often result in more off-street parking than is required, increased concrete and impervious surfaces. The exemption allows for developers to propose a parking plan that fits the scale of development and the intended use rather than the City setting an arbitrary number of spaces that must be provided. Accordingly, Policy 9 of Section 9.978(c) is proposed for deletion. Off-street parking zones are shown on the Regulating Plan as "Parking Zone." These are the areas in which off-street parking must occur within the Downtown District.

Goal 6 is relevant because the exemption of off-street parking spaces makes energy conservation, in the form of reduced gasoline emissions, a possibility.

Section 9.989(c), Policy 18: The City shall re-establish the Downtown Core Area as the City's centralized service commercial area.

Section 9.898(c), Policy 21: The City shall encourage a variety of housing types and densities and shall support innovative and creative housing methods and planning alternatives.

FINDING: Policies 18 and 21 are applicable because a primary element of the proposed amendments to the Development Code are to fully implement and codify the recommendations of the Downtown Master Plan. The adoption of the Downtown Master Plan, along with the adoption of the code amendments vastly advance Policy 18.

Based on the review and discussion of relevant policies, goals and provision of the Comprehensive Plan, staff conclude the proposed amendments do not conflict with the intent of the Comprehensive Plan. Criteria met.

(2) There is a need for the proposed amendment to comply with changing conditions, new laws or to correct existing deficiencies.

FINDING: The proposed amendments will change the conditions, or in this instance, the standards, to which properties within the Regulating Plan can be developed to. Properties outside of the Regulating Plan will also be impacted, but to a lesser extent and in no case will be further restricted in terms of permissible uses. Because of the amendments, the properties within the boundaries of the Regulating Plan will need to be rezoned in order to implement the new zoning districts and the new building standards. The adoption of the amendments do address a deficiency. Currently, the Downtown Master Plan and Regulating Plan are functional adopted documents, but because the Development Code has not been amended to fully codify the recommendations of those plans, the plans lack some of their regulatory authority. With the adoption of the amendments, the Downtown Master Plan and zoning

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districts of the Regulating Plan will be fully implemented and codified into Lowell's Development Code, for which future development must conform to. There is a need for the proposed amendments in order to comply with changing conditions and to correct deficiencies. The proposed rezoning of properties within the confines of the Regulating Plan are necessary to fully implement and codify the proposed amendments, consistent with the recommendations of the Downtown Master Plan. Criterion met.

(3) The amendment will not have a significant adverse impact on adjacent properties.

FINDING: The code amendments planning process has been a two-year process. The process included numerous opportunities for public and other stakeholder feedback. The proposed amendments have been iterative, meaning they have been reviewed and reworked several times by city decision makers, the public and the Code Committee. The proposed amendments and proposed rezone of properties within the confines of the Regulating Plan are not intended or expected to have a significant adverse impact on adjacent properties. Rather, the proposed amendments and rezones are intended to materialize the vision of the Downtown Master Plan, which was created through a public involvement process and adopted in 2019. Criterion met.

(4) The amendment will not have a significant adverse impact on the air, water and land resources of the City.

FINDING: The community and Code Committee have identified Lowell's natural assets as one of its key strengths. Maintaining Lowell's environmental quality is essential to the livability of the community. All decisions were made considering how any future growth and development may impact the natural environment. This goal was particularly important in considering the development of the building standards sheets. This criterion is met.

(5) The amendment will not have a significant adverse impact on public facilities, transportation, the economy, and on the housing needs of the City.

FINDING: The proposed amendments to the Development Code advance concepts that promote downtown development in service of local residents, visitors, and adjacent land uses and property owners. The amendments are intended to create a "multi-modal" Lowell in which other modes of transportation, such as walking and biking, are encouraged. The amendments also codify several new types of dwelling units that are permitted throughout Lowell. These new dwelling units include ADUs, cottage cluster housing and mixed-use development. The proposal is consistent with this criterion.

(6) The amendment does not conflict with the intent of Statewide Planning Goals.

GOAL 1: CITIZEN INVOLVEMENT [OAR 660-015-000(1)]. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

FINDING: Consistent with the Lowell Comprehensive Plan, a Code Committee has been formed as part of the Development Code amendment process. The Code Committee was made up of local business owners, residents, and city-decision makers. Throughout the process, the Code Committee met on two occasions to review the amendments and provide critical feedback and direction to the consultant team.

The public had numerous opportunities to become aware and engage in the planning process related to the proposed amendments. These opportunities included a Community Open House on September 28, a two-week virtual public workshop, a joint Planning Commission and City Council work session, and two public hearings. City staff sent Measure 56 notice to all property owners who owned property within the boundaries of the Regulating Plan that would have their zoning district changed. Additionally, notice of proposed amendments and public hearings were included in the water bill that has been sent to all properties in Lowell receiving City utility service. Further, notice of proposed amendments and public hearing was published in the Register Guard on December 6, 2022.

GOAL 2: LAND USE PLANNING [OAR 660-015-000(2)]

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

All land-use plans and implementation ordinances shall be adopted by the governing body after public hearing and shall be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances, in accord with a schedule set forth in the plan. Opportunities shall be provided for review and comment by citizens and affected governmental units during preparation, review and revision of plans and implementation ordinances.

FINDING: The proposal is consistent with Goal 2 because:

- The Development Code and Comprehensive Plan amendments provide a factual basis for land use decisions based on technical analyses used to develop the amendments;
- The ordinances adopting the amendments to the Development Code, text amendments to the Comprehensive Plan, adoption of a new Zoning Districts/Comprehensive Plan Map, rezoning of certain properties, and adoption of a revised Regulating Plan will all be adopted by City Council after a public hearing and two readings of the ordinances; and
- Opportunities have been and will be provided for review and comment by citizens and affected governmental agencies.

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Criterion met.

GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES. To conserve open space and protect natural and scenic resources.

FINDING: These amendments do not create or amend the City’s list of Goal 5 resources, do not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, do not allow new uses that could be conflicting uses with a significant Goal 5 resource site and do not amend the acknowledged urban growth boundary. The proposal is consistent with Goal 5.

GOAL 6: AIR, WATER AND LAND RESOURCE QUALITY. To maintain and improve the quality of air, water and land resources.

FINDING: Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water, and land from impacts from those discharges. The amendments do not affect the City’s ability to provide for clean air, water, or land resources. In fact, one of the main objectives of the amendments is to implement transportation infrastructure strategies that will have a net benefit on water and air quality. Goal 6 is satisfied.

GOAL 7: AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS. To protect life and property from natural disasters and hazards.

FINDING: Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as floods, landslides, earthquakes and related hazards, tsunamis and wildfires. The Goal prohibits development in natural hazard areas without appropriate safeguards. The amendments do not affect the City’s restrictions on development in areas subject to natural disasters and hazards. Further, the amendments do not allow for new development that could result in a natural hazard. Accordingly, Goal 7 does not apply.

GOAL 8: RECREATIONAL NEEDS. To satisfy the recreational needs of both citizens and visitors to the state.

FINDING: Goal 8 ensures the provision of recreational facilities to Oregon citizens. The Lowell Downtown Master Planned proposed some reconfiguration of park areas in Downtown Lowell (consistent with the contemporary Lowell Parks and Open Space Master Planning process). As a result, the eastern portion of Rolling Rock will be rezoned to Downtown Flex-Use 1, consistent with the Regulating Plan. The plan for this area of Downtown is for it to redevelop with mixed-uses that bring new buildings, uses, and pedestrians to the Downtown Core Area, thus creating a “central park” feeling that is envisioned in the Downtown Master Plan and Lowell Parks and Open Space Master Plan. Accordingly, the amendments are consistent with Goal 8.

City of Lowell

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GOAL 9: ECONOMIC DEVELOPMENT. To provide adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity.

FINDING: The proposed amendments codify the recommendations of the Downtown Master Plan, which promotes a balance of livability and economic prosperity. The planning process for the code amendments were conducted in consultation with the Lowell School District and reflects feedback about ways that the downtown can support the school’s positive momentum and contribute to attracting young families. Further, the amendments and associated rezone of properties have the ability to spur economic development within the Downtown Core Area by permitting mixed-use development and by regulating and making consistent the building standards to which future development must adhere to. The proposal is consistent with Goal 9.

GOAL 10: HOUSING. To provide for the housing needs of citizens of the state.

FINDING: One of the primary goals of the amendments are to diversify and provide a variety of dwelling units in Lowell. This is accomplished by permitting mixed-use development in the Downtown District – in which commercial uses are located on the ground-floor and residential uses on the upper floors. Additionally, the code amendments adopt standards for and permit new dwelling types such as ADUs and Cottage Clusters. Lastly, the reduction of the minimum lot sizes across all residential zones allows for increased density, which in turn leads to more housing units being provided. The proposal is consistent with Goal 10.

GOAL 11: PUBLIC FACILITY PLANNING. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban Facilities and Services-Refers to key facilities and to appropriate types and levels of at least the following: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services.

FINDING: Goal 11 is directly relevant because the amendments intend to plan for and anticipate growth in certain areas of Lowell where adequate public facilities already exist. This in turns reduces costs of public improvements by to extend services to far reaches of the City and promoting greater density and compact growth and development within the Downtown District of Lowell. The timely, orderly, and efficient arrangement of public facilities lessens the pressures to expand the urban growth boundary. Statewide Planning Goal 11 is satisfied.

GOAL 12: TRANSPORTATION. To provide of a safe, convenient and economic transportation system.

The Transportation Planning Rule (OAR 660-012-0060), which implements Statewide Planning Goal 12, provides:

(1) If an amendment to a functional plan, an acknowledged Comprehensive Plan, or a land use regulation (including a Zoning Map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or Comprehensive Plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or Comprehensive Plan.

FINDING: The code amendments, and associated zone changes, are aimed toward the provision and encouragement of a safe, convenient, and economic transportation system. A major aim of Goal 12 and the Transportation Planning Rule are to minimize the use of the automobile, vehicle miles travelled, and encourage multi-modal transportation. The code amendments reduce the number of required parking spaces in the City, encouraging more development (services) in the Downtown District, consequently reducing the need for more distant travel. The amendments also encourage different modes of transportation through proposed improvements.

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Regarding the TPR language quoted above, the code amendments, and zone changes, do not change the functional classification of a transportation facility or change the standards implementing a functional classification system. Therefore, the amendments do not have a significant effect under (a) or (b). In regard to (c), the amendments will not significantly increase the level of development beyond that allowed currently. Therefore, the amendments do not significantly affect any existing or future transportation facilities. Based on the above findings, the amendments are consistent with Statewide Planning Goal 12.

GOAL 13: ENERGY CONSERVATION. Requires development and use of land that maximizes the conservation of energy based on sound economic principles.

FINDING: The proposed code amendments exempt off-street parking minimums for development within the boundaries of the Regulating Plan. This exemption is intended to promote other modes of transportation such as walking and biking. These two forms of alternative transportation are in themselves energy conserving because they do not rely on motor vehicles that rely on fossil fuels for energy. The code amendments, and the building standards, are designed in a manner that takes to heart energy conservation by encouraging and promoting compact urban development that allows residents to meet their daily needs within the city limits of Lowell and not needing, or limiting the extent, to travel outside of Lowell for daily needs. The amendments are consistent with Goal 13.

IV. CONCLUSION

The amendments to the Development Code and Comprehensive Plan are consistent with the applicable approval criteria. Accordingly, the Lowell Zoning Districts and Comprehensive Plan Map shall be updated to reflect the new zoning districts and revised Regulating Plan Map, as presented to Planning Commission and City Council at the respective hearings shall be adopted and the functional and operational Regulating Plan.

V. EXHIBITS

Exhibit A – Findings of Fact

Exhibit B – Ordinance adopting text amendments to Development Code and Comprehensive Plan

Exhibit C – Ordinance approving the rezoning of properties contained within the boundaries of the Regulating Plan, adopting a new Zoning Districts and Comprehensive Plan Map, and a revised Regulating Plan Map

Exhibit D – Amendments to Development Code

Exhibit E – Amendments to Comprehensive Plan

Exhibit F – Zoning Districts/Comprehensive Plan Map

Exhibit G – Revised Regulating Plan Map

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City File No. PAPA 01-23; DLCD File #002-22.

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**** DRAFT****
CITY OF LOWELL
ORDINANCE NO. 309
EXHIBIT B to FINDINGS of FACT

**AN ORDINANCE ADOPTING TEXT AMENDMENTS TO LOWELL'S DEVELOPMENT CODE AND
TEXT AMENDMENTS TO LOWELL'S COMPREHENSIVE PLAN CODIFYING THE LOWELL
DOWNTOWN MASTER PLAN.**

WHEREAS, the City of Lowell City Council, through enactment of Ordinance 309, has adopted text amendments to the Development Code (**Exhibit D**); and

WHEREAS, the City of Lowell City Council, through enactment of Ordinance 309, has adopted text amendments to the Comprehensive Plan (**Exhibit E**); and

WHEREAS, the City of Lowell Planning Commission reviewed the proposal on January 4, 2023, at a Public Hearing, and recommended approval of the proposed text amendments to the Development Code and Comprehensive Plan; and

WHEREAS, evidence exists within the record (**Exhibit A**) indicating that the text amendments to the Development Code and Comprehensive Plan meets the requirements of the City of Lowell Comprehensive Plan, Land Development Code and the requirements of applicable state and local law, including consistency with Oregon's Statewide Planning Goals; and

WHEREAS, the City of Lowell City Council has conducted a public hearing on January 17, 2023 and is now ready to take action.

NOW THEREFORE THE CITY OF LOWELL ORDAINS AS FOLLOWS:

Section 1. The City of Lowell City Council adopts the text amendments to the Development Code, as set forth in **Exhibit D**.

Section 2. The City of Lowell City Council adopts the text amendments to the Comprehensive Plan, as set forth in **Exhibit E**.

Section 3. The City of Lowell City Council adopts the Findings of Fact, attached as Exhibit A, which include findings addressing the consistency of the proposed amendments with the City of Lowell Comprehensive Plan, Land Development Code, and Oregon's Statewide Planning Goals.

Section 4. Severability. If any phrase, clause, or part of this Ordinance is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses, and parts shall remain in full force and effect.

Adopted by the City Council of the City of Lowell this ____ day in the month of _____,
2023.

AYES: _____

NOES: _____

APPROVED:

Don Bennet, Mayor

ATTEST:

Jeremy Caudle, City Recorder

First Reading: _____
Second Reading: _____
Adopted: _____
Signed: _____
Effective Date: _____

**** DRAFT****
CITY OF LOWELL
ORDINANCE NO. 310
EXHIBIT C to FINDINGS of FACT

AN ORDINANCE APPROVING THE REZONING OF PROPERTIES CONTAINED WITHIN THE BOUNDARIES OF THE REGULATING PLAN, ADOPTING A NEW ZONING AND COMPREHENSIVE PLAN MAP, AND A REVISED REGULATING PLAN MAP.

WHEREAS, With the adoption of the text amendments to the Development Code, a concurrent rezoning of properties within boundaries of the Regulating Plan was necessary;

WHEREAS, on November 3rd and November 29, 2022, the City provided notice of proposed amendment to the Department of Land Conservation and Development (DLCD);

WHEREAS, on December 8, 2022, the City mailed Measure 56 notice of proposed zone change to all property owners owning property within the boundaries of the Regulating Plan.

WHEREAS, the City of Lowell City Council, through enactment of Ordinance 310, has considered and approved the rezoning of the following properties, consistent with the Regulating Plan:

Multiple-Family Residential to Downtown Residential Attached:

- Map and Tax Lot 19-01-14-22-06700;
- Map and Tax Lot 19-01-14-23-03200; and
- Map and Tax Lot 19-01-14-23-04800.

Public Lands to Downtown Residential Attached:

- Map and Tax Lot 19-01-14-22-02201; and
- Map and Tax Lot 19-01-14-22-02202.

Multiple-Family Residential to Downtown Flex-Use 2:

- Map and Tax Lot 19-01-14-22-01608.

General Commercial to Downtown Flex-Use 2:

- Map and Tax Lot 19-01-14-22-07400;
- Map and Tax Lot 19-01-14-22-07300;
- Map and Tax Lot 19-01-14-22-05000;
- Map and Tax Lot 19-01-14-22-04900;
- Map and Tax Lot 19-01-14-22-04800;
- Map and Tax Lot 19-01-14-22-04700;
- Map and Tax Lot 19-01-14-22-04400;
- Map and Tax Lot 19-01-14-22-07200;
- Map and Tax Lot 19-01-14-22-07100;

- Map and Tax Lot 19-01-14-23-04000; and
- Map and Tax Lot 19-01-14-23-09700.

Downtown Commercial to Downtown Flex-Use 1:

- Map and Tax Lot 19-01-14-23-04900;
- Map and Tax Lot 19-01-14-23-05000;
- Map and Tax Lot 19-01-14-23-05100;
- Map and Tax Lot 19-01-14-23-05200;
- Map and Tax Lot 19-01-14-23-05300 & 05400;
- Map and Tax Lot 19-01-14-23-05301;
- Map and Tax Lot 19-01-14-23-05500; and
- Map and Tax Lot 19-01-14-23-05501.

Public Lands to Downtown Flex-Use 1:

- Map and Tax Lot 19-01-14-23-08800.

General Commercial to Public Lands-Downtown:

- Map and Tax Lot 19-01-14-24-02000, 01900, and 07100.

General Commercial to Downtown Flex-Use 1:

- Map and Tax Lot 19-01-14-24-02100, 07200, and 02201;
- Map and Tax Lot 19-01-14-24-04500;
- Map and Tax Lot 19-01-14-23-04901;
- Map and Tax Lot 19-01-14-23-09600; and
- Map and Tax Lot 19-01-14-23-04700.

Commented [HHO1]: City is attempting to sell this property. Staff are asking PC if this parcel should be rezoned to a Flex zone (such as Flex 1) or Downtown Residential Detached.

Single-Family Residential to Downtown Residential Detached:

- Map and Tax Lot 19-01-14-24-04100;
- Map and Tax Lot 19-01-14-24-04003;
- Map and Tax Lot 19-01-14-24-04002;
- Map and Tax Lot 19-01-14-22-04200;
- Map and Tax Lot 19-01-14-22-04100;
- Map and Tax Lot 19-01-14-22-04300;
- Map and Tax Lot 19-01-14-22-03600;
- Map and Tax Lot 19-01-14-22-03500;
- Map and Tax Lot 19-01-14-22-03700;
- Map and Tax Lot 19-01-14-22-03800;
- Map and Tax Lot 19-01-14-22-03900;
- Map and Tax Lot 19-01-14-22-04000;
- Map and Tax Lot 19-01-14-22-06900;
- Map and Tax Lot 19-01-14-23-03700;
- Map and Tax Lot 19-01-14-23-03800;
- Map and Tax Lot 19-01-14-23-03900;
- Map and Tax Lot 19-01-14-22-03000;

- Map and Tax Lot 19-01-14-22-02900;
- Map and Tax Lot 19-01-14-22-03100;
- Map and Tax Lot 19-01-14-22-03200;
- Map and Tax Lot 19-01-14-22-03300;
- Map and Tax Lot 19-01-14-22-03400;
- Map and Tax Lot 19-01-14-22-06800;
- Map and Tax Lot 19-01-14-22-02500;
- Map and Tax Lot 19-01-14-22-02400;
- Map and Tax Lot 19-01-14-22-02600;
- Map and Tax Lot 19-01-14-22-02700;
- Map and Tax Lot 19-01-14-22-02800;
- Map and Tax Lot 19-01-14-22-06500;
- Map and Tax Lot 19-01-14-22-06501;
- Map and Tax Lot 19-01-14-22-08300;
- Map and Tax Lot 19-01-14-23-09900; and
- Map and Tax Lot 19-01-14-23-01000.

Downtown Commercial to Public Lands-Downtown:

- Map and Tax Lot 19-01-14-23-08100;
- Map and Tax Lot 19-01-14-23-07700;
- Map and Tax Lot 19-01-14-23-07600;
- Map and Tax Lot 19-01-14-23-07500; and
- Map and Tax Lot 19-01-14-23-07400.

Single-Family Residential to Downtown Flex-Use 2:

- Map and Tax Lot 19-01-14-23-07100;
- Map and Tax Lot 19-01-14-23-06400;
- Map and Tax Lot 19-01-14-23-06300;
- Map and Tax Lot 19-01-14-23-06214;
- Map and Tax Lot 19-01-14-23-06215;
- Map and Tax Lot 19-01-14-22-04600; and
- Map and Tax Lot 19-01-14-22-04500.

Public Lands to Public Lands-Downtown:

- Map and Tax Lot 19-01-14-23-09100;
- Map and Tax Lot 19-01-14-23-07300;
- Map and Tax Lot 19-01-14-23-09500; and
- Map and Tax Lot 19-01-14-32-02400.

Single-Family Residential to Public Lands-Downtown:

- Map and Tax Lot 19-01-14-23-07200; and
- Map and Tax Lot 19-01-14-23-07000.

WHEREAS, The above Map and Tax Lots to be rezoned are all properties located within the boundaries of the Regulating Plan. If in the event, the above list of properties to be rezoned is inaccurate or a property is missing, the controlling document for which properties are to be rezoned and to which zoning district, shall be the Regulating Plan and Zoning Districts Map.

WHEREAS, Staff have prepared a new Zoning Districts/Comprehensive Plan Map that reflect the rezone of the properties within the Regulating Plan, as set forth in **Exhibit F**.

WHEREAS, Since the adoption of the Regulating Plan, that is contained in the Lowell Downtown Master Plan, in 2019, the Regulating Plan has been slightly revised and updated to reflect parcel boundaries, changes in ownership, and other minor updates to the legend and map.

WHEREAS, Staff have prepared a revised Regulating Plan, as set forth in **Exhibit G**.

WHEREAS, Evidence exists within the record (**Exhibit A**) indicating that the rezone of certain properties, consistent with the Regulating Plan, meets the requirements of the City of Lowell Comprehensive Plan, Land Development Code and the requirements of applicable state and local law, including consistency with Oregon’s Statewide Planning Goals.

WHEREAS, the City of Lowell City Council has conducted a public hearing on January 17, 2023 and is now ready to take action.

NOW THEREFORE THE CITY OF LOWELL ORDAINS AS FOLLOWS:

Section 1. The City of Lowell City Council approves the rezoning of properties contained within the boundaries of the Regulating Plan.

Section 2. The City of Lowell City Council adopts a new Zoning Districts and Comprehensive Plan Map, as set forth in **Exhibit F**.

Section 3. The City of Lowell City Council adopts a revised Regulating Plan Map, as set forth in **Exhibit G**.

Section 4. The new Zoning and Comprehensive Map, as set forth in **Exhibit F**, and revised Regulating Plan, as set forth in **Exhibit G**, shall replace all previous versions and shall be the functional and effective documents.

Section 5. The City of Lowell City Council adopts the Findings of Fact, attached as **Exhibit A**, which finds that the rezone of certain properties, consistent with the Regulating Plan, meets the requirements of the City of Lowell Comprehensive Plan, Land Development Code and the requirements of applicable state and local law, including consistency with Oregon’s Statewide Planning Goals.

Section 6. Severability. If any phrase, clause, or part of this Ordinance is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses, and parts shall remain in full force and effect.

Adopted by the City Council of the City of Lowell this ____ day in the month of _____, 2023.

AYES: _____

NOES: _____

APPROVED:

Don Bennet, Mayor

ATTEST:

Jeremy Caudle, City Recorder

First Reading: _____
Second Reading: _____
Adopted: _____
Signed: _____
Effective Date: _____

LOWELL LAND DEVELOPMENT CODE



ADOPTED VIA ORDINANCE #



This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Fixing America's Surface

Transportation Act (FAST-Act), local government, and State of Oregon funds.
The contents of this document do not necessarily reflect views or policies of the State of Oregon.

Underlined red text = proposed new language

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

Highlighted green = code references for updating

Highlighted yellow = manufactured home and child care amendments to comply with state law

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

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ARTICLE 9.1 ADMINISTRATIVE PROVISIONS

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, [Downtown](#)

Master Plan and Regulating 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 ~~ensure~~ 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

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 3rd 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](#).

<u>Table 1 Summary of Approvals by Type of Review Procedure</u>		
<u>Approvals</u>	<u>Review Procedures</u>	<u>Applicable Regulations</u>
<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 I</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 III</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>Site Plan Review (Within Boundaries of Regulating Plan)</u>	<u>Type II</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 III</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 III</u>	<u>Section 9.241 Replatting</u>

- (o) All land use and development permit applications and approvals shall be decided by using the procedures identified 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 involve 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.

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, 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, and points of ingress and egress.
- (k) Signs: location, size, height, and means of illumination.
- (l) Loading: location, dimension, number of spaces, and internal circulation.
- (m) Lighting: location, general nature, and 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 residents, 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 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 the Planning Commission or City Council.

(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 all 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 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, and rail line authority, when there is a proposed development abutting or affecting their transportation facility, or rail line, 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; and

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. 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.
 - E. 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; and
 10. Contain the following language: "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."
 - F. 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.

G. 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 Type II Notice of Decision shall contain:

- (i) A description of the applicant's proposal and the City's decision on the proposal (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.

H. 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.

- I. 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; and
 - (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 Section XX. 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. An appeal of a Type II Administrative decision shall be processed in accordance with the notice, hearing procedures, and decision process as outlined in the Type III land use process. See Section 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 Planning Commission 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 all 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). 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 language: "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; and
4. The applicant shall remove the signs from the subject property after the 14-day 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; and
 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”), pursuant to Section XX, or by leaving the record open for additional written evidence or testimony. Pursuant to Section XX.
- 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; and
 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 made to the City Council within 15 days of the date the Notice of Decision was mailed. The appeal process for a Type III application shall be the same as a Type II appeal process. 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 ten 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 (owners of property subject to a Comprehensive Plan amendment shall also 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 ten days before the scheduled Planning Commission public hearing date, and ten 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 Post-acknowledgement Plan Amendment (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 are 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 to 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, 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.

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; and

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 DLCD, 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.

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 9.212 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 or ~~Lot Consolidation~~ 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.

(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.

(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) 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 will comply with the minimum lot depth, width, and area standards of the applicable zone after the proposed consolidation.

A. Lot consolidations are permitted on non-conforming lots.

(4) Existing structures on any affected property will comply with the minimum and maximum setback standards of the applicable zone after the proposed consolidation.

A. If existing structures on any affected property do not comply with the minimum and maximum setback standards of the applicable zone, the consolidation shall not increase noncompliance of setback standards.

(5) If the resulting aggregation of affected properties is eligible for additional development under existing zoning, the proposed consolidation will not preclude the opportunity for such additional development.

SECTION 9.214 DECISION PROCESS

- (a) ~~A Property Line Adjustment or Lot Consolidation shall be reviewed 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 of Section XXf. ~~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 and Subdivisions 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 that future division of the property and street layout will not preclude development on adjacent tracts, will facilitate future land divisions, and will 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:
 - (1) Is in conformance with City standards and with the Master Road Plan or other transportation planning document.
 - (2) Provides for adequate and safe traffic and pedestrian circulation both internally and in relation to the existing City street system.
 - (3) 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:

- (1) Prior written commitment of public funds by the appropriate public agency.
 - (2) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
 - (3) 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.
- (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 (c) 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; and
- (5) Does not relax dimensional standards or other specific requirements established by the City as a condition of approval.

(b) Minor Changes. Minor changes may be approved by the City Administrator pursuant to a Type I process.

SECTIONS 9.244 through 9.249 Reserved for Expansion.

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 for proposed development located outside of the boundaries of the Regulating Plan. 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. Proposed development within the boundaries of the Regulating Plan shall be processed and reviewed utilizing a Type II land use process. 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, or City Administrator in the case of development within the Regulating Plan, must make the following findings:
- (1) That the proposed development complies with the Zoning District standards, or in case of proposed develop within the boundaries of the Regulating Plan, the development conforms to the Building Standards Sheets as listed in Sections XX.
 - (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 for development proposed outside of the boundaries of the Regulating Plan. Proposed development within the boundaries of the Regulating Plan shall be conducted in accordance with the Type II 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 affect 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 addressing subsection (b) Decision Criteria, of this section. 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 ~~ensure 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 that the City Council may permit a new application if, in the opinion of the Council, new evidence or a change of circumstance warrant it.

~~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.~~
- ~~(e)~~

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 of 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.

(b) 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 Plan 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 the following: ~~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, 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 and 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 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 ~~35~~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 ~~35~~ 45 days notice if the City Council determines that there are emergency circumstances requiring expedited review.
 - (1) The notice shall be provided at least ~~35~~ 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 35 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 decision 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:

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

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:

OVERLAY DISTRICTS	ABBREVIATED DESIGNATION
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Planned Development	PD
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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, 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.
- (c) **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.
- (d) **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.
- (e) **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.
- (f) **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.
- ~~(g) **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) Family child care home.~~
 - (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: 5,500 ~~7,000~~ square feet.

- (2) Minimum lot width: ~~30~~ 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 Dwelling Units and 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: ~~50~~35%.
- (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 at least 5 feet behind the front façade of the primary structure, except when a garage, carport or other parking structure does not face the front street façade. 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. The City may require any lot with an alley to access off-street parking from the alley.
 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. Side facing garages, carports, or other parking structures must be flush with or behind, but not protrude beyond, the side (façade or covered porch) of the primary structure. except all parking structures taking access from the side street shall be set back 20 feet.~~
 - C. Rear yard: 10 feet; 5 feet for accessory buildings.
- (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 review process: Site Plan Review provisions of Section 9.251, single-family, duplex, and multiple-family dwellings ~~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 legal tax lot.
 - (3) Residential Care Facility for 15 or less people as provided in ORS 197.660 – 670.
 - (4) Family child care home.
 - (5) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.
 - (6) 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~~
- ~~(7) Accessory Dwelling Units, subject to the standards as listed in Article 9.7.~~
- ~~(8) Single-Family Attached~~
- ~~(9) 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, and a Type III land use process.
- (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.**
- (7) Minimum lot area: 5,500 ~~7,000~~ square feet.

- (8) 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~~
- (9) Minimum Lot Depth: 80 feet
- (10) Maximum Building coverage including Accessory Dwelling Units and accessory buildings: 50 ~~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. Maximum Lot Coverage shall not apply to triplexes and quadplexes, provided minimum setbacks and off-street parking standards are met.
- (11) Maximum building height: 3 stories or 45 feet, whichever is lower. Accessory buildings are limited to one story, with the exception of Accessory Dwelling Units. For R-3 development within 50 feet of an abutting R-1 district side or rear yard, R-1 height standards apply.
- (12) 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 at least 5 feet behind the front façade of the primary structure except when a garage, carport or other parking structure does not face the front facing street façade. 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:
- Interior side yard: 5 feet ~~and 7 ½ feet for two-story structures.~~
 - Alley side yard: 5 feet
 - 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. Side facing garages, carports, or other parking structures must be flush with or behind, but not protrude beyond, the side (façade or covered porch) of the primary structure.~~
- C. Rear yard: 10 feet; 5 feet accessory buildings.
- (13) 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 XX through XX is to set forth the regulations for building standards applicable to each Parcel Type that are appropriate to use within the 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. The purpose for each Parcel Type is described below.

(1) Downtown Residential Attached (DRA) District is intended to provide a variety of homes, with a mix of sizes, that are available to a wide range of incomes, within walking distance of the Downtown Core for convenient, pedestrian-friendly access to shopping, employment, educational, and recreational activities.

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

(3) The Downtown Flex-Use 1 (DF1) 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 uses 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.

(4) The Downtown Flex-Use 2 (DF2) 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.

- (b) **Applicability.**

(1) 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.

(2) The standards and requirements applicable to a zone in the Downtown District, shall modify and take precedence over any duplicative or conflicting provision of the Lowell Development Code, unless otherwise explicitly permitted.

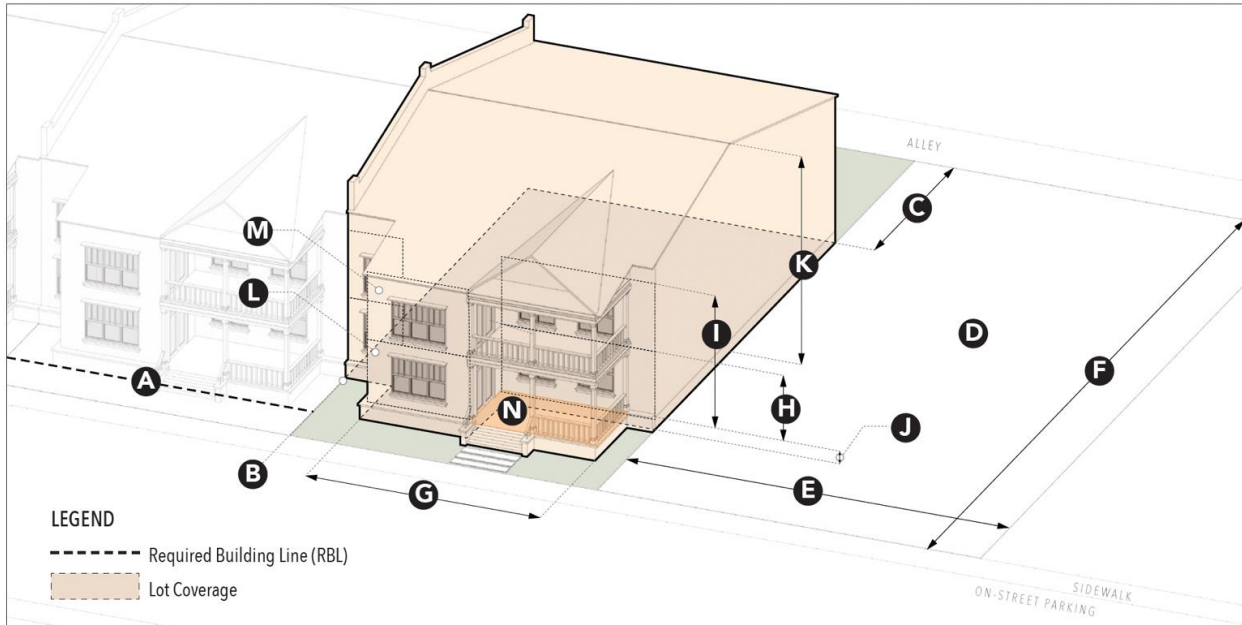
(3) These building standards shall not apply to the existing use of any building or land and shall not prevent the restoration of a building damaged not more than 50 percent of its assessed valuation by fire, explosion, natural disaster, or prevent the continuance of the use of such building or part 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 RESIDENTIAL ATTACHED (DRA)

(a) DRA Building Standards.



Use (see Note 1)	
Ground/upper floor:	residential, commercial (retail, service, office)
Placement	
Front required building line (RBL)	5 - 15 ft; the front-most part of the building (i.e. wall, front porch) must be built to RBL
Side setback	5 ft min.
Rear setback	5 ft min.; 0 ft min. when abutting an alley
Coverage	
Lot area	2,000 sf min.
Lot width	20 ft min.; 30 ft min. for corner lots
Lot depth	1.5x lot width or 100 ft, whichever is less
Lot coverage	60% max.; see Note 3
Primary street facade built to RBL	80% min. of RBL length when applicable
Height	
Minimum number of floors	2 floors
Maximum number of floors	3 floors
Ground floor elevation	18 in min. above sidewalk
Building height	subject to Fire Chief approval.; see Note 4
Facade Transparency	
Ground floor	40% of facade area min.
Upper floors	40% of facade area min.
Porch / covered stoop	
Dimension	6 x 6 ft min. for each primary entry
Parking	

Notes

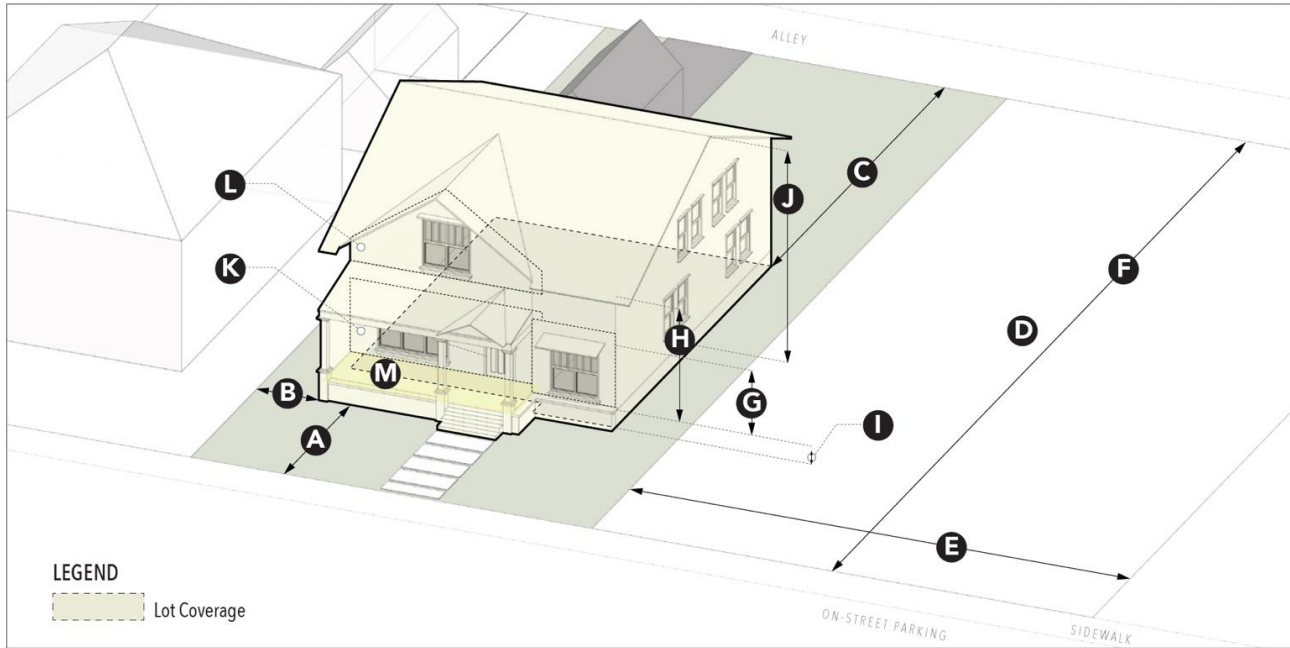
- Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited.
- Primary building entrance must be located along the Required Pedestrian Entry Zone and oriented to the street.
- Maximum lot coverage includes accessory buildings, provided that any patio structure used solely for open space and swimming pool not structurally covered shall not be counted as a structure for measuring coverage.
- Maximum building height excludes basements and daylight basements. Accessory buildings are limited to one story.
- Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from an alley, or located behind or to the side of the building; they shall not be placed between buildings and streets.
 - Attached and detached garages shall be oriented to and accessed from an alley
 - When no alley exists, garages shall be tucked under the first story and accessed from the front or side of the property if set back a minimum of 20 ft from the front or 10 ft from the side.
- Residential uses entirely above the ground floor must have a balcony at least four feet deep.

Number of spaces

no min. requirement; see Note 5

SECTION 9.414 DOWNTOWN RESIDENTIAL DETACHED (DRD)

(a) DRD Building Standards.



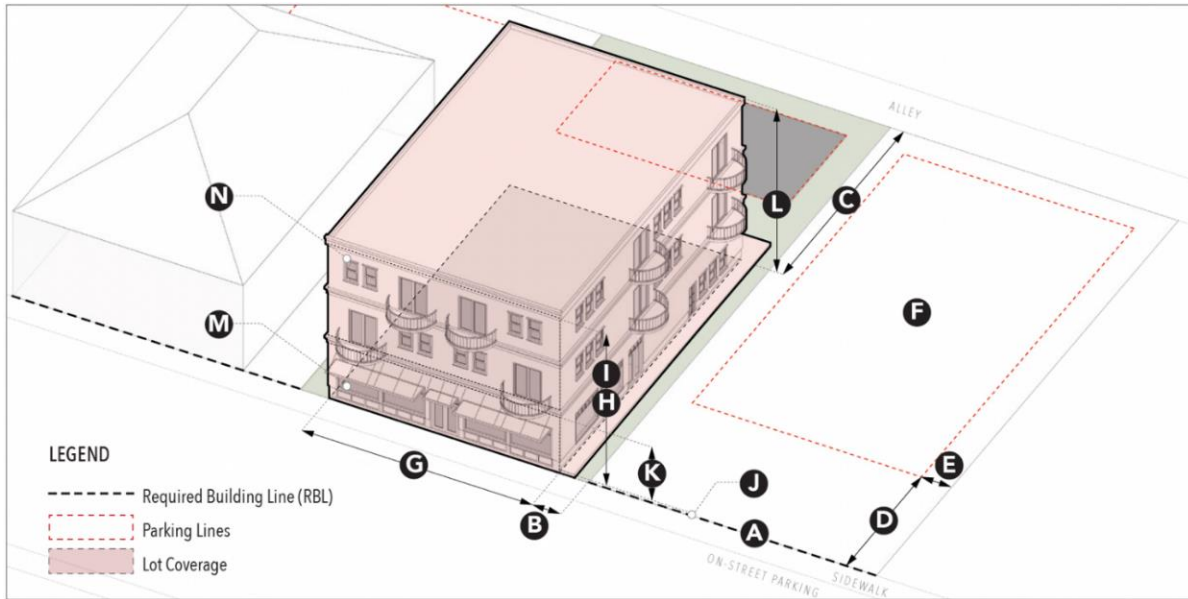
Use (see Note 1)	
Ground/upper floor:	residential, commercial (retail, service, office)
Placement	
Front setback	10 ft min., 30 ft max.
Side setback	5 ft min.
Rear setback	5 ft min.; 0 ft min. when abutting an alley
Coverage	
Lot area	4,000 sf min.
Lot width	30 ft min.; 40 ft min. for corner lots
Lot depth	60 ft min.
Lot coverage	50% max., 60% max. with Accessory Dwelling Unit (ADU); see Note 3
Height	
Minimum number of floors	1 floors
Maximum number of floors	3 floors
Ground floor elevation	18 in min. above sidewalk
Building height	subject to Fire Chief approval.; see Note 4
Facade Transparency	
Ground floor	40% of facade area min.
Upper floors	40% of facade area min.
Porch / covered stoop	
Dimension	6 x 6 ft min. for each primary entry
Parking	
Number of required space	1 space per unit; see Note 5

Notes

1. Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited.
2. Primary building entrance must be located along the Required Pedestrian Entry Zone and oriented to the street.
3. 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.
4. Maximum building height excludes basements and daylight basements. Accessory buildings are limited to one story.
5. Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from an alley, or located behind or to the side of the building; they shall not be placed between buildings and streets.
 - Attached and detached garages shall be oriented to and accessed from an alley
 - When no alley exists, garages shall be tucked under the first story and accessed from the front or side of the property if set back a minimum of 20 ft from the front or 10 ft from the side.
6. 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) **DF1 Building Standards.**



Use (see Note 1)

Ground floor:	commercial (retail, service, office)
Upper floor(s):	commercial (retail, service, office), 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
Side setback	0 ft min.; 10 ft min. when abutting residential zone
Rear setback	0 ft min.; 10 ft min. when abutting residential zone
Parking setback from RBL	30 ft min.
Parking setback from parcel lines with no RBL	6 ft min.; 20 ft min. when abutting residential zone

Coverage

Lot area	no min.; see Notes 3 and 4
Lot coverage	100% max.; see Notes 3 and 4
Primary street facade built to RBL	90% min. of RBL length

Height

Minimum number of floors	2 floors
Maximum number of floors	3 floors
Ground floor elevation	0 in min. above sidewalk; see Note 7 for residential use
Floor to floor height	10 ft min.
Building height	no max.; see Note 5 when abutting residential zone

Facade Transparency

Ground floor	75% of facade area min.
Upper floors	40% of facade area min.

Parking

Number of spaces	no min. requirement; see Note 9
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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 Pedestrian Entry Zone and 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 for persons with disabilities.
- One hundred percent lot coverage is allowable when applicable minimum loading 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 floors with non-street-facing residential uses must be elevated a minimum of 18 inches above grade.
- Pedestrian walkways must be provided to connect the building primary entrance to the public right of way.
- Off-street parking must be located in the Parking Zone as seen on the Regulating Plan Buildings.
- 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) **Family child care home.**
 - (12) **Child care center.**
 - ~~(13) Group Child Care Center for 13 or more children as provided in the applicable provisions of ORS 657 A.~~
 - (14) Second story residences located above a ground floor commercial use in accordance with **Section 9.720 (b).**
 - (15) 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 ~~(b)-(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 for 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~~

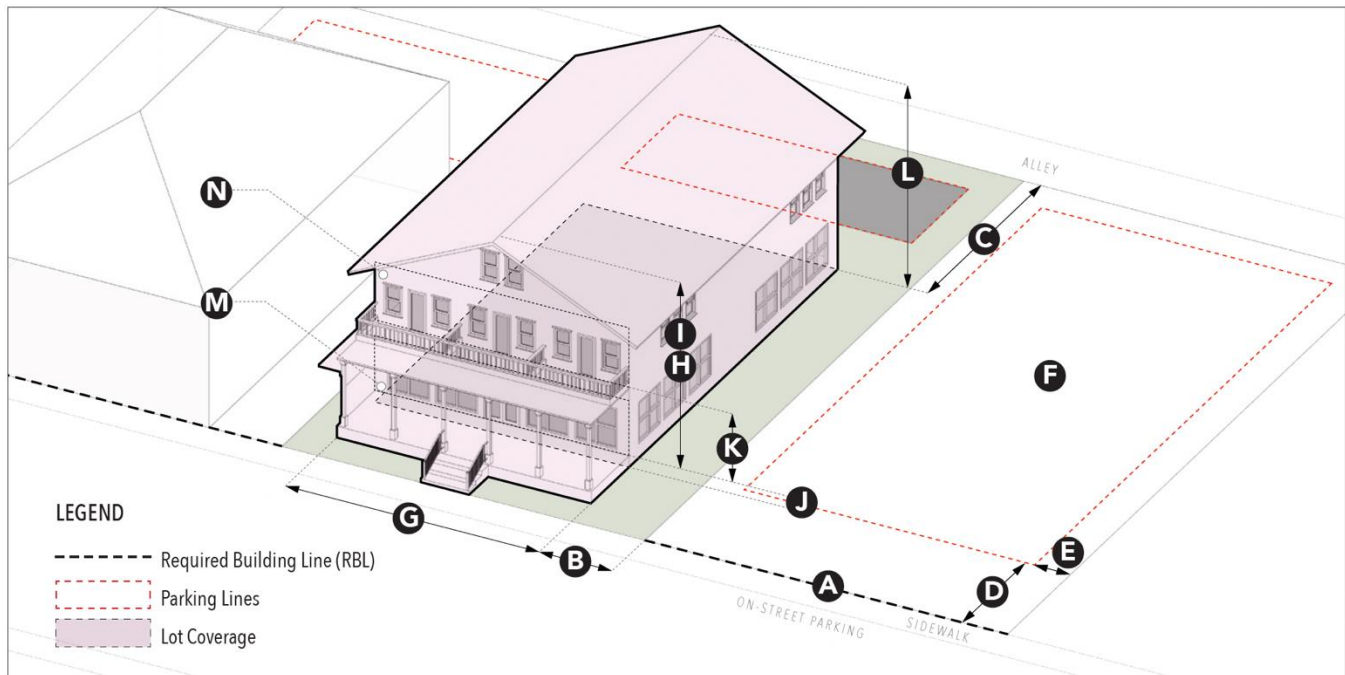
~~(4) — Access shall be designed to encourage pedestrian and bicycle use and shall facilitate vehicular movements with minimum interference or hazards for through traffic. The dedication of additional right-of-way and construction of street improvements by an~~

~~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) **DF2 Building Standards.**~~



Use (see Note 1)

Ground floor:	commercial (retail, service, office), residential
Upper floor(s):	commercial (retail, service, office), 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
Side setback	5 ft min.; 10 ft min. when abutting residential zone
Rear setback	0 ft min.; 10 ft min. when abutting residential zone
Parking setback from RBL	20 ft min.
Parking setback from parcel lines with no RBL	6 ft min.; 20 ft min. when abutting residential zone

Coverage

Lot area	no min.; see Note 3
Lot coverage	70% max.
Primary street facade built to RBL	80% min. of RBL length

Height

Minimum number of floors	1 floors
Maximum number of floors	3 floors
Ground floor elevation	0 in min. above sidewalk; see Note 6 for residential use
Floor to floor height	10 ft min.
Building height	no max.; see Note 4 when abutting residential zone

Facade Transparency

Ground floor	70% of facade area min.
Upper floors	40% of facade area min.

Parking

Number of spaces	no min. requirement; see Note 8
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Notes

1. Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited.
2. Primary building entrance must be located along the Required Pedestrian Entry Zone and oriented to the street.
3. Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access, and pedestrian circulation including for persons with disabilities.
4. 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.
5. Exterior building articulation is required every 40 horizontal feet or less.
6. Ground floors with residential uses must be elevated a minimum of 18 inches above grade.
7. Pedestrian sidewalks or walkways must be provided to connect the building primary entrance to the public right of way.
8. Off-street parking must be located in the Parking Zone as seen on the Regulating Plan Buildings.
9. 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.
10. Any ground-level shopfront windows facing circulation networks must be kept visible (unshuttered) at night.
11. 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

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.
 - (4) Child care center, except on properties listed on the Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances.
- (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 2.500.

(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, and vehicle and pedestrian access and circulation, including for 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 by 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 Federal law.
- (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 for 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 Site Plan Review.
 - (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 are 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 9.432 PUBLIC LANDS – DOWNTOWN (PL-D)

(a) **Purpose.** The purpose of this Section is to set forth regulations for building standards applicable to areas zoned Public Lands-Downtown within the Lowell Downtown District and as seen 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.**

1. The requirements in this Section shall apply to all proposed development within the Public Lands-Downtown zone, as seen on the Regulating Plan. Development must be considered in relation to the intent and general character of the District.
2. The standards and requirements applicable to the PL-D zone in the Downtown District shall modify and take precedence over any duplicative or conflicting provision of the Lowell Development Code, unless otherwise explicitly permitted.
3. 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 50 percent of its assessed valuation by fire, explosion, natural disaster, 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.
4. Standards of the PL-D zone supersede standards of the PL zone.

(c) **Development Standards.**

Use (see Note 1)

Ground/upper floors:	all uses and their accessory uses generally associated with public functions
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Placement

Front required building line (RBL)	0 ft from the RBL as shown on the Regulating Plan; see Note 2
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Side setback	0 ft min.; 10 ft min. when abutting a residential zone
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Rear setback	0 ft min.; 10 ft min. when abutting a residential zone
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Coverage

Lot area	no min.; see Note 3
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Lot coverage	no max.; see Note 4
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Primary street facade built to RBL	50% min. of RBL length; 30 ft setback max.
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Height

Minimum number of floors	2 floors; see Note 6
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Maximum number of floors	3 floors; see Notes 5
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Building height	45 ft max.; See Note 5
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Parking

Number of spaces	no min. requirement; see Notes 7 & 8
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Notes

1. Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited.
 2. Buildings built on a street must orient their primary entry to the street.
 3. Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access, and pedestrian circulation, including for persons with disabilities.
 4. One hundred percent lot coverage is allowable when applicable minimum loading space and setback requirements are met.
 5. Maximum building height is subject to Fire Chief approval and excludes basements and daylight basements. If the parcel abuts a residential zone, building height is limited to the height allowed in the adjacent residential zone for a distance of 50ft.
 6. The Planning Commission may approve the following alternative to the floor number requirement: a required floor may be converted to an equivalent building height of 10' per floor.
 7. Off-street parking must be located in the Parking Zone as seen on the Regulating Plan Buildings.
 8. Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from an alley, or located behind or to the side of the building; they shall not be placed between buildings and streets.
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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.

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.
- (b) **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**.

(c) **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

- (6) 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.
- (7) 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.
- (8) 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.
- (9) The City shall review and may recommend expansion, additions, or modifications in the proposed design team for the preparation of the PD Development Plan.
- (10) 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, and 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 effects 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-inch-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 rights-of-way 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

Table 2. Section 9.514 Off-Street Parking Requirements.	
Residential Types	
<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>Downtown Residential 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>Downtown Residential 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. Fractional spaces are rounded up to the next whole number.</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, rounded 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>
Institutional Types	
<u>Hospitals</u>	<u>One for each bed; where fractioned, highest full unit, plus 2 for each nurses' station.</u>
<u>Churches, clubs, lodges</u>	<u>One space for every 75 square feet of main assembly area.</u>
<u>Libraires, museums, art galleries</u>	<u>Exempt from minimums. To be determined based on actual need. 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. One space per classroom.</u>
<u>High Schools</u>	<u>Exempt from minimums. To be determined based on actual needs. Based on actual needs Seven spaces per classroom.</u>
Commercial Types	
<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 space 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 and To be Determined Needs</u>	
<u>Fractional spaces are rounded up to the nearest whole number. Any use not specifically listed in this section, or when to be determined based on actual needs, 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 or developer'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, Transient Lodging _____ Spaces equal to 80% of the 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 automobiles 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 feet 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 or 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 rights-of-way 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" intersection shall, wherever practicable, 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 borne 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 is completed for the City. 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 rights-of-way 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 and 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, and 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 up 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.

(c) **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; and
 - (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 that is dangerous to health, safety, and property due to water or erosion hazards, or that results in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that development vulnerable to floods, including facilities that 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 that may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that 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 human-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;
and
 - (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:

A. 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;

B. 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;

C. 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

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or

2. 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:

A. Built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. 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:

A. 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

B. 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

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) Liberally 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;
- 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);
- 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); and
- 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; and
- 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; and
 - 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; and
 - (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 inches 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), a 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 have 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 have 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) ~~Ensure~~ ~~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 percent:

(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 location 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 percent 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 deposited 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 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 percent 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 in 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 unit shall have one off-street parking space in addition to any parking required for the residence. 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 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 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) Number of units.

(1) A maximum of two ADUs are allowed per legal single-family dwelling.
The ADUs may either be:

A. In a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop); or

B. An attached or interior unit to the primary dwelling (e.g., an addition or the conversion of an existing floor).

(b) 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; and

(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.

(c) 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; 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.

<u>Cottage Size</u>	<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>
<u>Density</u>	<p><u>A cluster shall consist of no more than ten and no fewer than four units.</u></p> <p><u>Cottage cluster developments are exempt from density calculations.</u></p>
<u>Setbacks</u>	<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>
<u>Maximum Height</u>	<u>25 feet</u>
<u>Maximum Lot Coverage</u>	<u>Maximum for all structures in cottage developments shall not exceed 60%</u>

(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; and
- 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. Cottage cluster projects are permitted parking clusters of not more than five contiguous spaces; and
- ~~B.~~
- C. Parking clusters must be separated from other spaces by at least four feet of landscaping.

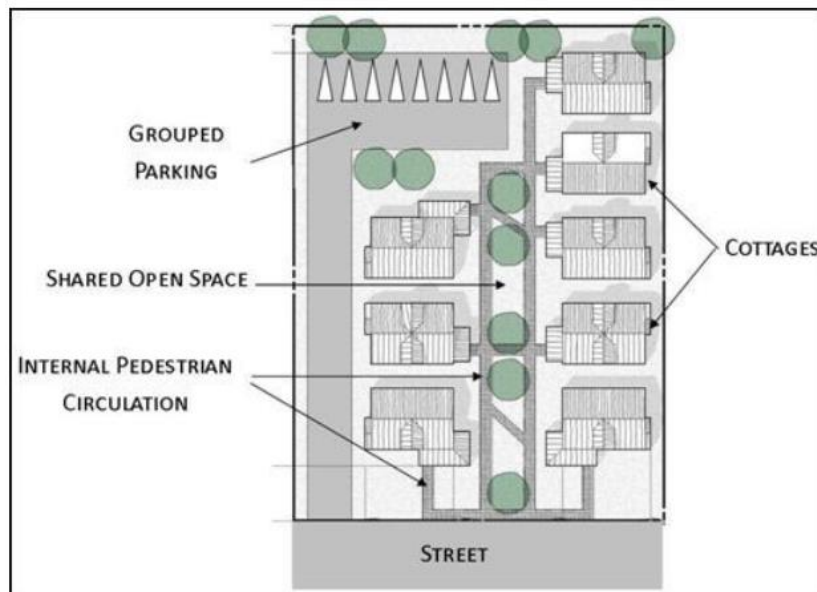


Figure 1. Visual representation of grouped parking. This figure is an example only and not intended to reflect an actual site plan for grouped parking or a cottage cluster development.

D. Parking areas shall be accessed only by a private driveway or public alley.

E. Carports or garages are permitted, but not required.

1. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum lot coverage.

2. Individual detached garages must not exceed 400 square feet in floor area.

3. A carport is not considered a garage. See definitions **Section XX**.

F. Screening of parking areas and parking structures shall be accomplished by landscaping, fencing, or walls at least three feet in height from common courtyards and public streets.

(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 150 square feet of open space per cottage. The common open space must be a single, contiguous piece.

1. The common open space shall be developed with a mix of landscaping, lawn area, pedestrian paths, or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75% of the total common open space area.

2. Pedestrian paths must be included in the common open space. Paths that are contiguous to a common open space shall count toward the common open space's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of the common open space.

B. Community Building. A single-story community building, of no more than 1,200 square feet, is permitted so long as it is incidental in use to the dwelling units. A community building converted from an existing building may be larger than 1,200 feet.

SECTION 9.709 FAMILY CHILD CARE HOME STANDARDS

The following shall apply to family child care homes, as defined in [Section 9.190](#). Family child care homes:

- (a) Are residential uses according to ORS 329A.440 and shall not be regulated as home occupations;
- (b) Shall not be prohibited by the governing documents of planned communities or condominiums, in accordance with the requirements of ORS 94.779 and ORS 100.023; and
- (c) Shall not be subject to any condition that is more restrictive than conditions imposed on other residential dwellings in the same zone.

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.~~

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.

(h) ~~**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.~~
 - ~~(2) 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.
- (7) 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 and prefabricated structures 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, prefabricated structures, 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 ~~the C-1~~ 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 vegetable ~~erops~~ 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 vegetable crops 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 are 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 animal per every two acres.
 - C. Minimum area per medium size animal (Similar to sheep, goats, or llamas) over six months of age – one animal 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 include 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 on his or her 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) **Bike 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."

CARPORT: A building forming a shelter for a vehicle, open on at least two sides.

CHILD CARE CENTER: A child care facility that is certified by the Oregon Department of Education Office of Child Care as a child care center.

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, whichever 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.

DLCD: Department of Land Conservation and Development.

DOWNTOWN DISTRICT: Lands encompassing the boundaries of the Regulating Plan. Downtown District shall also mean Lowell Downtown District and Downtown Core Area.

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.

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" includes manufactured homes, as defined in ORS 446.003, and prefabricated structures, as defined in ORS 455.010.

DWELLING, MULTI-FAMILY (APARTMENT): A building or portion thereof designated for occupancy by three (3) or more households living independently of each other, with the number of households 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 household.

DWELLING, TWO-FAMILY (DUPLEX): A detached building designed for and occupied by not more than two (2) households living independently of each other.

DWELLING UNIT: A single unit providing complete independent living facilities, designed for occupancy by one (1) household, 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. Façade Transparency is also known as 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.

FAMILY CHILD CARE HOME: A home that is registered or certified by the Oregon Department of Education Office of Child Care to provide child care in the provider's home to not more than 16 children, including children of the provider, regardless of full-time or part-time status. A family child care home is a residential use.

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.

HOUSEHOLD: A social unit composed of those living together in the same dwelling.

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.

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," as defined in ORS 446.003.

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 division 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, 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.~~

LOWELL LAND DEVELOPMENT CODE



ADOPTED VIA ORDINANCE #309



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ARTICLE 9.1 ADMINISTRATIVE PROVISIONS

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, Downtown Master Plan and Regulating 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 9.621**.
 - (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 9.206**

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 ensure 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.

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 polices 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

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 3rd 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 9.206 and 9.301**.
- (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.

Table 1 Summary of Approvals by Type of Review Procedure

Approvals	Review Procedures	Applicable Regulations
Amendments (Text Change to Development Code or Comprehensive Plan)	Type IV	Article 2, Section 9.253 Amendments
Annexations	Type IV	Article 2, Section 9.254 Annexations
Building Permit	Type I	Article 2, Section 9.207.
Code Interpretation	Type II	Article 1, Section 9.105
Conditional Use Permit	Type III	Article 2, Section 9.251
Flood Plain Development Permit	Type I	Article 6, Section 9.620 Flood Hazard Development
Home Occupation (outside of boundaries of Regulating Plan)	Type III	Article 7, Section 9.702 Home Occupation Standards
Home Occupation (inside boundaries of Regulating Plan)	Type I	Article 7, Section 9.702 Home Occupation Standards
Official Planned Unit Development (PUD)	Type IV	Article 4, Section 9.465 Official PD Development Plan
Modification to Approval (minor)	Type I	Article 2, Section 9.242 Proposed Changes in Approved Plans for Subdivisions or Land Partitions. Article 4, Section 9.466 for PUD.
Modification to Approval (major)	Type III	Article 2, Section 9.242 Proposed Changes in Approved Plans for Subdivision or Land Partitions. Article 4, Section 9.466 for PUD.
Zone Change Map Amendment Change (for one or more affected properties)	Type IV	Article 2, Section 9.253 Amendments
Property Line Adjustments (including consolidations)	Type II	Article 2, Section 9.213 Property Line Adjustments and Lot Consolidations
Non-Conforming Use Determination (Lots/Use/Structures/Premises/Characteristics)	Type II	Article 4, Section 9.408 Nonconforming Use

Partition	Type III	Article 2, Section 9.220 Subdivision or Partition Tentative Plans
Sign Permit	Type I	Article 5, Section 9.529 Signs
Site Plan Review	Type III	Article 2, Section 9.250 Site Plan Review. Site Plan Review for Building Permit Submittal shall be a Type I process. See Building Permit.
Site Plan Review (Within Boundaries of Regulating Plan)	Type II	Article 2, Section 9.250 Site Plan Review. Site Plan Review for Building Permit Submittal shall be a Type I process. See Building Permit.
Subdivision - Tentative	Type III	Article 2, Section 9.220 Subdivision or Partition Tentative Plan and Section 9.228 Decision Criteria
Subdivision - Final	Type I	Article 2, Section 9.229 Subdivision or Partition Plat and Section 9.237 Decision Criteria
Temporary Manufactured Dwelling Use Permit	Type II	Article 7, Section 9.711 Temporary Manufactured Dwelling Use
Variance	Type III	Article 2, Section 9.252 Variances
Annexation	Type IV	Article 2, Section 9.254 Annexations
Vacations	Type IV	Article 2, Section 9.255 Vacations
Replat	Type III	Section 9.240 Replatting

- (o) All land use and development permit applications and approvals shall be decided by using the procedures identified 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 involve 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.

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, 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, and points of ingress and egress.
- (k) Signs: location, size, height, and means of illumination.
- (l) Loading: location, dimension, number of spaces, and internal circulation.
- (m) Lighting: location, general nature, and 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 residents, 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 **Section 9.206**. 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 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 the Planning Commission or City Council.

(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 9.201**.

(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 all 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 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, and rail line authority, when there is a proposed development abutting or affecting their transportation facility, or rail line, 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; and
 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. 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.
- E. 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; and
 10. Contain the following language: "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.”

F. 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 9.206(c)**.

G. 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 Type II Notice of Decision shall contain:

- (i) A description of the applicant’s proposal and the City’s decision on the proposal (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.

- H. 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.
- I. 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; and
 - (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 paragraphs 3 through 5 below. 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. An appeal of a Type II Administrative decision shall be processed in accordance with the notice, hearing procedures, and decision process as outlined in the Type III land use process. See Section **9.206(c)**.
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 Planning Commission 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 9.201**.

(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 all 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). 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 language: "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; and
4. The applicant shall remove the signs from the subject property after the 14-day 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; and
 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”), pursuant to **Section 9.206(4)(C) (1-2)**, or by leaving the record open for additional written evidence or testimony. Pursuant to **Section 9.206(4)(B)**.
- 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 **paragraph (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; and
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 **subsection D, paragraph 5** 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 9.206(c)(4)(C)**; 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 made to the City Council within 15 days of the date the Notice of Decision was mailed. The appeal process for a Type III application shall be the same as a Type II appeal process. See **Section 9.206(b)(3)(I)**.

(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 9.201**.

(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 ten 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 (owners of property subject to a Comprehensive Plan amendment shall also 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 ten days before the scheduled Planning Commission public hearing date, and ten 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 **paragraph 1**, above; and
 - (ii) For each published notice, file in the record the affidavit of publication in a newspaper that is required in **paragraph 2**, above.
4. The Oregon Department of Land Conservation and Development (DLCD) shall be notified electronically using the Post-acknowledgement Plan Amendment (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 9.260(d)(3)** 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 are 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 to 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, 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.

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; and
 - 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 DLCD, 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 in **subsection (3)(B)**, above.

SECTION 9.207 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 9.206**, for the respective land use application type, 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 9.208 LAND DIVISIONS

SECTION 9.209 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 9.210 and 9.211**.
- (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 9.210 PROPERTY LINE ADJUSTMENT REQUIREMENTS

All property line adjustment and 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) The approximate location of buildings, public and private utilities, drainage ways, and other significant features that would affect development of the adjusted properties.

SECTION 9.211 DECISION CRITERIA

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

- (a) Property Line Adjustment.
 - (1) The adjustment will not create an additional unit of land.
 - (2) The adjustment will not create a land-locked parcel.
 - (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.
 - (4) The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
 - (5) The adjustment shall comply with all state and county recording requirements.
- (b) 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 will comply with the minimum lot depth, width, and area standards of the applicable zone after the proposed consolidation.
 - A. Lot consolidations are permitted on non-conforming lots.

- (4) Existing structures on any affected property will comply with the minimum and maximum setback standards of the applicable zone after the proposed consolidation.
 - A. If existing structures on any affected property do not comply with the minimum and maximum setback standards of the applicable zone, the consolidation shall not increase noncompliance of setback standards.
- (5) If the resulting aggregation of affected properties is eligible for additional development under existing zoning, the proposed consolidation will not preclude the opportunity for such additional development.

SECTION 9.212 DECISION PROCESS

- (a) A Property Line Adjustment or Lot Consolidation shall be reviewed as a Type II process.
- (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 of **Section 9.206(c)(4)**.

SECTION 9.213 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 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 9.206(b)(3)(G)**. A decision by the City Administrator may be appealed to the Planning Commission in accordance with **Section 9.206(b)(3)(I)**.
- (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 9.214 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 and Subdivisions pursuant to a Type III 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. 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 that future division of the property and street layout will not preclude development on adjacent tracts, will facilitate future land divisions, and will ensure existing structures and infrastructure will meet the locational requirements of this code.
- (c) The proposed street plan:
 - (1) Is in conformance with City standards and with the Master Road Plan or other transportation planning document.
 - (2) Provides for adequate and safe traffic and pedestrian circulation both internally and in relation to the existing City street system.
 - (3) 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:
 - (1) Prior written commitment of public funds by the appropriate public agency.
 - (2) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.
 - (3) 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.
- (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

FINAL SUBDIVISION OR PARTITION PLAT

SECTION 9.230

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 must reapply for approval and resubmit the Tentative Plan with any revision necessary to comply with changed conditions.

SECTION 9.231 FORM AND SCALE

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

SECTION 9.232 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 9.233 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 9.234 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 9.235 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 9.236 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 9.237 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 9.238 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 9.239 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**.

SECTION 9.240 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 9.241 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 9.206(b)(3)(I)**.

SECTION 9.242 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; and
- (5) Does not relax dimensional standards or other specific requirements established by the City as a condition of approval.

(b) Minor Changes. Minor changes may be approved by the City Administrator pursuant to a Type I process.

SECTIONS 9.243 through 9.249 Reserved for Expansion.

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 for proposed development located outside of the boundaries of the Regulating Plan. Proposed development within the boundaries of the Regulating Plan shall be processed and reviewed utilizing a Type II land use process. 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, or City Administrator in the case of development within the Regulating Plan, must make the following findings:
- (1) That the proposed development complies with the Zoning District standards, or in case of proposed develop within the boundaries of the Regulating Plan, the development conforms to the Building Standards Sheets as listed in **Sections 9.413 and 9.450**.
 - (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.
- (c) **Decision Process.** The procedure for taking action on an application for a Site Plan Review shall be as follows:
- (1) Site Plan Review shall be conducted in accordance with the Type III land use procedures for development proposed outside of the boundaries of the Regulating Plan, as seen in **Section 9.413(d)**. Proposed development within the boundaries of the Regulating Plan shall be conducted in accordance with the Type II 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) 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.
 - (4) 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.
 - (5) 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 by the Planning Commission in conformance with the Type III procedures of **Section 9.206(c)**.
 - (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 affect 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 addressing subsection (b) Decision Criteria, of this section. 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 by the Planning Commission in conformance with Type III procedures of the **Section 9.206(c)**.
 - (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 9.206(c)(5)**.

- (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 ensure 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.

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 9.206 (d)** or a Quasi-judicial (Type III) Decision as defined in **Section 9.206 (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 that 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, 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 of 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.

(b) 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 Plan 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 the following:
- (1) The Planning Commission shall evaluate the proposed annexation, determine the appropriate zoning district to be applied upon annexation, and make a recommendation to the City Council.
 - (2) The Planning Commission shall hold a public hearing in accordance with the provisions of **Section 9.206(c)(4-5)** 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 shall hold a public hearing in accordance with the provisions of **Section 9.206(d)(4-9)** 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 9.206(d)(9)**.
- (f) Approval of the annexation shall require a Notice of Decision consistent with a Type IV process and include the Oregon Secretary of State, the Oregon Department of Revenue, and the County Clerk and Assessor of Lane County. Notice shall include a legal description of the annexed property and 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 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 Decision" by the City Council with a recommendation by the

Planning Commission, in conformance with the Type IV procedures of **Section 9.206(d)**, 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.

- (4) 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.
 - (5) 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 in **Section 9.206(d)(9)**.

SECTIONS 9.256 through 9.299 Reserved for Expansion

ARTICLE 9.3 NOTIFICATION

SECTION 9.301 NOTIFICATION

- (a) **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.
- (b) 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 30 days of the effective date of the administrative rule or statute.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) **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.

- (g) **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 35 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 35 days notice if the City Council determines that there are emergency circumstances requiring expedited review.
 - (1) The notice shall be provided at least 35 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 35 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).

- (h) **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 9.302 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 9.303 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:

ABBREVIATED PRIMARY DISTRICTS	DESIGNATION
Single-family Residential	R-1
Multiple-family Residential	R-3
General Commercial	C-1
Downtown Flex-Use 2	DF2
Downtown Flex-Use 1	DF1
Downtown Residential Attached	DRA
Downtown Residential Detached	DRD
Light Industrial	I-1
Public Lands	PL
Public Lands - Downtown	PL-D

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:

ABBREVIATED OVERLAY DISTRICTS	DESIGNATION
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, **Section 9.413(d)**, dictates building function within the prescribed areas and also implements a land use typology for future growth. A certified print of the adopted map, 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 9.206(c)(6)** 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.
- (c) **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.
- (d) **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.
- (e) **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.
- (f) **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.

SECTION 9.409 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 per legal lot.
 - (2) Residential Care Homes for 5 or less people. as provided in ORS 197.660 -670. (Statutory)

- (3) Family child care home.
 - (4) Accessory buildings subject to the following standards:
 - A. 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 provisions of **Section 9.206(c)** and the home occupation standards of **Article 9.7, Section 9.703**.
 - 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, Section 9.707**
 - (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) Child Care Center.
 - (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.
- (d) **Development Standards.**
- (1) Minimum lot area: 5,500 square feet.
 - (2) Minimum lot width: 30 feet.
 - (3) Minimum Lot Depth: 80 feet
 - (4) Maximum Building coverage, including Accessory Dwelling Units and 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: 50%, except where otherwise allowed.
 - (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 at least 5 feet behind the front façade of the primary structure. Except garages, carports or other parking structures not facing the front street façade are not subject to the 5-foot setback.
 - B. Side yard setbacks:
 1. Interior side yard: 5 feet.
 2. Alley side yard: 5 feet. The City may require any lot with an alley to access off-street parking from the alley.
 3. Street side yard: 10 feet. Side facing garages, carports, or other parking structures must be flush with or behind, but not protrude beyond, the side (façade or covered porch) of the primary structure.
 - C. Rear yard: 10 feet; 5 feet for accessory buildings.
- (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 review process.
 - (1) Duplexes, apartments, and other multiple-family dwellings, including Triplexes and Quadplexes.
 - (2) One single-family dwelling per legal lot.
 - (3) Residential Care Facility for 15 or less people as provided in ORS 197.660 – 670.
 - (4) Family child care home.
 - (5) Child Care Center.
 - (6) Accessory buildings subject to the following standards:
 - A. 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.
 - C. Boats, trailers, detached campers, motorized dwellings, and similar recreational equipment may be stored, but not used for human habitation.

- (7) Accessory Dwelling Units, subject to the standards as listed in **Article 9.7, Section 9.707**.
 - (8) Single-Family Attached.
 - (9) Cottage Clusters, subject to the standards as listed in **Article 9.7, Section 9.708**.
- (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**, the applicable Use Standards of **Article 9.7**, and a Type III land use process, of **Section 9.206(c)**.
- (1) Home occupation.
 - (2) Semi-public uses such as grange halls, churches, public utility facilities.
 - (3) Manufactured Dwelling Parks
 - (4) Bed and Breakfast
- (d) **Development Standards.**
- (5) Minimum lot area: 5,500 square feet.
 - (6) Minimum lot width: 50 feet.
 - (7) Minimum Lot Depth: 80 feet
 - (8) Maximum Building coverage including Accessory Dwelling Units and accessory buildings: 50%, except where otherwise allowed, 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 Lot Coverage shall not apply to triplexes and quadplexes, provided minimum setbacks and off-street parking standards are met.
 - (9) Maximum building height: 3 stories or 45 feet, whichever is lower. Accessory buildings are limited to one story, with the exception of Accessory Dwelling Units. For R-3 development within 50 feet of an abutting R-1 district side or rear yard, R-1 height standards apply.
 - (10) 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 at least 5 feet behind the front façade of the primary structure. Except garages, carports or other parking structures not facing the front street façade are not subject to the 5-foot setback.
 - B. Side yard setbacks:
 - 1. Interior side yard: 5 feet

2. Alley side yard: 5 feet
 3. Street side yard: 10 feet. Side facing garages, carports, or other parking structures must be flush with or behind, but not protrude beyond, the side (façade or covered porch) of the primary structure.
- C. Rear yard: 10 feet; 5 feet accessory buildings.
- (11) 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 9.414 through 9.416** is to set forth the regulations for building standards applicable to each Parcel Type that are appropriate to use within the 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. The purpose for each Parcel Type is described below.

- (1) Downtown Residential Attached (DRA) District is intended to provide a variety of homes, with a mix of sizes, that are available to a wide range of incomes, within walking distance of the Downtown Core for convenient, pedestrian-friendly access to shopping, employment, educational, and recreational activities.
- (2) The Downtown Residential Detached (DRD) District is intended to provide units as a permitted use, within walking distance of the Downtown core for convenient, pedestrian-friendly access to shopping, employment, educational, and recreational activities.
- (3) The Downtown Flex-Use 1 (DF1) 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 uses 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.
- (4) The Downtown Flex-Use 2 (DF2) 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.

(b) **Applicability.**

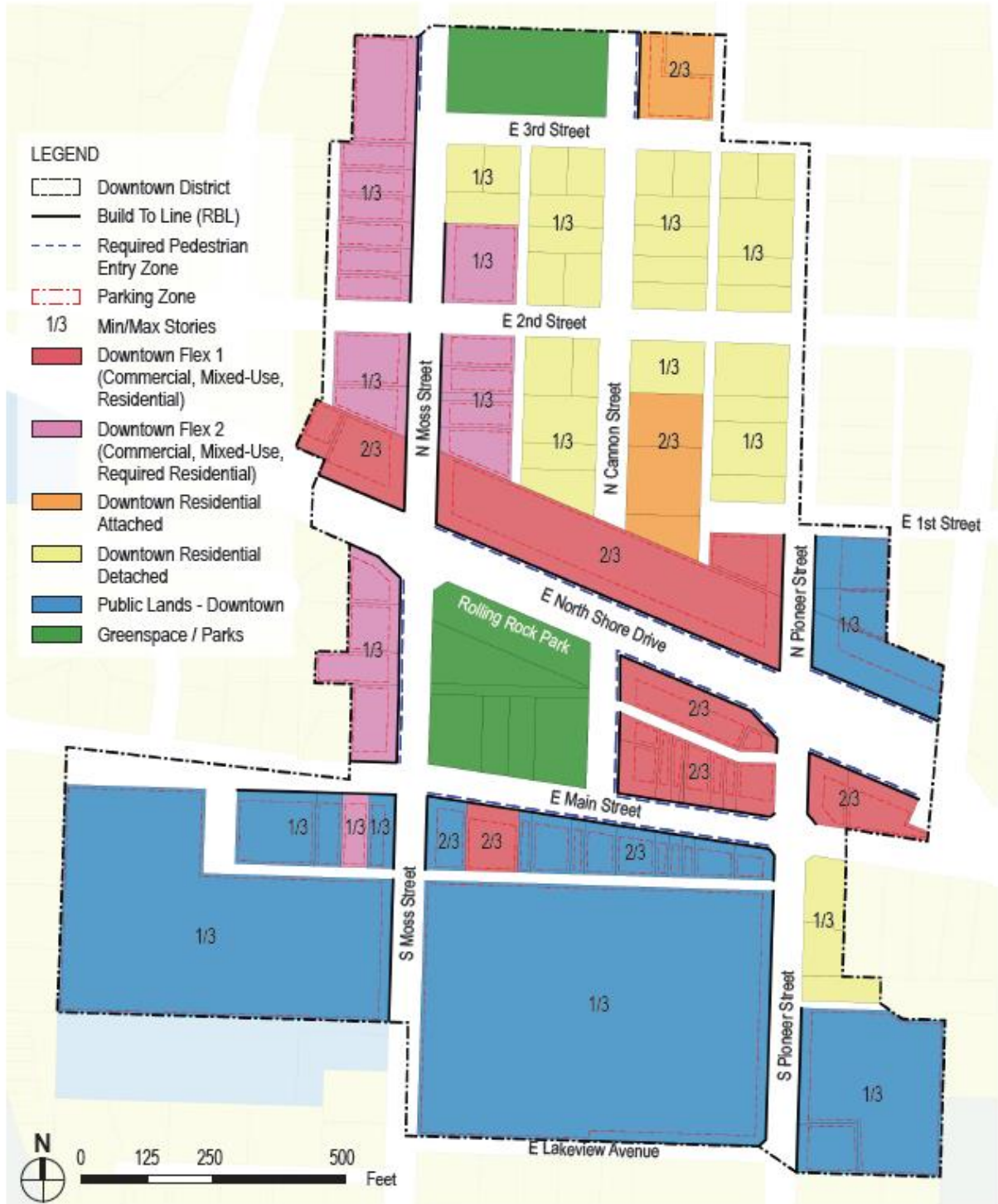
- (1) The requirements in this Section shall apply to all proposed development within Lowell Downtown District, the boundaries of which are delineated on the Regulating Plan as “Downtown District,” and must be considered in relation to the intent and general character of the District.
- (2) The standards and requirements applicable to a zone in the Downtown District, shall modify and take precedence over any duplicative or conflicting provision of the Lowell Development Code, unless otherwise explicitly permitted.
- (3) 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 50 percent of its assessed valuation by fire, explosion, natural disaster, 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.

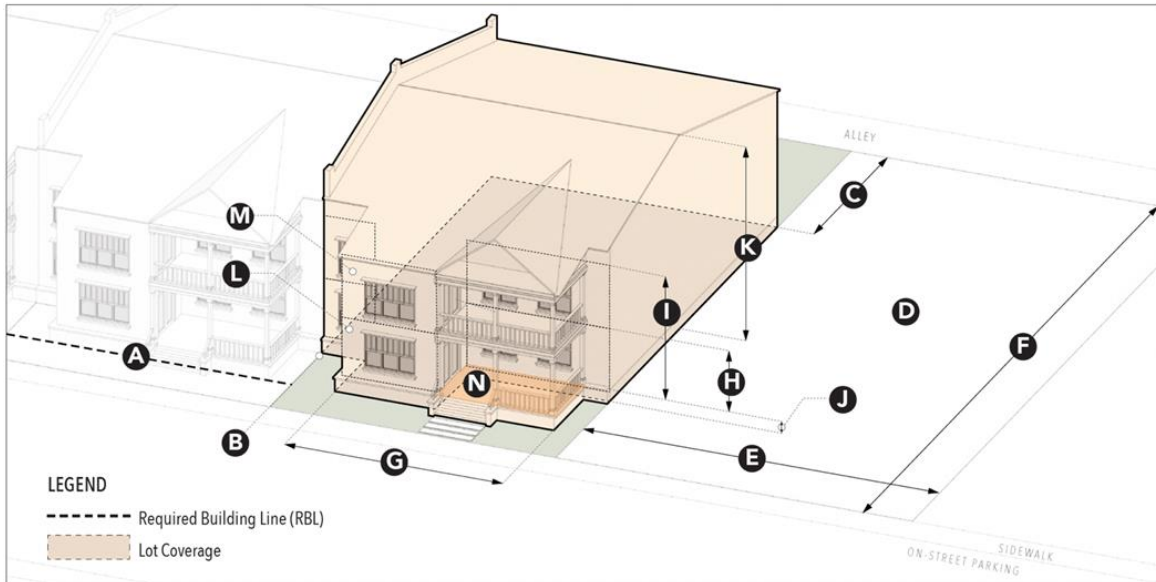
(d) **Regulating Plan Map.**

DOWNTOWN REGULATING PLAN



SECTION 9.414 DOWNTOWN RESIDENTIAL ATTACHED (DRA)

(a) DRA Building Standards.



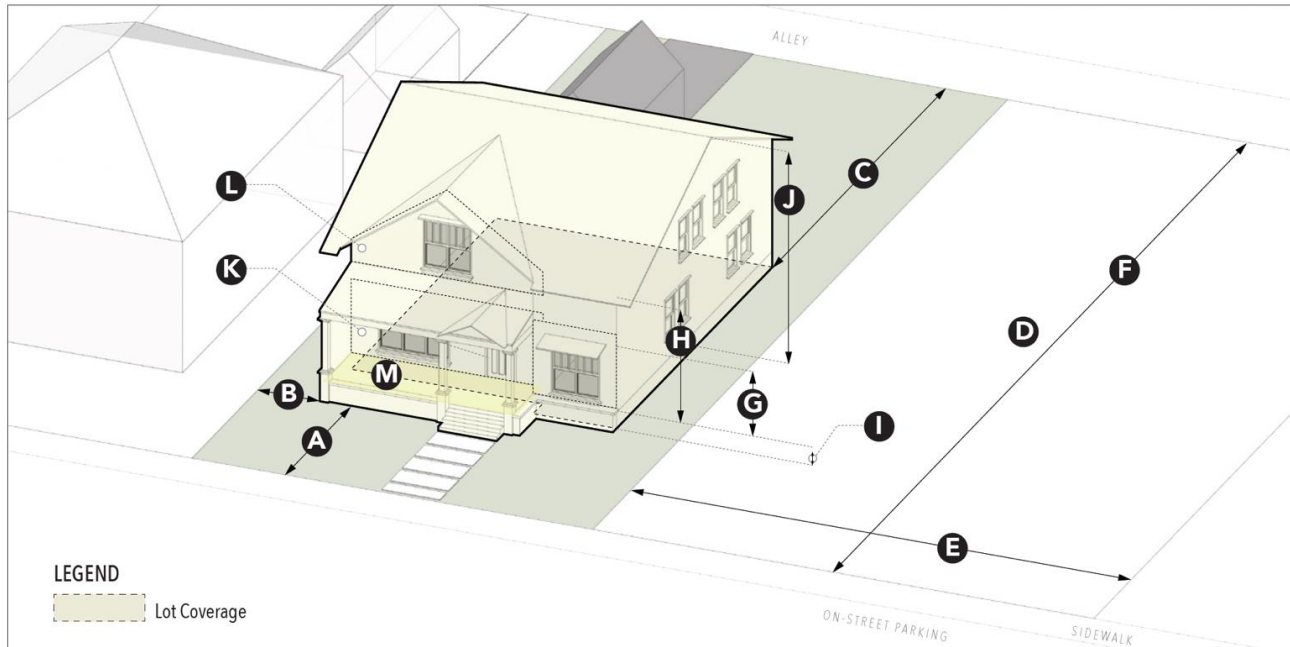
Use (see Note 1)		
Ground/upper floor:	residential, commercial (retail, service, office)	
Placement		
Front required building line (RBL)	5 - 15 ft; the front-most part of the building (i.e. wall, front porch) must be built to RBL	A
Side setback	5 ft min.	B
Rear setback	5 ft min.; 0 ft min. when abutting an alley	C
Coverage		
Lot area	2,000 sf min.	D
Lot width	20 ft min.; 30 ft min. for corner lots	E
Lot depth	1.5x lot width or 100 ft, whichever is less	F
Lot coverage	60% max.; see Note 3	
Primary street facade built to RBL	80% min. of RBL length when applicable	G
Height		
Minimum number of floors	2 floors	H
Maximum number of floors	3 floors	I
Ground floor elevation	18 in min. above sidewalk	J
Building height	subject to Fire Chief approval.; see Note 4	K
Facade Transparency		
Ground floor	40% of facade area min.	L
Upper floors	40% of facade area min.	M
Porch / covered stoop		
Dimension	6 x 6 ft min. for each primary entry	
Parking		
Number of spaces	no min. requirement; see Note 5	N

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 Pedestrian Entry Zone and 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 measuring coverage.
- Maximum building height excludes basements and daylight basements. Accessory buildings are limited to one story.
- Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from an alley, or located behind or to the side of the building; they shall not be placed between buildings and streets.
 - Attached and detached garages shall be oriented to and accessed from an alley
 - When no alley exists, garages shall be tucked under the first story and accessed from the front or side of the property if set back a minimum of 20 ft from the front or 10 ft from the side.
- Residential uses entirely above the ground floor must have a balcony at least four feet deep.

SECTION 9.415 DOWNTOWN RESIDENTIAL DETACHED (DRD)

(a) **DRD Building Standards.**



Use (see Note 1)	
Ground/upper floor:	residential, commercial (retail, service, office)

Placement	
Front setback	10 ft min., 30 ft max. A
Side setback	5 ft min. B
Rear setback	5 ft min.; 0 ft min. when abutting an alley C

Coverage	
Lot area	4,000 sf min. D
Lot width	30 ft min.; 40 ft min. for corner lots E
Lot depth	60 ft min. F
Lot coverage	50% max., 60% max. with Accessory Dwelling Unit (ADU); see Note 3

Height	
Minimum number of floors	1 floors G
Maximum number of floors	3 floors H
Ground floor elevation	18 in min. above sidewalk I
Building height	subject to Fire Chief approval.; see Note 4 J

Facade Transparency	
Ground floor	40% of facade area min. K
Upper floors	40% of facade area min. L

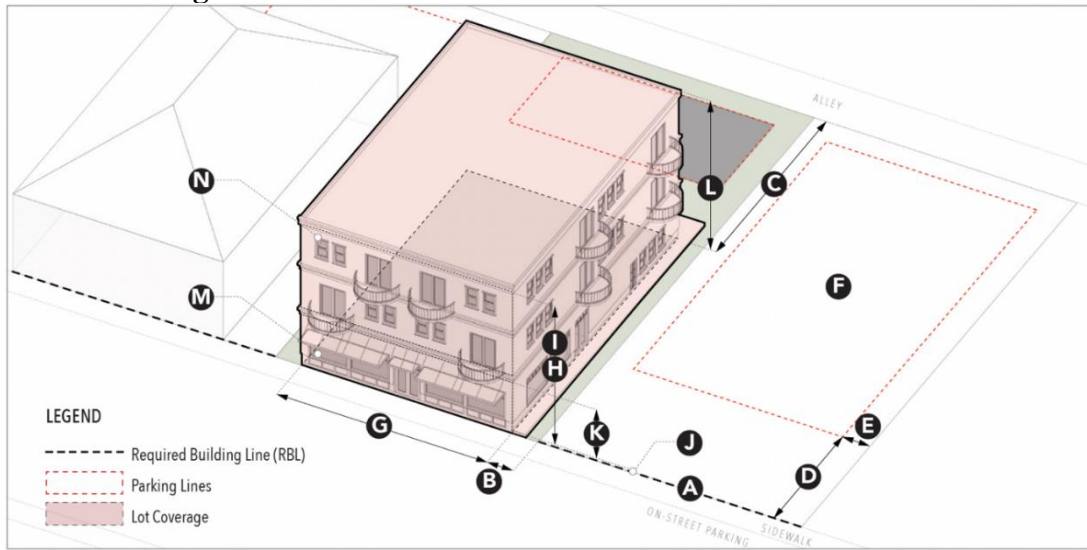
Porch / covered stoop	
Dimension	6 x 6 ft min. for each primary entry M

Parking	
Number of required space	1 space per unit; see Note 5

- | | |
|--------------|---|
| Notes | |
| 1. | Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited. |
| 2. | Primary building entrance must be located along the Required Pedestrian Entry Zone and oriented to the street. |
| 3. | 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. |
| 4. | Maximum building height excludes basements and daylight basements. Accessory buildings are limited to one story. |
| 5. | Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from an alley, or located behind or to the side of the building; they shall not be placed between buildings and streets. <ul style="list-style-type: none"> • Attached and detached garages shall be oriented to and accessed from an alley • When no alley exists, garages shall be tucked under the first story and accessed from the front or side of the property if set back a minimum of 20 ft from the front or 10 ft from the side. |
| 6. | Residential uses entirely above the ground floor must have a balcony at least four feet deep. |

SECTION 9.416 FLEX-USE 1 DISTRICT (DF1)

(a) DF1 Building Standards.



Use (see Note 1)	
Ground floor:	commercial (retail, service, office)
Upper floor(s):	commercial (retail, service, office), residential
Placement	
Front required building line (RBL)	0 ft; the front-most part of the building (i.e. A wall, front porch) must be built to the RBL
Side setback	0 ft min.; 10 ft min. when abutting residential zone B
Rear setback	0 ft min.; 10 ft min. when abutting residential zone C
Parking setback from RBL	30 ft min. D
Parking setback from parcel lines with no RBL	6 ft min.; 20 ft min. when abutting residential zone E
Coverage	
Lot area	no min.; see Notes 3 and 4 F
Lot coverage	100% max.; see Notes 3 and 4
Primary street facade built to RBL	90% min. of RBL length G
Height	
Minimum number of floors	2 floors H
Maximum number of floors	3 floors I
Ground floor elevation	0 in min. above sidewalk; see Note 7 for residential use J
Floor to floor height	10 ft min. K
Building height	no max.; see Note 5 when abutting residential zone L
Facade Transparency	
Ground floor	75% of facade area min. M
Upper floors	40% of facade area min. N
Parking	
Number of spaces	no min. requirement; see Note 9

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 Pedestrian Entry Zone and 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 for persons with disabilities.
- One hundred percent lot coverage is allowable when applicable minimum loading 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 floors with non-street-facing residential uses must be elevated a minimum of 18 inches above grade.
- Pedestrian walkways must be provided to connect the building primary entrance to the public right of way.
- Off-street parking must be located in the Parking Zone as seen on the Regulating Plan Buildings.
- 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 9.417 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.

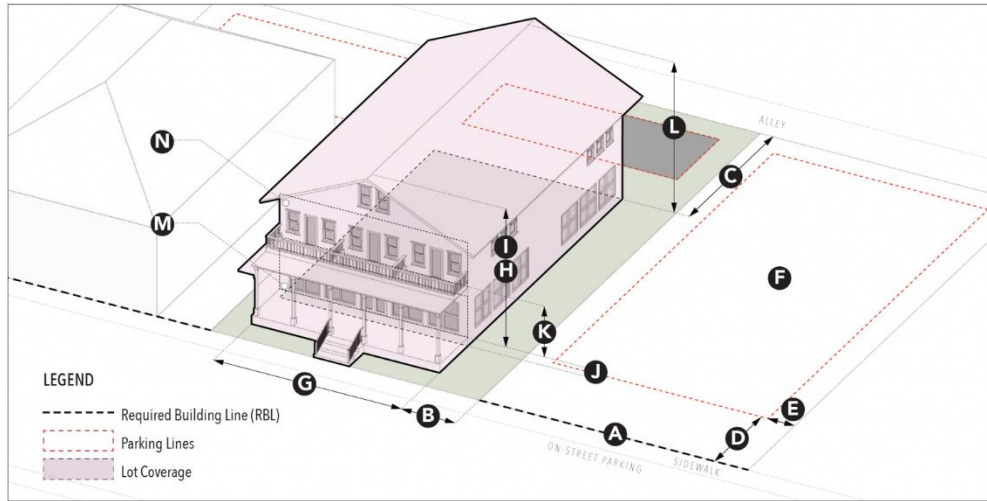
- (b) **Permitted Uses.** In a C-1 District, the following uses and their accessory uses are permitted subject to the Site Plan Review provisions of **Section 9.250** and the standards, provisions, and exceptions set forth in this Code, provided all operations except off-street parking and temporary activities shall be conducted entirely within an enclosed building:
 - (1) Retail stores or shops.
 - (2) Personal or business service.
 - (3) Repair shops.
 - (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) Family child care home.
 - (12) Child care center.
 - (13) Second story residences located above a ground floor commercial use in accordance with **Section 9.720 (b)**.
 - (14) 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 (b) 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(u)** 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 **Section 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 for persons with disabilities.
- (1) Minimum lot area: None established
 - (2) Yards:
 - A. Front yard setbacks: none required. See **Sections 9.509 to 9.511** 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 FLEX-USE 2 DISTRICT (DF2)

(a) DF2 Building Standards.



Use (see Note 1)		
Ground floor:	commercial (retail, service, office), residential	
Upper floor(s):	commercial (retail, service, office), 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	A
Side setback	5 ft min.; 10 ft min. when abutting residential zone	B
Rear setback	0 ft min.; 10 ft min. when abutting residential zone	C
Parking setback from RBL	20 ft min.	D
Parking setback from parcel lines with no RBL	6 ft min.; 20 ft min. when abutting residential zone	E
Coverage		
Lot area	no min.; see Note 3	F
Lot coverage	70% max.	
Primary street facade built to RBL	80% min. of RBL length	G
Height		
Minimum number of floors	1 floors	H
Maximum number of floors	3 floors	I
Ground floor elevation	0 in min. above sidewalk; see Note 6 for residential use	J
Floor to floor height	10 ft min.	K
Building height	no max.; see Note 4 when abutting residential zone	L
Facade Transparency		
Ground floor	70% of facade area min.	M
Upper floors	40% of facade area min.	N
Parking		
Number of spaces	no min. requirement; see Note 8	

Notes

1. Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited.
2. Primary building entrance must be located along the Required Pedestrian Entry Zone and oriented to the street.
3. Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access, and pedestrian circulation including for persons with disabilities.
4. 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.
5. Exterior building articulation is required every 40 horizontal feet or less.
6. Ground floors with residential uses must be elevated a minimum of 18 inches above grade.
7. Pedestrian sidewalks or walkways must be provided to connect the building primary entrance to the public right of way.
8. Off-street parking must be located in the Parking Zone as seen on the Regulating Plan Buildings.
9. 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.
10. Any ground-level shopfront windows facing circulation networks must be kept visible (unshuttered) at night.
11. 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 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.
 - (4) Child care center, except on properties listed on the Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances.
- (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.
- (d) **Continued Compliance Required.**
- (1) Uses permitted under subsection (b) 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 subsection (c) 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 2.500.

(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, and vehicle and pedestrian access and circulation, including for 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 9.511** 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 9.431 through 9.439 reserved for expansion

- (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 by 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 Federal law.
- (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 for 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 Site Plan Review.
 - (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 are 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 9.6** for Special Development Standards, and **Article 9.7** for Use Standards that may apply in the Public Lands District.

SECTION 9.441 through 9.449 reserved for expansion.

SECTION 9.450 PUBLIC LANDS – DOWNTOWN (PL-D)

(a) **Purpose.** The purpose of this Section is to set forth regulations for building standards applicable to areas zoned Public Lands-Downtown within the Lowell Downtown District and as seen 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.**

1. The requirements in this Section shall apply to all proposed development within the Public Lands-Downtown zone, as seen on the Regulating Plan. Development must be considered in relation to the intent and general character of the District.
2. The standards and requirements applicable to the PL-D zone in the Downtown District shall modify and take precedence over any duplicative or conflicting provision of the Lowell Development Code, unless otherwise explicitly permitted.
3. 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 50 percent of its assessed valuation by fire, explosion, natural disaster, 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.
4. Standards of the PL-D zone supersede standards of the PL zone.

(c) Development Standards.

Use (see Note 1)		Notes
Ground/upper floors:	all uses and their accessory uses generally associated with public functions	<ol style="list-style-type: none"> 1. Uses that create odor, dust, smoke, noise, or vibration that is perceptible beyond the property boundaries are prohibited. 2. Buildings built on a street must orient their primary entry to the street. 3. Lots are required to be large enough and developed to accommodate the building, sewage disposal system, required parking, service access, and pedestrian circulation, including for persons with disabilities. 4. One hundred percent lot coverage is allowable when applicable minimum loading space and setback requirements are met. 5. Maximum building height is subject to Fire Chief approval and excludes basements and daylight basements. If the parcel abuts a residential zone, building height is limited to the height allowed in the adjacent residential zone for a distance of 50ft. 6. The Planning Commission may approve the following alternative to the floor number requirement: a required floor may be converted to an equivalent building height of 10' per floor. 7. Off-street parking must be located in the Parking Zone as seen on the Regulating Plan Buildings. 8. Off-street parking, drives, garages, and other vehicle areas must be oriented to and accessed from an alley, or located behind or to the side of the building; they shall not be placed between buildings and streets.
Placement		
Front required building line (RBL)	0 ft from the RBL as shown on the Regulating Plan; see Note 2	
Side setback	0 ft min.; 10 ft min. when abutting a residential zone	
Rear setback	0 ft min.; 10 ft min. when abutting a residential zone	
Coverage		
Lot area	no min.; see Note 3	
Lot coverage	no max.; see Note 4	
Primary street facade built to RBL	50% min. of RBL length; 30 ft setback max.	
Height		
Minimum number of floors	2 floors; see Note 6	
Maximum number of floors	3 floors; see Notes 5	
Building height	45 ft max.; See Note 5	
Parking		
Number of spaces	no min. requirement; see Notes 7 & 8	

SECTION 9.451 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 9.452 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 9.206(c)** shall be used when the application is submitted by a property owner and applies to a specific property. The Legislative hearing procedures of **Section 9.206(d)** shall be used when the Overlay-District is applied by the City to a group or class of properties under similar circumstances.

SECTIONS 9.543 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.

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.
- (b) **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 9.460 through 9.467** 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 9.462 through 9.465** 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**.

(c) **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 9.206(d)(4)**. 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 9.223 through 9.227**, 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, and 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 9.206(c)(4-5)**, 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 9.206(d)(4-7)** 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) **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.

- (d) **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 effects 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 9.208** 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 8**, 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

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 9.502 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 9.503 HEIGHT STANDARDS

Building height standards are specified in each Zoning District.

SECTION 9.504 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 9.505 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 9.506 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 9.507 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.

SECTION 9.508 YARD SETBACKS

Yard setback standards are specified in each Zoning District.

SECTION 9.509 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 9.510 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 9.511 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 9.512 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. 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) The outer boundary and all landscaped islands of a parking area shall be contained by a 6-inch-high curb for protection of landscaping, pedestrian walkways, and to contain rainwater runoff. No motor vehicle shall project over the property line.
 - (5) 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 rights-of-way or abutting property and shall detain out-flow velocities to that of undeveloped land. On-site drainage must be approved by the City.
 - (6) 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.
 - (7) 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 9.413**.
 - (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, two-family dwellings, triplexes, and quadplexes.
- (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 9.513**. 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 9.513 OFF-STREET PARKING REQUIREMENTS

Table 2. Section 9.513 Off-Street Parking Requirements.	
Residential Types	
Dwelling, single-family	One for each dwelling unit on a single lot.
Dwelling, two-family (duplex), or multiple family	One for each dwelling unit.
Downtown Residential Attached (DRA District)	No minimum off-street parking required.
Flex 1 and Flex 2	No minimum off-street parking required.
Downtown Residential Detached (DRD District)	One space for each unit.
Hotel, motels, motor hotels, etc.	0.75 spaces for each guest room. Fractional spaces are rounded up to the next whole number.
Accessory dwelling unit (ADU)	No minimum off-street parking required.
Cottage clusters	One space per cottage unit. One additional guest parking space provided for every four cottages, rounded 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.
Institutional Types	
Hospitals	One for each bed; where fractioned, highest full unit, plus 2 for each nurses' station.
Churches, clubs, lodges	One space for every 75 square feet of main assembly area.
Libraires, museums, art galleries	Exempt from minimums. To be determined based on actual need.
Nursing homes, homes for the aged	One space for each six beds for the aged, group care homes, asylums, etc.
Pre-School through Middle-School	Exempt from minimums. To be determined based on actual need.
High Schools	Exempt from minimums. To be determined based on actual needs.
Commercial Types	
Retail establishments, except as otherwise specified in this Code	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.)
Barber and beauty shops	One space for each 200 square feet of floor area.
Health clubs, gyms, continuous entertainment (e.g., bowling alleys)	One space for every 300 square feet of floor area.

Office buildings, businesses, and professional offices, including medical, dental and banking institutions	One space for every 500 square feet of floor area.
Recreational or Entertainment Establishments	
Spectator type auditoriums, assembly halls, theaters, stadiums, places of public assembly, etc.	One space per six seats.
Participating skating rinks, dance halls, etc.	One space for each 300 square feet of floor area.
Establishments for the sale and consumptions on the premise of food and beverage	One space for each 200 square feet of floor area.
Industrial Types	
Storage warehouse, manufacturing establishment, wholesale establishments, rail or trucking freight terminal	One space per employee.
Unspecified Uses and To be Determined Needs	
Fractional spaces are rounded up to the nearest whole number. Any use not specifically listed in this section, or when to be determined based on actual needs, 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 or developer's expense.	

SECTION 9.514 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 9.515 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 feet 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. As a condition of approval, the City 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 or 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 9.516 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 rights-of-way 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" intersection shall, wherever practicable, 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 borne 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.
 - (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 9.517 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 9.518 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 is completed for the City. Until specific Bikeway requirements are adopted, travel lanes of all streets that do not require Bikeways are approved for joint use with bicycles.

SECTION 9.519 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 9.520 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 9.521 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 9.522 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 rights-of-way or easement
 - (4) Surface mounted structures, substations, or facilities requiring above ground locations by the serving utility.

SECTION 9.523 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 and 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 9.524 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 9.525 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) 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 9.526 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 9.527 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, and 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 up 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 9.528 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 9.529 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.

(c) 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 9.530 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; and
- (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 that is dangerous to health, safety, and property due to water or erosion hazards, or that results in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that development vulnerable to floods, including facilities that 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 that may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that 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 human-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; and
 - (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:

- A. 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;
- B. 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;
- C. 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
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior; or
 - 2. 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:

- A. Built on a single chassis;
- B. 400 square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light duty truck; and
- D. 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:

- A. 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
- B. 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) Liberally 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;
 - 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);
 - 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); and
 - 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; and
- 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; and
 - 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; and
 - (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).

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.

(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).

SECTIONS 9.626 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 inches 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), a 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 have 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 have 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 9.519**, 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) Ensure 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 percent:

(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 location 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 percent 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 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 **Table 1 of Section 9.203**.

(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 percent 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 in all zoning districts outside of the boundaries of the Regulating Plan 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 unit shall have one off-street parking space in addition to any parking required for the residence. 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 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 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.

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 9.206**, and shall conform to all of the following standards:

- (a) Number of units.
 - (1) A maximum of two ADUs are allowed per legal single-family dwelling. The ADUs may either be:
 - A. In a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop); or
 - B. An attached or interior unit to the primary dwelling (e.g., an addition or the conversion of an existing floor).
- (b) 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; and
 - (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.
- (c) 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; 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 9.206**, and shall conform to the following standards:

- (a) Cottage cluster housing development and design standards.

(1) Table 3 Development Standards.

Cottage Size	<p>The gross floor area of each cottage shall not exceed 1,200 square feet.</p> <p>At least 50% of the cottages in each cluster shall have a gross floor area less than 1,200 square feet.</p> <p>“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.</p> <p>The footprint may not exceed 1,000 square feet.</p>
Density	<p>A cluster shall consist of no more than ten and no fewer than four units.</p> <p>Cottage cluster developments are exempt from density calculations.</p>
Setbacks	<p>Setbacks shall conform to the setback standards for the underlying zoning district.</p> <p>Cottages shall be no more than 30 feet from the common open space, measured from the façade of the cottage to the nearest</p>

	delineation of the common open space. Distance between structures shall be a minimum of five feet.
Maximum Height	25 feet
Maximum Lot Coverage	Maximum for all structures in cottage developments shall not exceed 60%

(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, except where otherwise not required;
- 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; and
- 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. Cottage cluster projects are permitted parking clusters of not more than five contiguous spaces; and
- B. Parking clusters must be separated from other spaces by at least four feet of landscaping.

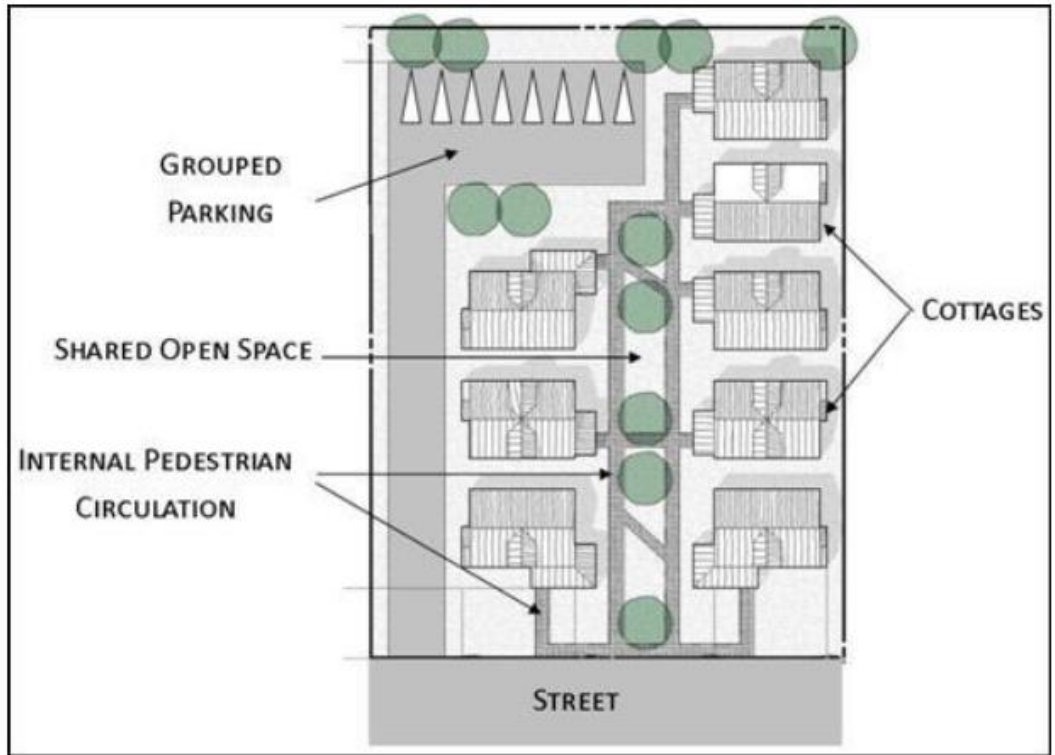


Figure 1. Visual representation of grouped parking. This figure is an example only and not intended to reflect an actual site plan for grouped parking or a cottage cluster development.

- C. Parking areas shall be accessed only by a private driveway or public alley.
- D. Carports or garages are permitted, but not required.
 - 1. Individual attached garages up to 200 square feet shall be exempted from the calculation of maximum lot coverage.
 - 2. Individual detached garages must not exceed 400 square feet in floor area.
 - 3. A carport is not considered a garage. See definitions **Section 9.820**.
- E. Screening of parking areas and parking structures shall be accomplished by landscaping, fencing, or walls at least three feet in height from common courtyards and public streets.

(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 150 square feet of open space per cottage. The common open space must be a single, contiguous piece.
 - 1. The common open space shall be developed with a mix of landscaping, lawn area, pedestrian paths, or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75% of the total common open space area.
 - 2. Pedestrian paths must be included in the common open space. Paths that are contiguous to a common open space shall count toward the common open space's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of the common open space.
- B. Community Building. A single-story community building, of no more than 1,200 square feet, is permitted so long as it is incidental in use to the dwelling units. A community building converted from an existing building may be larger than 1,200 feet.

SECTION 9.709 FAMILY CHILD CARE HOME STANDARDS

The following shall apply to family child care homes, as defined in **Section 9.820**. Family child care homes:

- (a) Are residential uses according to ORS 329A.440 and shall not be regulated as home occupations;
- (b) Shall not be prohibited by the governing documents of planned communities or condominiums, in accordance with the requirements of ORS 94.779 and ORS 100.023; and
- (c) Shall not be subject to any condition that is more restrictive than conditions imposed on other residential dwellings in the same zone.

SECTION 9.710 MANUFACTURED DWELLING STANDARDS

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.

SECTION 9.711 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 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. 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 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.
 - (7) 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 9.712 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:** Manufactured Dwellings and prefabricated structures 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 9.713 and 9.714** 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, prefabricated structures, accessory structures, community laundry, 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) Additional landscaping or screening on the park boundary.
 - (2) Increased setbacks from park boundaries.

SECTION 9.713 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 9.714 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 9.715 through 9.719 reserved for expansion.

SECTION 9.720 RESIDENTIAL STRUCTURES IN COMMERCIAL DISTRICTS

- (a) **Existing Houses:** In the C-1 commercial district 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 District 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 9.512 and Section 9.513**.
- (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 9.528**.
- (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 vegetable 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 vegetable crops 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 odors resulting from farm animals are 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 animal per every two acres.
 - C. Minimum area per medium size animal (Similar to sheep, goats, or llamas) over six months of age – one animal 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 include 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 on his or her 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 9.811 through 9.819 Reserved for Expansion

SECTION 9.820 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) **Bike 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."

CARPORT: A building forming a shelter for a vehicle, open on at least two sides.

CHILD CARE CENTER: A child care facility that is certified by the Oregon Department of Education Office of Child Care as a child care center.

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.

DECIDING AUTHORITY: The City Administrator, City Planning Commission, or City Council, whichever 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.

DLCD: Department of Land Conservation and Development.

DOWNTOWN DISTRICT: Lands encompassing the boundaries of the Regulating Plan. Downtown District shall also mean Lowell Downtown District and Downtown Core Area.

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.

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" includes manufactured homes, as defined in ORS 446.003, and prefabricated structures, as defined in ORS 455.010.

DWELLING, MULTI-FAMILY: A building or portion thereof designated for occupancy by three (3) or more households living independently of each other, with the number of households 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 household.

DWELLING, TWO-FAMILY (DUPLEX): A detached building designed for and occupied by not more than two (2) households living independently of each other.

DWELLING UNIT: A single unit providing complete independent living facilities, designed for occupancy by one (1) household, 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. Façade Transparency is also known as 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.

FAMILY CHILD CARE HOME: A home that is registered or certified by the Oregon Department of Education Office of Child Care to provide child care in the provider's home to not more than 16 children, including children of the provider, regardless of full-time or part-time status. A family child care home is a residential use.

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.

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.

HOUSEHOLD: A social unit composed of those living together in the same dwelling.

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, 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," as defined in ORS 446.003.

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 division 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, 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.

CITY OF LOWELL

COMPREHENSIVE PLAN 2005

**Lowell Revised Code Title 9, Section 9.900
Lowell Land Development Code, Article 9.900**

Amended via Ordinance # 309, 2023

**Sections 9.963 and 9.964 amended via
Ordinance No. 300, on February 4, 2020, to
include Lowell Parks Master Plan**

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County/City UGB Management Agreement
Area of Interest

SECTION 9.910 PLANNING

The Lowell Comprehensive Plan 2005 contains the Public Policy for the City of Lowell regarding conservation, development and growth management within the community.

The City received a Planning Assistance Grant from the Department Land Conservation and Development in August 2004 and immediately began preparation of The Lowell Comprehensive Plan 2005.

The Lowell Comprehensive Plan 2005 is the first up-date of the Plan since acknowledgment by the State of Oregon Land Conservation and Development Commission in 1982 and subsequent Amendments in 1989.

The greatest value of the Comprehensive Plan is through its use as a policy guide for decision making. However, it can only have limited value unless it is supported by the community and the city administration. Possibly the most important factor in such a relationship is simply patient leadership supported by citizens who feel that community improvement is a worthwhile aim.

SECTION 9.911 CITY OF LOWELL

(a) Location

The City of Lowell is located on the east side of the Southern Willamette Valley in Lane County (Township 19 South, Range 1 West, Sections 10, 11, 14 and 15). Lowell is situated on to the north side of the Middle Fork of the Willamette River adjacent to Dexter Lake on the hilly transitional terrain between the Willamette Valley and the Western Cascade Mountains. Dexter Lake is formed by Dexter Dam, one of two dams constructed on the Middle Fork of the Willamette River in the 1950's.

Elevations around the community range from 650 feet mean sea level at the base of Dexter Dam to 2,141 feet at the summit of Disappointment Butte, immediately east of Lowell. The full pond elevation of Dexter Lake is 695 feet while the developed area of Lowell occupies portions of a small plateau 45 feet above the lake.

Lowell is located approximately 22 miles southeast of Eugene and approximately 17 miles southeast of Springfield. It is accessed from two of the area's major transportation corridors. State Highway 58 is one of the State's primary east-west corridors from Eugene to areas east of the Cascades located on the south side of the Middle Fork of the Willamette River. It provides access to Lowell from a bridge and causeway across Dexter Lake. Jasper-Lowell Road and Pengra Road, both County roads, provide access to Springfield on the east side of Middle Fork of the Willamette River.

(b) Description

Lowell is a small community located in an area rich in natural and recreational resources providing the City with a high level of livability.

Originally settled in 1852, Lowell was initially named Cannon, after an early settler of that name. The town site of Lowell was once known by the landmark of Butte Disappointment, which locals now call Lowell Butte. The town was originally located on 2,450 acres of land owned by Amos

D. Hyland, who held many thousands of acres of timberland in the area. In 1882, Hyland named the town Lowell after his hometown in Maine. The name change to Lowell was in response to many letters being sent to Canyon City, Oregon instead of Cannon. The City of Lowell was not incorporated until 1954.

Over the years, the city has sought to maintain its viability as an attractive residential community with a local employment base.

Lowell was a timber town until the late 1980s. The early industries in the area were hop raising, stock raising, and logging, and the present town site of Lowell was once a huge hop yard.

The first sizable increase in population occurred in conjunction with the building of the Lookout Point Reservoir by the U.S. Army Corps of Engineers (Corps) in 1948. The Dam ushered in a new era for the people who had settled on the Middle Fork of the Willamette River near Lowell. Much of the town of Lowell was relocated when the dam was built. Many of the houses had to be moved out of the river bottom east of town and new houses were built north of town for the new employees hired to build the dam.

In recent years, Lowell's employment has revolved primarily around the U.S. Forest Service and the Corps, as well as the Lowell School District. Recent consolidation of the Forest Service's District offices substantially reduced the workforce in the Lowell office. Employment from timber related industries have significantly declined. Because of the city's close proximity to the Eugene-Springfield urban area, it is less than a 30 minute commute to jobs in Eugene and Springfield. Consequently, to a large extent, Lowell is becoming a residential community.

SECTION 9.912 COMPREHENSIVE PLANNING

The purpose of the Comprehensive Plan is to provide guidelines for conservation and development of community resources and to promote the public health, safety and general welfare of community residents. It is intended to ensure that the City's livability will be enhanced rather than weakened in the face of growth and change.

ORS Chapter 197, administered by the Department of Land Conservation and Development (DLCDD), requires that cities and counties adopt comprehensive plans and ordinances that comply with Statewide Planning Goals and Guidelines. **ORS 197.010** provides the basic policy by stating that comprehensive plans:

- a. Must be adopted by the appropriate governing body at local and state levels.
- b. Are expressions of public policy in the form of policy statements, generalized maps and standards and guidelines.
- c. Shall be the basis for more specific rules, regulations and ordinances which implement the policies expressed through the comprehensive plans.
- d. Shall be prepared to assure that all public actions are consistent and coordinated with the policies expressed through the comprehensive plans.

e. Shall be regularly reviewed and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve.

ORS 197.175 more specifically outlines local government responsibility when it states, "...each City and county in this state shall:

(a) Prepare and adopt comprehensive plans consistent with state-wide planning goals and guidelines approved by the commission (LCDC) and

(b) Enact zoning, subdivision and other ordinances or regulations to implement their Comprehensive Plans."

ORS 197.015 (4) provides the official definition of Comprehensive Plan as follows:

"Comprehensive Plan" means a generalized, coordinated land use map and policy statement of the governing body of a state agency, city, county or special district that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational systems, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and the functional and natural activities and systems occurring in the area covered by the Plan. "General nature" means a summary to policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity, or use. A plan is "coordinated" when the needs of all levels of governments, semi-public and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

The Lowell Comprehensive Plan 2005 is directed towards meeting the applicable Statewide Planning Goals and Guidelines of the Oregon Land Conservation and Development Commission (LCDC).

Section 9.100 of the Plan specifically addresses the first two goals. Goal 1, Citizen Involvement, reads: "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process".

The Lowell Comprehensive Plan 2005 (Plan) was developed and adopted with extensive citizen participation. Provisions are also included in this element for continued citizen involvement in the planning process.

Goal 2, Land Use Planning, reads in part: "To establish a land-use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions".

The inventories and previous studies identified in the references provided in each Plan Section, provide the factual basis for the plan. Utilizing this factual data, the Planning Commission and City Council with the assistance of citizen involvement, evaluated alternative courses of action and made final policy choices, taking into consideration social, economic, energy, and

environmental needs of the community. The information, policies and recommendations of the entire Plan comply with Goal 2.

The Comprehensive Plan for Lowell is the City's official policy guide for conservation and development of community resources. It is intended to ensure that the City's livability will be enhanced rather than weakened in the face of growth and change and is designed to promote the public health, safety, and general welfare of community residents.

The Comprehensive Plan is the document through which the citizens of Lowell will implement their choices on how growth and change will occur and how it will be managed. It should not be considered a detailed development proposal, but a framework within which public officials and private citizens can coordinate their individual developmental decisions.

SECTION 9.913 STATEWIDE PLANNING GOALS AND GUIDELINES

The City of Lowell recognizes its responsibility to include consideration of the Statewide Planning Goals and Guidelines as adopted by the Land Conservation and Development Commission (LCDC).

To fulfill this responsibility, the City has included consideration of the following goals:

- Goal 1** Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases off the planning process.
- Goal 2** Land Use Planning: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.
- Goal 3** Agricultural Lands: To preserve and maintain agricultural lands.
- Goal 4** Forest Lands: To conserve forest lands for forest uses.
- Goal 5** Open spaces Scenic and Historic Areas, and Natural Resources: To conserve open space and protect natural and scenic resources
- Goal 6** Air, Water and Land Resources Quality: To maintain and improve the quality of air, water and land resources of the state.
- Goal 7** Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters and hazards.
- Goal 8** Recreational Needs: To satisfy the recreational needs of the citizens and visitors of the state.
- Goal 9** Economy of the State: To diversify and improve the economy of the state.
- Goal 10** Housing: To provide for the housing needs of the citizens of the state.

- Goal 11** Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.
- Goal 12** Transportation: To provide and encourage a safe, convenient, and economic transportation system.
- Goal 13** Energy Conservation: To conserve energy.
- Goal 14** Urbanization: To provide for an orderly and efficient transition from rural to urban land use to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

SECTION 9.914 THE LOWELL COMPREHENSIVE PLAN

(a) Structure & Use of the Plan

The Lowell Comprehensive 2005 Plan is structured into nine Elements contained in the following Sections:

- Section 9.910 Planning**
- Section 9.920 Environment**
- Section 9.930 Population & Economy**
- Section 9.940 Housing**
- Section 9.950 Land Use**
- Section 9.960 Public Facilities & Services**
- Section 9.970 Transportation**
- Section 9.980 Growth Management**
- Section 9.990 Comprehensive Plan Maps**

Each Plan Element then contains individual topic Sections. Sections are organized into three primary groups:

- Background Data Findings**
- Referenced Associated Documents**
- Goals Policies & Recommendations**

(b) **Background Data Findings** present a summary of information and findings relevant to the Plan Element based on previous studies. The findings identify the relevant data, issues, conditions and needs which must be responded to in order to fulfill state and local goals. Findings also include an identification of the opportunities and constraints that could influence plan implementation.

Illustrative maps and diagrams have been prepared to assist in understanding various aspects of the Plan. Many are included with the Plan although some are not, due to reproduction

constraints. Those not included are referenced in the Referenced Associated Documents Section and are on file at the Lowell City Hall.

(c) **Referenced Associated Documents** summarize all of the plans, reports, studies, standards and ordinances that apply to each Plan Element Topic.

(d) **Goals & Policies** conclude each Plan Element. Introductory paragraphs identify the particular Statewide Planning Goals that are addressed in each Plan Element. This is followed by the City's adopted goals, policies and recommendations. Adopted City Policies are the foundation of the Comprehensive Plan. They are the primary means of achieving the goals and objectives of the Plan and the Statewide Planning Goals and Guidelines of the Oregon Land Conservation and Development Commission.

Goals

The goals represent the ideals, results or achievement toward which the Plan is directed. They are statements of purpose and specify, on a general level, what the planning effort is intended to accomplish.

Policies

Policies are identified as "shall" statements (i.e. "The City shall"). The policies are the means by which the City will implement the Plan.

Policies are official statements of strategy or principle that specify the intent of the City concerning the future growth and development of the community. Adopted by the City Council, they represent the official position of the City of Lowell while also providing:

1. A long range guide for the evaluation of various proposals for physical change and improvement.
2. A framework for making sound decisions on zoning, subdivisions, capital improvement programs, and other codes and ordinances.
3. A guide for public programs and expenditures.
4. An indicator of more detailed and specific studies that are needed.
5. A source of information and a statement of planning policy that is useful to the local business community, the general public, and other governmental units in making decisions regarding their individual development plans.

Conservation policies identify those elements or conditions of the community environment the citizens wish to preserve or enhance.

Development Policies identify those elements or conditions that require change or improvement and needed elements or conditions now lacking within the community.

(d) **Plan Amendments and Local Plan Changes**

Plan Amendments should be made as needed to maintain the Plan as an up-to-date guideline for urban development in Lowell. **Section 9.253** of the Land Development Code provides the procedures for Code or Plan Amendments.

A complete Plan review should also be performed at least once every five years to determine if major revisions to the Plan or Code are necessary. A public notice should be issued if it is determined that amendments are needed.

Plan Amendments include text or land use map changes that have widespread and significant impact within the community.

The Comprehensive Plan or Land Development Code should be revised as community needs change or when development occurs at a different rate than contemplated by the Plan. Major revisions should not be made more frequently than every five years unless changing conditions warrant this significant action.

Local Plan Changes do not have significant effect beyond an immediate area, such as a request for a Land Use District or Zone Change affecting a single ownership. Local Plan Changes do not represent a policy change relative to the community as a whole. The need and justification for the proposed change should be clearly established. Local changes should be made as needed to maintain the Plan as an up-to-date guideline for community growth and development.

Major Amendments and Local Changes to the Plan or Code must be adopted by the City Council following a recommendation by the Planning Commission based upon citizen involvement, and coordination with other governmental units and agencies. Citizens in the area and affected governmental units will be given an opportunity to review and comment prior to any proposed Plan or Code change.

Amendments to the Plan or Code may be initiated by the City Council, the Planning Commission, a property owner, or any citizen.

Adopted changes shall be maintained in the Record File of the proceedings at City Hall and copies of the amendment shall be placed in the applicable sections of the Plan or Code. Review copies shall be available to the public and personal copies may be purchased at the Lowell City Hall.

(e) **Measure 37 Implications for Plan Amendments.**

Ballot Measure 37, approved by voters at the November, 2004 General Election, requires the City, under certain circumstances, to reimburse property owners for the loss of property value as a result of a land use decision by the City. It is the policy of the City, for any proposed amendment to the Plan or Code, that if any property owner raises a reasonable issue of possible loss of property value as a result of the proposed amendment, the City will not make a decision on the amendment until the loss of such value, if any, can be estimated by qualified persons.

(f) City/County Coordination

The Lowell Urban Growth Boundary (UGB) and the City Limits are contiguous. That is, they are the same boundary. An “Area of Interest” (AOI) or area of mutual concern was established in 2000 in a “Joint Agreement for Planning Coordination Between Lane County and the City Lowell”. The City has outright planning responsibility for the area within the City/UGB boundary. The County has planning responsibility for the AOI although it will submit proposed changes and development proposals to the City for review and comment prior to issuing a decision on specified Land Use Action

(g) Plan Implementation

Implementation measures are intended to assist in putting the Plan into effect. Generally, Plan implementation includes the enactment of regulatory measures pertaining to land development such as zoning and subdivision regulations that are contained in the Lowell Land Development Code, but also include other studies, reports, standards, plans and ordinances. Capital Improvement Programs or other management measures also assist in implementing Planning Goals and Policies.

The Plan and implementing ordinances will be adopted by the Lowell City Council after review and recommendation by the Planning Commission and public participation and public hearings. Implementation ordinances will be reviewed and revised as needed.

The Plan, supporting documents, and implementing ordinances will be maintained on file in the Lowell City Hall and are easily accessible to the public.

(h) Plans

There are several specific plans and planning studies that are referenced in the Lowell Comprehensive Plan, but are not a part of the adopted plan. They are identified and referenced in the applicable topic section of the Plan.

(i) Zoning

Zoning is probably the most familiar legal instrument used in plan implementation. While the Comprehensive Plan specifies the principals and policies for conservation and development of community resources, the zoning provisions of the Code actually provide the definite and precise standards and procedures to implement the Plan.

(j) Zoning and the Comprehensive Plan

The Comprehensive Plan, while a guide for zoning actions, is not a zoning regulation. Zoning regulations are detailed pieces of legislation that are intended to implement the proposals of the Comprehensive Plan by providing specific standards for use of land in various districts within the community.

It is important that zone change proposals be considered in relation to the policies and aims of the Comprehensive Plan. Amendments to the Zoning provisions of this Code that are consistent with the Comprehensive Plan can proceed as provided in the Code. However, zoning amendments that are contrary to the intent of the Comprehensive Plan should be reviewed first as a potential Plan change. If the zoning amendment is deemed in the public interest, then the

Comprehensive Plan should be so amended before action on the zoning amendment proceeds. This procedure should guarantee essential coordination between the two planning instruments.

The City of Lowell has prepared a Land Use Development Code in conformance with the City's Comprehensive Plan and has incorporated the Plan therein to facilitate coordinated decision-making.

To further facilitate coordinated planning efforts, the Zoning Map and the Comprehensive Map have been combined into a single Land Use District Map.

(k) Land Division Regulations

Land Division regulations provide the City with guidelines for approval of subdivision or partition plats. It specifies procedures for plat approval; contains design standards for streets, lots, and blocks; and lists improvements such as streets and utilities that are to be provided by the Land Divider.

Lowell has adopted Land Division regulations into the Code in conformance with the Comprehensive Plan.

(l) Building Permits

The City issues Building Permits, administers the State Building Code and provides inspection services through a contract with a qualified service provider. Building permits are maintained on file at the City providing a continuous building and development record.

Outright permitted uses are issued a building permit without prior approval by the City. Developments requiring review and approval by the City are issued a building permit only after final approval is obtained.

Capital Improvement Program

It is essential that long range financial planning, based on available and anticipated resources, be maintained by the city.

Capital Improvements Programming is one of the tools available to the community for long range financial planning. The long range Financial Plan encompasses estimates of the City's expenditures for establishing, operating and maintaining public services and for constructing capital improvements.

A long range financial plan must be based on the following:

1. An Operating and Maintenance Budget for public services.
2. A Capital Improvements Program based on a Comprehensive Plan.
3. A Comprehensive Revenue Program.

Upon completion of the financial plan, it is carried out with the following programs:

1. A priority list of proposed capital improvements.

2. A five-year capital improvement budget.
3. The annual city budget.

It is essential that additional operating expenses brought about by capital expenditures be included in the annual budget to insure correlation of operating and capital budgets.

In estimating revenue sources, those public agencies not directly controlled by the City, but responsible for the provisions of certain capital expenditures relative to City requirements, must be related to priority scheduling in time and coordinated as to their availability of funds.

Based on detailed programs expressing levels of service, and a definition of facilities to provide this service, cost estimates for capital expenditures may be prepared and individual program priorities assigned. Priority projects for the various program areas can then be selected to prepare an annual capital expenditure budget, based on the anticipated revenues of that year.

SECTION 9.915 LOWELL CITIZEN INVOLVEMENT PROGRAM

The City of Lowell recognizes its responsibilities under the Statewide Planning Goals and Guidelines as adopted by the Land Conservation and Development Commission to prepare, adopt, and implement a "Citizen Involvement Program" (CIP). This program is intended to assure that all citizens have an opportunity to be involved in all phases of the planning process.

- (a) The Lowell City Planning Commission is designated as the Committee for Citizen Involvement (CCI). The CCI will establish and maintain an effective communications link between decision-makers and those citizens desiring to be involved in the planning process.
- (b) The Lowell Citizen Advisory Committee (CAC) shall consist of members of the Planning Commission and additional citizens who meet with and serve as ex-officio members of the Planning Commission when the body is acting as the CAC. Members of the Planning Commission will be chosen by procedures established by the City Council. Additional ex-officio members shall be appointed by the City Council as needed to create a CAC broadly representative of geographic areas and of interests relating to land uses and land use decisions.
- (c) The City will provide for an ongoing citizen involvement program that will allow all citizens the opportunity to be involved in the planning process. This will include, but not be limited to, the following:
 - (1) Formulation of a Citizen Advisory Committee (CAC) to assist in citizen participation.
 - (2) Citizen participation in the formulation and development of plans, maps, surveys, inventories, special studies, or other key components of the planning process.
 - (3) Citizen participation in the formulation goals and policies to guide decision-making.
 - (4) Citizen participation in the review, evaluation, and recommendation regarding proposed changes to the comprehensive plan and implementing ordinances.

- (d) The City shall encourage organizations, special districts and other government agencies to participate in the planning process and to coordinate their planning efforts with those of the City of Lowell.
- (e) The City will communicate planning information to citizens and government agencies through the use of public meetings, the news media, the mailing of notices and/or a community newsletter.
- (f) Open public meetings will be conducted by the City at key points during the course of the planning program. Through these meetings, citizens will be given the opportunity to participate in planning activities such as data collection, plan preparation and plan implementation.
- (g) The time and place of public meetings addressing local planning issues shall be widely publicized. Notification may include posting at the City Hall, Fire Station and the Post Office and by notification in a community newsletter. Affected agencies and affected property owners will be notified by first class mail on issues that could change the classification of property or that limits or prohibits land uses previously allowed.
- (h) The public shall be given the opportunity to review and comment on planning proposals both verbally at public meetings and in writing.
- (i) Minutes of all Planning Commission and City Council meetings and all technical information, plans, studies, and ordinances shall be maintained and available for public use at the City Hall.

SECTION 9.916 LOWELL AGENCY INVOLVEMENT PROGRAM

The City of Lowell recognizes its responsibility under the Statewide Planning Goals and Guidelines as adopted by the Land Conservation and Development Commission, to prepare, adopt and implement a program for "Agency Involvement and Coordination". This program is intended to assure an effective working relationship with those local, state, and federal agencies that may have an interest in the City and its surrounding area.

In order to fulfill this responsibility, the City has adopted the following agency involvement program:

- (a) The City will notify the following agencies where development proposals may have an impact on their facilities or programs and where notification is otherwise required by law or agreement:

Regional and Local Agencies (RLA)

1. Lane County Planning Department
2. Lane Council of Governments (LCOG)
3. Lowell School District
4. Lane Community College

5. Lowell Rural Fire District
6. Lane County Health Department
7. Lane County Housing Authority
8. Lane County Sheriff

State-Agencies (SA)

1. State Housing & Community Development Department
2. Department of Environmental Quality
3. Department of Geology and Mineral Industries
4. State Health Division
5. Division of State Lands
6. Economic and Community Development Department
7. Department of Transportation
8. Parks and Recreation Department
10. Department of Water Resources
11. Department of Fish and Wildlife
12. Department of Land Conservation and Development.

Federal Agencies (FA)

1. Federal Emergency Management Agency (FEMA)
2. US Army Corps of Engineers
3. US Forest Service – Middle Fork Ranger Station
4. US Department of Agriculture Rural Development
5. US Department of Housing and Urban Development
6. US Environmental Protection Agency
7. US Natural Resource Conservation Service

Others (O)

1. Lane Electric Cooperative
2. Qwest Telephone Company
3. Charter Communications Television Cable
4. Star Garbage

- (b) The City will inform affected agencies of the status of current planning efforts, future planning work schedules, and regular meeting dates of the City Planning Commission and the City Council.
- (c) The City will provide to agencies, on request, copies of studies, plans and ordinances which are related to the City's planning program.
- (d) The City will request each agency to designate a contact person who will be responsible for coordination with the City.
- (e) The City will inform the various agencies of public hearings and other meetings, where they may have an interest.

- (f) The City will encourage each agency to provide the information which is needed by the City to carry out its planning program. This may involve such activities as:
- (1) Provision of plans or studies prepared by the agency that are needed by the City.
 - (2) Participation by the agency in public hearings or other meetings.
 - (3) Direct assistance by the agency in the development of a plan or study or in the consideration of a specific planning-related problem

SECTION 9.917 RESERVED FOR EXPANSION.

SECTION 9.918 REFERENCED ASSOCIATED DOCUMENTS

1. **Lowell Comprehensive Plan**, Land Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
2. **Lowell Urban Growth Boundary Land Analysis Draft**, Lane Council of Governments, 2001.
3. **Lowell Economic Development Strategic Plan**, Lane Council of Governments, 2003.
4. **Region 2050**, Lane Council of Governments, 2001-2005.
5. **Lowell Parks Master Plan, University of Oregon, Institute for Policy Research and Engagement, 2019.**
6. **Lowell Downtown Master Plan, Lane Council of Governments, 2019.**
7. **Water Master Plan, Civil West Engineering, 2022.**

SECTION 9.919 PLANNING GOALS & POLICIES

- (a) The following Lowell goals and policies address the first two **Statewide Planning Goals**.

Goal 1 Citizen Involvement reads: "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process".

Goal 2 Land Use Planning reads in part: "To establish a land-use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions".

(b) **Lowell Planning Goals**

GOAL 1. To encourage development in a planned and considered manner consistent with the community's vision, general health, safety and welfare.

GOAL 2. To achieve an environment that assures each individual the widest possible

choices and opportunities for a productive and meaningful life-style within the community.

- GOAL 3.** To preserve those features that are special and unique to the community while also being responsive to changing needs and conditions.
- GOAL 4.** To achieve public interest, understanding, and support of the planning process and the goals toward which the process is directed.
- GOAL 5.** To provide effective communication between city residents and city officials and to provide an ongoing opportunity for all persons to participate in all phases of the planning process.

(c) Lowell Planning Policies

1. The Comprehensive Plan is the controlling planning instrument for the City of Lowell. All other land use, development and management plans shall be in conformance with the Plan.
2. The Lowell Comprehensive Plan shall be maintained as an on-going decision making guideline for planning actions within the Lowell Urban Growth Boundary.
3. All proposed revisions or amendments to the adopted policies shall be reviewed at public hearings before final adoption.
4. All local codes and ordinances shall be in conformance with the adopted policies of the Comprehensive Plan. Code or ordinance amendments, deemed in the public interest, that are contrary to the intent of the adopted policies shall be reviewed and amended as policy changes to the Comprehensive Plan.
5. The City shall be an active participant in regional planning efforts.
6. Coordination shall be maintained between the school district, serving utilities, Lane County, and other governmental agencies having facilities or programs in the area.
7. The City shall monitor significant area developments outside of the City that could affect the City.
8. An active and on-going citizen involvement program shall be maintained by the City to insure that all citizens have an opportunity to be informed and involved in the planning process.
9. The City of Lowell shall reinforce the applicable Statewide Planning Goals as they apply to the community through specific goals, objectives and policies in response to community needs.
10. The City shall develop an accurate buildable lands inventory which shall be maintained on a continual basis.
11. All future plan-related studies and reports shall be recorded as source references in the plan

12. The studies and plans of other agencies, applicable to the City of Lowell, shall also be referenced and noted in the applicable element of the Comprehensive Plan.
13. A Capital Improvement Program shall be developed and maintained as an on-going implementation component of the Comprehensive Plan.

SECTION 9.920 ENVIRONMENT

Section 9.921 Environmental Data Summary

The Environment Section of the Lowell Comprehensive Plan presents a summary of existing environmental conditions in the Lowell area so these environmental resources can be protected and enhanced while accommodating needed growth and development.

Maintaining Lowell's environmental quality is essential to the livability of the community. At the same time, there are environmental conditions that can impact development unless they are properly addressed.

(a) Regional Context

Lowell is situated in a narrow finger of the Southern Willamette Valley formed by the Middle Fork of the Willamette River. Lowell is located on Dexter Reservoir near the Willamette National Forest and is near to Lookout Point and Fall Creek Reservoirs. The Willamette Valley is formed by the Willamette River and its tributaries between the Coast and Cascade mountain ranges. The Willamette River flows northward to join the Columbia River before entering the Pacific Ocean.

The Willamette Valley was a destination of the earliest settlers that located on the farmable flatlands of the valley along the waterways where most of the cities formed. The Eugene-Springfield metropolitan area became the economic and cultural center of the Southern Willamette Valley where other community inhabitants share a common watershed, air shed, commute shed, and growth shed.

(b) Climate

The climate is dominated by moist, mild air from the Pacific Ocean. Winters are cloudy and wet, with mild temperatures. Winter temperatures are usually in the forties. Most precipitation, in the form of both rain and snow, occurs from November to March. Rainfall is approximately five to eight inches per month in this wet season. Snowfall is insufficient to support any snow related recreational activities.

The average yearly high and low temperatures are 63 and 42 degrees Fahrenheit. The average annual precipitation is between 35 and 45 inches. Lowell has nearly 7 more inches than nearby Eugene. The summer months are dry with moderate temperatures, and the days are generally sunny. Highest temperatures at the lake occur in August. The average temperature for July and August is 68. The month of July averages the lowest percent of cloudiness at 37 percent; August is the next lowest.

(c) Topography & Vegetation

Lowell is situated at the southeast end of the Willamette Valley formed by the middle fork of the Willamette River. The community is surrounded by hilly terrain characteristic of the transitional area between the Willamette Valley and the high Western Cascade Mountains.

Lowell is 741 feet above sea level. Elevations around the community range from 695 feet at the full pool elevation of Dexter Lake to 2,141 feet at the summit of Disappointment Butte, immediately northeast of Lowell. The developed area of Lowell occupies portions of a small plateau 45 feet above the lake.

Logging, dam and road construction, farming and grazing have altered the vegetation found in the area. Most obvious is the lack of forest in the predominately forest zone adjacent to the City. There is some indigenous plant communities on the few relatively undisturbed sites surrounding Lowell, including Oak and Douglas Fir, Incense Cedar and Western Red Cedar. Riparian and aquatic vegetation are found on the banks surrounding Dexter Lake. No other locality near Eugene-Springfield is known to offer comparable diversity of vegetation. While the surrounding area is rich in its diversity of vegetation, the city limits site possesses only scattered groves of evergreen and deciduous trees while the remaining undeveloped land is covered with native grasses.

(d) Hydrology

Several factors other than climate affect the occurrence, distribution, and availability of the total quantity of water available in the basin. Water storage is achieved naturally through glaciers, snowpacks, lakes and the underlying soils. Man has added to this list in the form of ponds and reservoirs.

Dexter Dam is an earth filled dam with a concrete spillway whose gates are controlled from Lookout Point. The resultant lake divides the area into two sections. The lake covers 960 acres at minimum lower pool and 1,025 acres at full pool. The lake is 3.3 miles in length and its circumference measures 7.3 miles. Dexter is a regulating dam that works in conjunction with Lookout Point Reservoir. Because of this, the surface level is quite stable and varies only by five feet year round. The only withdrawals from full pool are those required to regulate the varying power releases from Lookout Point powerhouse to fairly uniform flows downstream of Dexter Dam.

The shoreline areas of Dexter Lake have gradual slopes with few bays and coves. The topography of the surrounding area is mountainous, and runoff naturally flows down to the reservoir from the steep slopes on each side.

Soil properties and soil cover both influence runoff from rainfall. Soil properties also play an important part in the recharge of groundwater. Soil cover is important to the rainfall/runoff relationship because it determines the relative quantities of water that will run off or will be available for plant use and for groundwater recharge. Soil cover also determines the rate at which runoff will occur.

(e) Soils

In 1970, the U.S. Soil Conservation Service (SCS - Now Rural Development) prepared a report at the request of the City of Lowell entitled "Soil Survey Report for Land Use Planning and Community Development, Lowell Area, Oregon." The report presents information on soils found in Lowell and the surrounding area and evaluates these soils in terms of their suitability for

various types of urbanizing land uses. Noted limitations to development are the presence of excessive slopes, shallow depth to bedrock, clay subsoils with slow permeability, high shrink-swell potential, and seasonally high water table. The purpose of the report is to identify the existing soil conditions, the hazardous areas, and those areas where various land uses are best accommodated.

Soils covering the slopes surrounding Lowell are composed of shallow clays over moderately shallow, weathered rock. Soils within the developed area of Lowell consist generally of dense clays with natural stability hazards, such as small, active slumps, evident along the incised drainage channels, and silty clay soils which present drainage problems.

The soil characteristics generally known in the Lowell area are not conducive to, nor have the capacity for volume agricultural farm use. The farming of seed or produce crops has not been historically viable. Grazing of sheep or cattle has been the primary agricultural land use.

Agricultural soils, identified by the SCS Soil Capability Classification Systems, appear on the Agricultural Suitability Map. The Vacant Agricultural Land Map shows only soil classifications I-IV that are vacant. This map indicated that the vacant agricultural soils in the core area of Lowell, because of adjacent uses and land use patterns committing them to urban development, cannot be used for any viable agricultural enterprise other than for perhaps urban gardening. Further, when the Vacant Agricultural Land Map is overlaid with the Over 15 Percent Slope Map and the Elevation Above 880 Map, the amount of land actually usable for agriculture within the City of Lowell is negligible. However, the majority of the land is zoned R-1 which does allow agricultural pursuits if desired by the land owner.

(f) Geology

Dexter Lake is located within the transitional area between the Willamette Valley and Western Cascade Geologic and Physiographic Provinces. These two geologic subdivisions are strikingly different in several aspects of their geologic history. In the Western Cascade Range the hill slopes are underlain by intrusive rocks, lava flows, and tuffs which were formed ten to 35 million years ago. Since then erosion has been the dominant geological process as stream-cutting and landsliding have sculptured the major valleys and surrounding rugged hills and buttes. Consequently, the valley floor is filled with river sediments.

Many of the high buttes surrounding the Dexter Lake area are resistant remnants of massive stocks that intruded the Little Butte Formation during the latter part of the Tertiary Period. One such feature is Eagle Rock, composed of a coarse-grained diorite which was quarried during construction of Lookout Point Dam. Mount Zion appears to be of similar makeup. Williams Butte and the high hill immediately to the east are also cored by intrusive rock, but in these two cases it is dense fine-grained basalt.

The geologic history of the Willamette River in the Dexter Lake area is recorded in the valley bottom alluvial fill and in old, high terrace benches on the valley walls at elevations up to more than 150 feet above the present river level. The highest river terraces and gravels, clearly exposed at an elevation of about 800 feet, are of unknown age, but probably date back into the Pleistocene. This is evidenced by the deep weathering of the old gravels. Many of the clasts, once river rocks, can now be easily cut with a knife.

The main portion of the river valley is floored by river gravels and overbank silt and sand deposits that have accumulated since the last major glaciation of the high mountains to the east. During the period of glacial retreat, from about 13,000 to 8,000 years ago, river draining of the recently deglaciated mountainous areas carried greater sediment loads than they do today. Some of this material now forms terraces ten to 30 feet above the river level. For the past few thousand years, the river has been undergoing extensive meandering and downcutting, as evidenced by

numerous meander scars and recently abandoned channels on the surface of the floodplain. These natural drainage ways are flood and storm channels, and the City should take appropriate action to insure their continued operation and maintenance.

At present, there are no known commercial mineral resources for exploitation noted in the Dexter Lake Master Plan prepared by the U.S. Army Corps of Engineers.

(g) Landslides

Portions of the area surrounding Lowell have, in recent years, shown a high potential for landslides. The slide on the east face of Eagle Rock that displaced Highway 58, the Southern Pacific Railroad line, and a number of buildings occurred after waste material from the quarry was deposited on the slide area. Other slides have been experienced near the north abutment of Lookout Point Dam in unstable deposits of natural slope debris and excavated waste material. Numerous small failures have been noted in connection with construction activity in deeply weathered tuffs of the Little Butte formation.

The history of landslide activity associated with construction projects demonstrates the fragile nature of the geology and soils throughout the area and the need for careful analysis of the conditions affecting land use planning and development.

(h) Drainage

The City of Lowell borders the north shore of Dexter Lake and is surrounded by hills on all other sides. The resulting topographical configuration creates a short drainage basin which funnels the runoff through the community to the reservoir. Since most of the development within the City occurs on a relatively flat bench overlooking the lake, there are problems associated with channeling excess surface water through this area.

There are a number of incised natural water courses in the hills and across the flatter portions of the area which, supplemented by a series of roadside ditches, carry the runoff to the lake. The major drainage problem in the community involves getting the excess surface water in the flat areas into the drainage channels.

SCS conducted a field survey of the drainage situation in Lowell in 1969 and prepared a report, "A Reconnaissance Report for the City of Lowell Drainage Problem," which makes several recommendations:

- The water collection problems associated with the low lying areas of the community can best be solved by land shaping.
- Proper maintenance of the existing roadside ditches would also facilitate and improve drainage in the area. The City should consider a complete drainage study of the area to be made by a private engineering consultant. This study should include the developed area of the City and any or all areas where future development can be expected.
- All existing natural drainage ways should be considered flood and storm channels, and the City should take appropriate action to insure their continued operation and maintenance.

(i) Slope

Shallow slopes of less than eight percent do not normally represent major constraints to development. Although soil type and other physical factors must be considered, problems of erosion, slump, creep or slide, and excess drainage are minimal. Development costs are lesser on shallow slopes than on steeper slopes.

Development on moderate slopes of 8 to 15 percent require more careful design consideration. Steep slopes of 15 percent and greater generally pose severe development constraints due to the high cost of providing roads, utilities, and environmental protection.

As indicated in the preceding discussion of topography and drainage, Lowell is partially framed by hills. Analysis of the topography indicates that there is approximately 250 acres of accessible land with slopes less than 15 percent within the City of Lowell.

(j) Reservoir Shoreland

Land within the city limits, along the shore of Dexter Lake, is within the government reserve under the management of the U.S. Army Corps of Engineers. The objectives of the management program are aesthetic enhancement, recreation, wildlife, and watershed protection. These objectives are to be achieved through the conservation of soil, timber, grassland, water, and wildlife resources throughout the reserve. A lake shore management plan addresses private floating facilities along the shoreline.

(k) Habitats

Wildlife habitat depends upon climate, soils, topography, water, vegetation and the presence of people. Collectively, these factors create environments that provide food, water and cover for wildlife species. All vegetative types in developed areas provide habitat for some type of wildlife species. Wildlife distribution correlates with different types and succession of plants. It is this association that forms the basis for the following analysis of wildlife within the City of Lowell.

A 1976 aerial photo, in conjunction with a field investigation identified five vegetative cover types. These cover types are riparian, urban, field, lake, and mixed conifer/deciduous woodland. The Vegetation Map shows the relationship of these cover types to the City of Lowell and Appendix E, 1982 Lowell Comprehensive Plan 1982 lists those wildlife types commonly associated with these vegetative covers. The following is a description of the five vegetative cover types and commonly associated wildlife:

- a. **Riparian:** This type of vegetation most frequently occurs along streams and rivers and usually forms a dense narrow bend near the shoreline. This vegetative habitat is very valuable in that it provides food, cover, and resting opportunities for a great variety of animal species.
- b. **Urban:** Little vegetation exists in this environment except in the form of lawns, ornamental trees, flowers, and gardens. Some natural vegetation may remain, although pavement, concrete, and buildings dominate.
- c. **Lakes:** For purposes of this analysis, this vegetative habitat consists of ponds, rivers, lakes, and sloughs. Most of these habitats offer resting and feeding opportunities for waterfowl.

- d. **Mixed Conifer/Deciduous Woodlands:** This forest consists primarily of Douglas Fir, although significant quantities of Oregon Big Leaf Maple and Oregon White Oak are present.
- e. **Fields:** This habitat type contains the annual and perennial grasslands of the State. Species of grass differ with geophysical area.

Presently, there are no known rare or endangered species of wildlife residing within Lowell. Because of the large amount of natural land in public ownership adjacent to Lowell, no areas of vegetative cover have been identified as being essential to the survival of any wildlife species commonly found in the Lowell area.

While wildlife habitats in the community are marginal, water-fowl, shore birds, and upland game may be found along the northeastern shore of Dexter Lake; quail may be found on the extreme southeastern shore.

The lake is used heavily for winter resting and feeding by as many as 2,000 migratory birds. Some waterfowl nesting occurs mainly on the eastern portion of the lake. Many species of non- game birds use the habitats along the lake shore. Fur-bearing mammals using the lake margins include muskrat, beaver, mink, and occasionally otter. Warm water game fish are also present in Dexter Lake.

The lake fringe is U.S. Army Corps of Engineer's property. It should be retained in its natural state to provide food and cover for wildlife.

SECTIONS 9.922-9.927 RESERVED FOR EXPANSION.

SECTION 9.928 REFERENCED ASSOCIATED DOCUMENTS

1. **Lowell Comprehensive Plan**, Land Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
2. **The Willamette River Basin Planning Atlas**, Pacific Northwest Ecosystem Research Consortium, Oregon State University Press, 2002.

SECTION 9.929 ENVIRONMENT GOALS & POLICIES

(a) **Statewide Planning Goals.** The primary Statewide Planning Goals related to this element of the Plan are Goals 5, 6, and 7 although other Goals also have natural environmental implications.

Goal 5 reads: "To protect natural resources and conserve scenic and historic areas and open space." In response to this goal the following Lowell Policies are included to help insure the wise management of natural resources for future generations and to avoid land use conflicts damaging to the natural environment.

Goal 6 reads: "To maintain and improve the quality of air, water and land resources of the state." In response to this goal the following Lowell Policies are included to insure that waste and process discharges do not threaten to violate state or federal environmental quality statutes, rules and standards, nor exceed the natural environmental carrying capacity of the area.

Goal 7 reads: "To protect life and property from natural disasters and hazards." In response to this goal this element includes policies that are appropriate safeguards to insure against loss of life and property from natural disasters and hazards. The primary hazards in the Lowell area are related to potential flooding, localized ponding, and steep slope erosion earth slide potentials.

This element also includes policies relevant to **Goals 3**, "To preserve and maintain agricultural land". and **Goal 4**, "To conserve forest lands by maintaining the forest land base".

(b) Lowell Environmental Goals

GOAL #1 To protect and improve the environmental quality of the Lowell area.

(c) Lowell Environment Policies

1. The City shall strive for continual and substantial progress toward improving the quality of the local environment by supporting and enforcing applicable environmental quality standards and regulations.
2. The City shall encourage developments that reinforce the aesthetic appeal of the community's natural setting.
3. Development proposals in areas considered to pose geologic hazards such as flooding, poor drainage, ponding, high water table and slippage shall submit engineering investigations for review and approval of the City to ensure that environmental problems can be mitigated.
4. Area watercourses, drainageways and significant wetlands protect water resources, fish and wildlife habitats, preserve recreational and scenic resources, and serve as natural greenway buffers within the community. Developments requiring channelization, removal of significant native vegetation, alteration of drainageway banks and filling of drainage channels shall be discouraged. Alterations considered necessary shall be submitted to the City for review and approval.
5. Groundwater resources shall be protected from potential pollution from septic tank wastes, urban run-offs, solid and liquid waste disposal, and agricultural contaminants.
6. Developments adjacent to Dexter Lake, drainageways, ponds and sloughs that may contain wetlands or riparian areas shall provide protective measures to insure water quality and wildlife habitat is preserved, restored or mitigated.
7. The City of Lowell shall support and cooperate with the U.S. Army Corps of Engineers to maintain the Dexter Lake shoreline as a natural open space feature for the community and to provide wildlife habitat.
8. Development proposals for residential, commercial or industrial developments shall recognize the value of existing on-site native vegetation and shall identify these features as part of the City's review and approval procedures.

9. The creation of vegetative screening and/or buffers between non-residential areas and residential uses shall be required.
10. In evaluating discretionary land use applications, the City shall consider the effects of the proposed use upon identified fish and wildlife habitats.
11. The creation of trails and parks associated with vegetative drainageways shall be a consideration in all park master planning efforts.
12. Hillside developments requiring significant removal of native vegetation, alteration of drainageways and excessive cut & fill shall be discouraged and specific standards for hillside development shall be adopted.
13. Unshielded lighting producing glare shall be discouraged particularly in hillside areas and specific standards to reduce the effects of lighting glare shall be adopted.
14. The City shall require compliance with local, state and federal air quality regulations and air quality compliance shall be an identified requirement for applications submitted to the City.
15. Proposed developments shall comply with the, DEQ Noise Control regulations, the Oregon Noise Control Act and all other applicable federal, state and local noise control regulations and noise compliance shall be an identified item requirement for applications submitted to the City.

SECTION 9.930 POPULATION & ECONOMY

SECTION 9.931 POPULATION & ECONOMY DATA SUMMARY

This Section contains background data on existing population and employment levels and projections of future population and employment trends. Population and economic data for Lowell cannot be viewed in isolation. Lowell is an integral part of the larger Lane County region. Population data and projections provide a basis for determining land use, housing, transportation and public facility needs. Projections of population and economic activities also indicate potential impacts on the environment resulting from population and economic growth.

In 2000, Lowell's population was 857 according to the US Census. The city successfully challenged this estimate and it was corrected by the Census Bureau to 880. The geographical information database at Lane Council of Governments indicates that there are approximately 957 people in Lowell (assuming the same vacancy rate and persons per household as the US Census Bureau) Of the cities in the region, only Westfir has a smaller population.

(a) Population

(1) Population Projection Assumptions

The following assumptions are the basis for the population projections for Lowell:

- There will be limited growth outside the City Limits/UGB.
- The city will continue to be supportive of growth.
- A small town preference will continue to contribute to growth.

(2) 2000-2020 Population Projections

Lowell has been growing at a relatively slow rate, compared to the county as a whole. The 2000 US Census specified the total population for Lowell at 857. Based on a housing and resident count conducted by the city, the 2000 population was estimated based on the number of housing units in the LCOG parcel file, and the persons per household and vacancy rate from the 2000 US Census. This resulted in a 2000 population of 957.

**TABLE 9.930 A
Lowell Historical Population**

Year	Population
1960	503
1970	567
1980	661
1990	785
2000	880

Sources: US Census (2000)

(3) Population Growth Rates

Based on the population estimates for 1960, 1970, 1980, 1990, and 2000 population, the city's average annual growth rate has been relatively low over the last 40 years, ranging from about 1.2% during the 1960s up to 2.0% during the 1990s.

**TABLE 9.930 B
Lowell Average Annual Growth Rate Population
Based on Alternative Population**

Time Period	Years	Growth Rate	2020 Population Estimates
10-Year	1960-1970	1.20%	
	1970-1980	1.55%	
	1980-1990	1.73%	
	1990-2000	2.00%	
20-Year	1980-2000	1.87%	1,422
			1,386
30-Year	1970-2000	1.76%	1,357
40-Year	1960-2000	1.62%	1,320

The preferred population projections take into account the City’s relatively slow but steady growth rate over the last forty years. The preferred population projection for the city is based on “% of Lane County.” The UGB is co-terminus with the city limits.

**TABLE 9.930 C
Population Allocation for Urban Growth Boundary Areas in Lane County
with Annual Average Growth Rates**

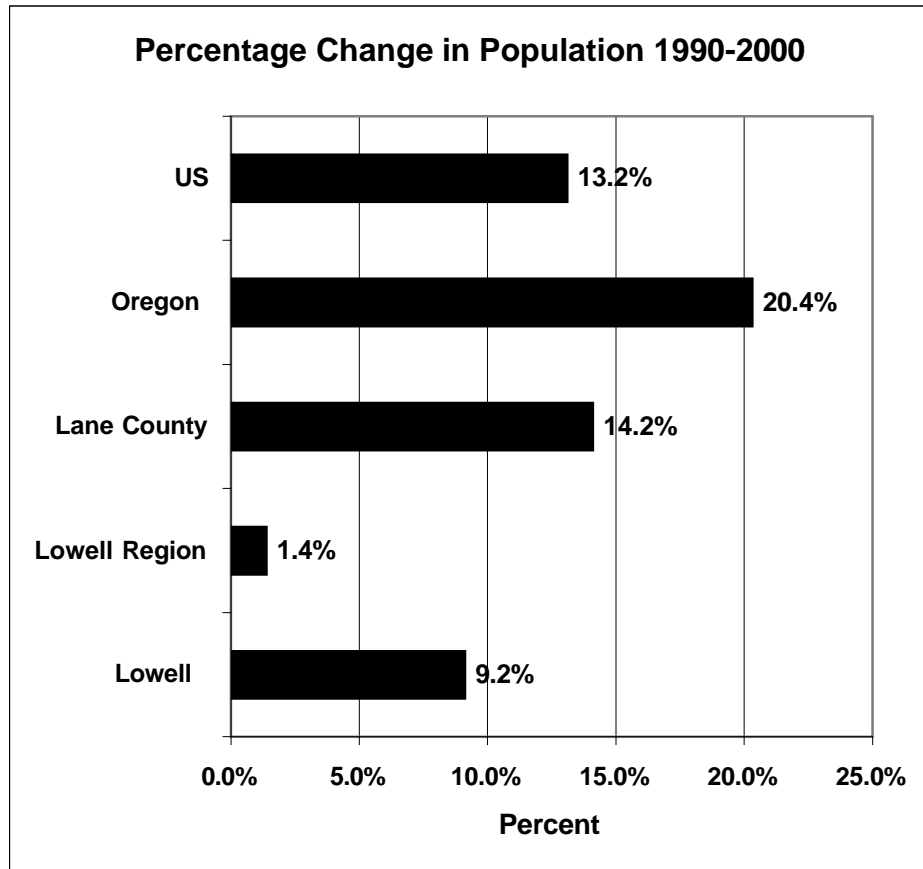
Lane County					
Year	Low	Forecast	High	Outside UGB	Lowell
1990		282,912		62,043	785
2000		322,977		63,664	880
2004		333,350		61,710	900
2025	390,251	410,790	431,330	56,500	1,500
2030	410,362	431,960	453,558	56,000	1,700
Average Annual Growth Rates					
1990					
2000		1.33%		0.26%	1.15%
2004		0.79%		-0.78%	0.56%
Projected Growth Rates					
2000-2025		0.97%	-0.48%	-0.48%	2.16%
2000-2030		0.97%	-0.43%	-0.43%	2.22%

1990 and 2000 population figures are based on Census data and the 2004 figures are population estimates produced by the Population Research Center at PSU.

(4) Demographics

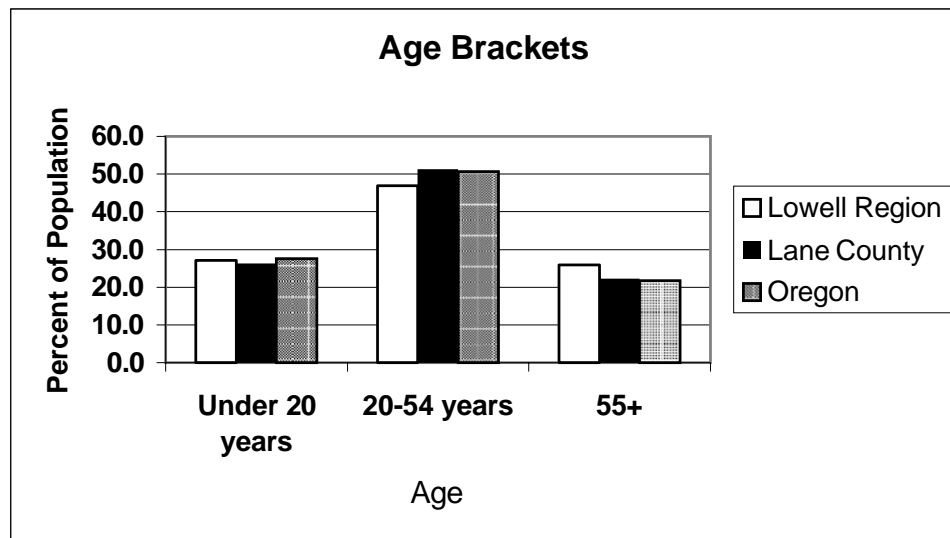
The City of Lowell had a Census population of 880 residents in 2000. Lowell was among the slowest growing cities in Lane County from 1990 to 2000, with a 9% increase in population that exceeded only the growth rates of Oakridge and Westfir over that time period.

TABLE 9.930 D



Note: During the entire period, Lowell had development moratoriums in place due to limited water and sewer capacity.

TABLE 9.930 E



**TABLE 9.930 F
Median Age**

Area	Median Age
Lane County	36.6
Lowell	34.5

Source: 2000 U.S. Census

The Lowell region work force population is comprised of higher percentages of residents 55 and over, and lower percentages of residents 20-54, than both Lane County and Oregon.

SECTION 9.932 ECONOMY

Lowell was a timber town until the late 1980s. The early industries in the area were hop raising, stock raising, and logging, and the present town site of Lowell was once a huge hop yard. The first sizable increase in population occurred in conjunction with the building of the Lookout Point Reservoir by the U.S. Army Corps of Engineers (Corps) in 1948. The Dam ushered in a new era for the people who had settled on the Middle Fork of the Willamette River near Lowell. Much of the town of Lowell was relocated when the dam was built. Many of the houses had to be moved out of the river bottom east of town and new houses were built north of town for the new employees hired to build the dam.

Today the vast majority of workers who live in Lowell commute to Eugene-Springfield to work. Lowell is 15 miles from Eugene-Springfield, compared to 23 for the average Lane County City; Lowell is 125 miles from Portland, compared to 129 miles for the average Lane County city.

The Lowell Economic Region includes Census Tracts 15, 16 and 17. Census Tract 15 includes the Westfir and Oakridge area. Census Tract 16 contains Lowell, Dexter, Unity and Fall Creek area and Census Tract 17 includes the Pleasant Hill and Jasper area.

The Lowell region work force population increased by only 1.4% from 1990-2000, with two census tracts losing population and one gaining population. By comparison, Oregon’s population grew by 20.4%, Lane County’s by 14.2%.

**TABLE 9.930 G
Lowell Workforce Region Population 1990 and 2000**

Census Tract	1990 Population	2000 Population	1990 – 2000 Numerical Change	1990 – 2000 Percent Change
15	4,578	4,400	-178	-3.9%
16 Lowell	4,570	4,992	422	9.2%
17	5,350	5,315	-35	-0.7%
TOTAL REGION	14,498	14,707	209	1.4%

Income levels in the City of Lowell are relatively low. Median Household Income in Lowell is over \$5,000 less than that of Oregon; Per Capita Income is nearly \$7,000 less.

TABLE 9.930 H
Income in 1999

Area	Median Household Income	Per Capita Income
US	\$ 41,994	\$ 21,587
Oregon	40,916	20,940
Lane County	36,942	19,681
Lowell	35,536	14,078

While incomes in Lowell tend to be lower, a lower percentage of City of Lowell and Lowell region residents live below poverty level than residents of Oregon as a whole.

TABLE 9.930 I
Percent of Persons Below Poverty Level

Area	Percent of Persons Below Poverty
US	12.4%
Oregon	11.6%
Lane County	14.4%
Lowell Region	10.1%
Lowell	11.5%

Source: 2000 U.S. Census

(a) Lowell Region

On a percentage basis, there are more Lowell region workers involved in the following Occupation Groups than in Oregon as a whole:

- “Service,”
- “Farming, fishing, and forestry,”
- “Construction, extraction, and maintenance,” and
- “Production, transportation, and material moving”.

The opposite is true for the occupations of:

- “Management, professional, and related occupations,” and
- “Sales and office”.

It is not clear what percentage of these jobs are located in the Lowell region. Many are likely to be located in the Eugene-Springfield metro area.

For the most part, the percentages of Lowell region workers involved in the given industries are comparable to the percentages of Oregon workers. The greatest discrepancy is in the “Agriculture, forestry, fishing and hunting, and mining” industry, where the percentage of Lowell’s workers is 3.5% higher than Oregon workers overall. The percentage of Oregon workers involved in the “Finance, insurance, real estate and rental and leasing” industry is 2.4%

higher than the percentage of Lowell workers. It is not clear what percentage of these jobs are located in the Lowell region. Many are likely located in the Eugene-Springfield metro area.

**TABLE 9.930 J
Occupations of Lowell Region and Oregon Resident Workers**

Occupations	Lowell Region		Oregon
	Number of Persons	Percent of Resident Workers	Percent of Resident Workers
Management, professional, and related occupations	2,056	29.7%	33.1%
Service	1,158	16.8%	15.3%
Sales and office	1,493	21.6%	26.1%
Farming, fishing, and forestry	275	4.0%	1.7%
Construction, extraction, and maintenance	718	10.4%	9.1%
Production, transportation, and material moving	1,212	17.5%	14.7%
TOTAL	6,912	100%	100%

(b) Industrial/Commercial Land

The City of Lowell has a designated area for light industrial activities in an Industrial Park. A portion of the land is occupied by manufacturing uses. The Lowell Industrial Park has full City services and there are two vacant tax lots totaling 3.45 acres available for businesses to locate there. The Industrial and Commercial Lands Assessment in Rural Lane County (June 2000) includes inventory information for these two lots.

Commercially zoned land is also available in Lowell, primarily to accommodate small, sole proprietor businesses common in the area. There are several vacant commercial sites available for new occupants or redevelopment.

Industries that meet the following criteria should be given the highest priority in regards to outreach and recruitment because they are considered to be the most likely candidates for a good fit with the Lowell area:

1. Small, clean, quiet companies. These offer a better fit and employment growth potential for Lowell, e.g. ten companies with 5 employees each rather than one company with 50 employees.
2. Employers that require skilled labor and provide family wage jobs.
3. Entrepreneurial in nature.
4. Cottage industries that meet the applicable code requirements.
5. Manufacture a product or provide a service that is exportable outside the Lowell/Dexter/Fall Creek area. These bring in money from outside the community to add to the local economy.
6. A business that will pull customers from outside the city.

7. Target commercial, industrial, and residential employers and developers—it takes all components to create the healthy economy that the area is seeking to build.

(c) Targeted Industries

The Lowell Economic Development Strategic Plan Committee reviewed an extensive list of Industrial Sectors. The Committee applied its criteria to the general sector lists with the intent of identifying the sectors most applicable for the Lowell area. Within each sector, however, there are often smaller employers that closely fit with the Lowell area's expectations.

(d) Retirement and Tourism

The retirement and tourism industries help support commercial businesses and provides lower wage jobs suitable for youth and others just entering the job market. Although tourism is important to the Lowell community, focusing exclusively on its development to generate jobs and income would not be appropriate, and would be inconsistent with the need for diversity. Due to the nature of their impacts, the Lowell area targets tourism and retirement not as core elements of a local economy, but to play supplementary roles to help diversify economic activity. The following information may speak directly to tourism or retirement, but much of it applies to the other sector as well.

(1) Tourism

Overall, there are many benefits to local communities from tourism, as well as potential costs. Tourism is widely recognized for creating and sustaining jobs, and bringing new money to an area. Visitor spending supports local business, specialty shops, restaurants and recreational facilities which might not otherwise survive. Tourism can also lead to the regeneration of redundant buildings, help with local conservation and environmental improvement, and be a key source of civic pride.

However, while tourists do spend money which directly supports local jobs, a number of these jobs tend to be: seasonal; part-time; have limited career prospects, except in certain sectors, such as accommodation; and have unsociable hours (especially in accommodation), with staff turnover relatively high compared to other economic activities. Destination tourism planning is about finding a balance between costs and benefits in the best interest of tourism and the community.

Most jobs associated with tourism are direct service jobs in tourist-related facilities and attractions. These are primarily in hotels, attractions, restaurants, shops selling discretionary goods and travel firms. Most direct tourism jobs, particularly in comparison to other industries, tend to be: *entry-level*, requiring little or moderate skills and training; relatively simple and cheaper to create; more labor- rather than capital- intensive (except when new facilities are required). Tourism also attracts sole proprietorships, and this is a plus for the community, because it contributes to job growth and community investment.

(2) Retirement

For the Lowell area, retirement as an employment sector can be as much the result of lifestyle choices as it will be the result of decisions by specific employers to locate in Lowell. As an employment sector, the retirement sector would constitute the high density retirement communities that are becoming increasingly important in the economy. Lowell and the surrounding area can seek to attract these employers, but Lowell can also offer its low cost of living, its rural amenities and its proximity to the Eugene Springfield metropolitan area to encourage retirees to think of Lowell no matter what their housing choice. Retirement, in its aspect of increased concentration of a stable economic base is as important for the associated service related sectors of the economy as it is for the retirement communities themselves. An increase in the number of retired persons who choose the Lowell area for their place of residence will increase the use of local restaurants, stores and other service sectors of the economy.

Like tourism, Lowell cannot choose retirement as the major focus of its economic development plan, because by itself, retirement as an economic sector is not likely to provide a significant step in helping Lowell reach its economic development goals. Retirement is, however, one aspect of a diverse, stable economic base that the Lowell area can benefit from making a part of its overall plan.

(e) Concentrated Industries

Concentrated industries are companies that have a relatively high dollar value per square foot; they get a lot done in a small footprint. Tumac, Inc., located in the Lowell Industrial Park, is an example of a concentrated industry. Tumac is a contract machine shop that manufactures custom component parts for clients. There are many other examples of concentrated industries, including component manufacturing (biotech, medical, electronic, motorhome parts), a cabinet shop, fine woodworking, and parts for off-road vehicles. These Concentrated Industries may be represented in several of the Industrial sectors commonly used to analyze employment sectors.

(f) Nurseries

Nurseries are a targeted industry for the rural area outside the communities. The area has an abundance of land suitable for nurseries—appropriately zoned, with agricultural soils, suitable climate, proximity to markets, and transportation access. There are existing nurseries, both in the Lowell area and within the county. Nurseries are an industry that exports products outside the area and provides job opportunities for youth.

(g) Cottage Industries

Cottage industries, called home occupations in zoning codes, can be located either inside or outside the city within the Lowell area. The City of Lowell code includes requirements for cottage industries inside the city limits and the Lane County code includes requirements for cottage industries outside Lowell's city limits. A wide variety of cottage industries already are located in the Lowell area, indicating the suitability of the area for such businesses. Like other categories discussed in this list, Cottage Industries may be developed within several of the larger industrial sector categories. While these sectors may have different characteristics and demands, at the Cottage Industry level they share many similarities, derived from their characteristics as small enterprises.

(h) Locational Advantages

- The Lowell/Dexter/Fall Creek area offers a rural, small town atmosphere and proximity to a larger metropolitan area with good access to health care, specialized goods and services, and other amenities.
- The natural beauty of the area is stunning, with three large lakes, a major river, and many smaller streams. The area is in the Cascade Mountains and is less than a two hour drive from the postcard scenic Oregon Coast.
- The Lowell/Dexter/Fall Creek area is close to many outdoor recreation opportunities.
- Lowell is a small city which has less bureaucracy than larger cities.
- Industries in Lowell enjoy the benefits of being a “big fish in a small pond”.
- Employees can enjoy nearby outdoor recreation opportunities on their lunch hours.
- The Lowell area is within twenty minutes of Eugene/Springfield, a short commute distance for work, and approximately two hours from the Portland metropolitan area.
- Area is a gateway to the Willamette National Forest, which stretches for 110 miles along the western slopes of the Cascade Range.

(i) Local/Regional Resources

- The City of Lowell projects a user-friendly “How can we help you?” attitude to prospective citizens, commercial, industrial, and residential employers and developers. The staff provides high quality customer service.
- Lowell has an academically strong local K through 12 school system with civic-minded students that are an asset to the community. The schools meet all the testing requirements set by federal programs.
- Located strategically close to several excellent public institutions of higher learning— University of Oregon and Oregon State University; and Lane Community College and Linn-Benton Community College.
- Good transportation system access: located just off Highway 58; a short distance from I-5 and the Eugene Airport; within two and a half hours of the Portland International Airport; access to Amtrak rail service in Eugene; good county roads; and a good local street system
- High quality residential view lots are available, and less costly than in the Eugene/Springfield area
- Residents within the Lowell/Dexter/Fall Creek/Oakridge are seeking employment opportunities close to home and provide a ready and willing workforce.
- Up-to-date water and wastewater systems and internet (DSL and fiber) connections put Lowell ahead of many other small communities in the area.
- Property in the Lowell/Dexter/Fall Creek area is less expensive than in the Eugene/Springfield area.
- An abundance of vacant commercially zoned land is available and ready for development.
- The industrial park has a well-established company as an anchor and two development-ready lots of vacant industrial zoned land.

SECTIONS 9.933-9.937 RESERVED FOR EXPANSION

SECTION 9.938 REFERENCED ASSOCIATED DOCUMENTS

1. **Census 2000**, U.S. Census Bureau, 2000.
2. **Lowell Urban Growth Boundary Land Analysis Draft**, Lane Council of Governments, 2001.
3. **Lowell Economic Development Strategic Plan**, Lane Council of Governments, 2003.

SECTION 9.939 POPULATION & ECONOMY GOALS & POLICIES

(a) **Statewide Planning Goals:** The primary Statewide Planning Goals related to this Section of the Plan are Goals 2 and 9, although other Goals are also impacted by the Population and Economy Element of the Plan.

Goal 2 reads, "To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions." Population trending and projections are a means of identifying potential land use needs for future growth and development.

Goal 9 reads, "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens." Comprehensive Plans should contribute to a stable and healthful economy and should provide areas suitable for increased growth and development of the areas economic base."

(b) Lowell Population & Economy Goals

- GOAL 1.** To encourage population growth within the service capability of the City.
- GOAL 2.** To encourage a diversified economic base for the City of Lowell that broadens and improves long-term employment opportunities.
- GOAL 3.** To provide support for existing business and governmental activities while encouraging new businesses that support community needs.

(c) Policies

1. The City of Lowell shall strive for continual and substantial progress toward improving the quality of life for area residents including livability and economic prosperity.
2. The City shall actively encourage young families with children to locate in Lowell to support and maintain the Lowell School District.
3. The City shall track population growth on an annual basis to determine if growth projections remain valid. If growth exceeds projections, a reexamination of urban growth needs shall be initiated.

4. The City shall maintain a cooperative approach with local employers.
5. The City shall continue to actively encourage industrial and business developments that can help improve the economy of the Lowell area which are compatible with maintaining the area's environmental assets and the livability of the community.
6. The City shall encourage service type businesses that support the needs of Lowell residents, the people working in Lowell and the needs of the Lowell area.
7. The City recognizes the need to create a centralized downtown business district in Lowell and shall encourage new retail, office and service commercial developments to locate there.
8. The City shall provide and maintain an adequate supply of land for commercial and industrial uses to support the Lowell economy.

SECTION 9.940 HOUSING

Section 9.941 Housing Data Summary

The Housing Section of the Lowell Comprehensive Plan presents an inventory of existing housing, housing trends, housing demand, housing need and buildable land needs.

The housing counts vary depending upon where the data was obtained and will be noted as to the source. The 2000 Census data provides the latest census statistical housing data.

(a) Existing Housing

The 2000 Census indicates a total of 346 housing units within the Lowell City Limits/UGB. A 2001 LCOG Urban Growth Land Analysis (UGLA) produced a count of 383 and the LCOG Economic Development Strategic Plan (EDSP) provided a 2003 count of 399 housing units.

**TABLE 9.940 A
2000 Census Population & Housing Status**

Population	Persons In Group Quarters	Persons Per Household	Total Dwelling Units	Occupied Dwelling Units	Vacant Units	Owner Occupied Units	Rental Units	%Owner Occupied	%Rental Occupied
880	0	2.72	346	315	27	233	82	74	26

Source: 2000 U.S. Census

(b) Housing Units by Type

The following Tables summarize the number of housing for each type and their percentage of the total housing in the community.

TABLE 9.940 B
Lowell Housing by Type - 1980

Structure Type	Existing Units 1980		Projected Units 2000		Projected Units 1980-2000	
	#	%	#	%	#	%
SF-Detached	198	74%	257	69%	59	56%
Manufactured Homes	45	17%	74	20%	29	28%
Multiple-Family	24	9%	41	11%	17	16%
TOTAL	267	100%	372	100%	105	100%

Source: Lowell 1982 Comp Plan

It is interesting to note that the 1980 housing projection for the year 2000 is within 26 units of the 2000 Census count.

TABLE 9.940 C
Lowell Housing by Type - 2000

Structure Type	Existing Units 2000		Actual Units 1980		Added Units 1980-2000	
	#	%	#	%	#	%
SF-Detached	214	62%	198	74%	16	20%
Manufactured Homes	102	29%	45	4%	57	72%
Multiple-Family	30	9%	24	9%	6	8%
TOTAL	346	100%	267	100%	79	100%

Source: 2000 U.S. Census

TABLE 9.940 D
Lowell Housing by Type - 2001

Structure Type	Existing Units 2001		Future Units 2020		Added Units 2001-2020	
	#	%	#	%	#	%
SF-Detached	337	88%	403	82%	66	61%
Duplex	0	0%	20	4%	20	18%
Multiple-Family	32	8%	49	10%	17	16%
Manuf. Homes in Park	14	4%	20	4%	6	5%
TOTAL	383	100%	492	100%	109	100%

Source: LCOG UGLA

TABLE 9.940 E
Lowell Housing by Type - 2003

Housing Type	Lowell		Lane County
	Number of Units	Percentage	Percentage
Single Family	215	53.9%	59.4%
Multiple-Family & Duplex	44	11.0%	26.9%
Manufactured Dwelling on Lot	134	33.6%	8.5%
Manufactured Dwelling in Park	6	1.5%	5.3%
TOTAL	399	100%	100%

Source: LCOG EDSP

Compared to Lane County, Lowell has lower percentages of single family and Multiple-family and duplex dwellings, and significantly higher percentages of dwellings. Over one-third of the housing units inside the City are manufactured dwellings, more than three times the County rate.

(c) Housing Occupancy

The housing vacancy rate in the Lowell is higher than the Lane County average, but lower than the State average.

**TABLE 9.940 F
2000 Housing Vacancy Rate**

Area	Vacancy Rate
Oregon	8.2%
Lane County	6.1%
Lowell	7.9%

Source: 2000 U.S. Census

**TABLE 9.940 G
2000 Occupancy Status**

Area	Total Housing	Occupied Housing	Vacant Housing	Vacancy Rate
Lane County	138,946	130,453	8,493	6.1%
Lowell	346	315	27	7.9%

Source: 2000 U.S. Census

Lowell has a higher percentage of home owners and lower percentage of renters than the U.S., State of Oregon or Lane County.

**TABLE 9.940 H
Percent Owner & Renter**

Area	Owner	Renter
US	66.2%	33.8%
Oregon	64.3%	35.7%
Lane County	62.3%	37.7%
Lowell	74.0%	26.0%
Lowell Number	233	82

Source: 2000 U.S. Census

The median value of owner-occupied homes within Lowell is \$40,000 lower than that of Lane County, and over \$50,000 lower than that of Oregon. This is likely due in part to the high percentage of manufactured dwellings (35%) in Lowell, which tend to have lower value than “site-built” single family dwellings.

**TABLE 9.940 I
2000 Median Owner-Occupied Value**

Area	Median House Value
US	\$ 119,600
Oregon	\$ 152,100
Lane	\$ 141,000
Lowell	\$ 101,300

Source: 2000 U.S. Census

Median contract rent in Lowell is slightly higher than in Lane County and Oregon.

TABLE 9.940 J
2000 Median Contract Rent

Area	Median Contract Rent
US	\$ 519
Oregon	\$ 549
Lane	\$ 542
Lowell	\$ 558

Source: 2000 U.S. Census

(d) Housing Costs

Housing became less affordable in the 1990's. Housing costs continue to grow at rates nearly double incomes. The increasing cost of housing is beyond the means of many households without some form of assistance. A recognized standard of maximum shelter costs is 30 percent of household income. In Oregon, 37.2% of renters and 22.5% of owners pay more than 30% of their household income for housing.

Without financial assistance, many elderly and low income families are forced to accept inadequate housing. For these households, the cost of either maintaining a home or finding rental shelter at a cost of less than 30 percent of their net income becomes very difficult. The cost of purchasing a new home on a moderate income is unattainable for many families.

Even though interest rates are the lowest in many years, more and more people are still priced out of the housing market due to increased inflationary costs. Land costs and municipal services have risen sharply in recent years and building costs have increased at the rate of one percent a month.

A single family home is increasingly beyond the means of many households. Nationally, the result has been a rise in the number of apartments, duplexes, and manufactured homes.

Housing costs and rent levels in Lowell are modest compared to many areas of the state, but a substantial increase can be expected. The City will continue to seek means of reducing housing costs within the City. However, it must be recognized that municipal public facilities and services will contribute to higher housing costs through System Development Charges (SDC). Reduced lot sizes, efficient planning and inexpensive construction alternatives can be utilized to maintain housing within affordable limits.

(e) Affordable Housing

The State of Oregon has declared a Statewide Goal that all communities have the responsibility of providing an adequate number of household units at price ranges and rent levels commensurate with the financial capabilities of Oregon households.

Affordable housing is defined by a cost burden of no more than 30% of household income. Affordable housing means it would take at least \$ 20,000 yearly income to purchase a home with a Mortgage of \$ 70,000 or pay \$ 500 a month in rent. Or it would take \$ 32,000 yearly income to purchase a home with a Mortgage of \$ 120,000 or pay \$800 a month in rent.

Small communities like Lowell are limited in their ability affect the housing market. It is clear that the most a community can do is not to place undo burdens on the availability of land and the cost of municipal services. Maintaining administrative costs for land use decisions within reasonable limits and provision of timely decisions can also encourage developers to choose a Lowell location.

Housing authorities are more likely to address housing needs for special classes of individuals like low-income, those with disabilities or other special needs. Small cities have a more difficult time specifically addressing these special housing needs; especially when one considers that determining the socioeconomic needs and distribution for an expanding population is a highly speculative task at best.

Among the means at a City's disposal are Code provisions for smaller lots, the provision of multi-family zones in the community. It is also important that a community preserve and maintain its existing housing stock for the purposes of conserving natural resources used in home construction and for providing lower priced housing to residents of the community.

The City recognizes their existing housing stock as an extremely valuable resource. Therefore, the City has adopted policies pertaining to the rehabilitation of existing housing and the maintenance of a wide range of housing prices in Lowell.

(f) Assisted Housing

The 2000 Census identified 20 families and 98 individuals that were below the poverty level. There were also 45 homeowners and 36 renters that paid more than 30% of their income for housing.

There is a number of public and private housing assistance organizations that can help provide affordable housing in Lowell. This assistance includes new home purchase, rent supplements, low interest loans and grants for rehabilitation as well as other programs.

The City recognizes its responsibility to accommodate assisted housing in Lowell. There is a strong preference for programs that assist households in obtaining housing already available in the community as opposed to targeted housing developments that concentrate assisted housing in one area or in single developments.

The Federal Fair Housing Act of 1988 protects the right to freely choose a place to live without discrimination.

Qualified citizens of Lowell should be aware of available assistance programs, and should participate in them if they choose. The City can be a source of information concerning housing availability in general should assist those seeking information on housing assistance.

SECTION 9.942 HOUSING TRENDS

Average annual growth rate growth in Lowell has been relatively low over the last 40 years, ranging from about 1.2% during the 1960s up to 2.0% during the 1990s. The 1980 to 2000 Trend is summarized in the following table.

**TABLE 9.400 K
Housing Trend 1980-2000**

Period	Population Increase	Housing Increase	Added Housing Units					
			Single-family		Multi-family		Manufactured	
			No.	%	No.	%	No.	%
1980-2000	219	79	16	20.0%	6	9.0%	57	72.0%

Source: 2000 U.S. Census

The last 20 year housing trend provides little information that is helpful in projecting future needs. The improved municipal water and sewer system has substantially increased housing opportunities providing an immediate incentive for housing production in Lowell.

There are several regional trends that will affect the type of housing needed in the next 20 years in addition to local conditions:

- Over 70% of population increase will come from net migration.
- Household size is expected to continue declining.
- The region will add more residents that are 65 and older and group quarters will increase by about 2%.
- Younger people in the 20 to 34 age range are more mobile and generally have less income than people who are older and they are less likely to have children. All of these factors mean that young households are more likely to be renters and renters are more likely to be in multi-family housing.
- Baby boomers in their 50s are about to reach the "empty nest" stage and these households have different needs than families.
- The rate of formation of single-parent households is slowing as is the rate of formation of married couple families with children.
- Income statistics indicate a substantial preference for single-family housing and ownership when incomes allow that choice regardless of age.
- The rate of increasing housing costs is approaching double that of the rate of income

Residential locational choice trends also include:

- Access to work.
- Access to shopping, recreation and friends.
- Public services.
- Community and neighborhood characteristics.
- Land and improvement characteristics.

In all, Lowell's potential for growth and development will depend on these national and regional trends as well as local factors, but most of all it will be the City's attitude, responsiveness and preparedness that will guide Lowell's housing development.

(a) Single-family Homes

Although becoming increasingly expensive, single-family homes are the primary choice of homeowners. With the low interest rates of the past decade plus the decline in available money for Manufactured Home Parks, single-family homes can be expected to continue as the housing of choice although their percentage of the total housing market may decline as interest rates increase and other choices such as manufactured homes and multiple-family homes become more affordable alternatives.

(b) Manufactured Homes

The cost of single-family homes is beyond the means of an increasing number of families. Manufactured homes are therefore rapidly becoming the house of choice for low to moderate income families. They provide excellent value, and with housing costs growing at rates nearly double incomes, they will likely be the affordable housing choice throughout the planning period although Manufacture Home Parks are declining in use and preference.

(c) Multiple-Family Housing

There are 32 multi-family housing units in Lowell. The demand for more affordable housing such as duplexes, apartments and attached townhouses will continue to increase. Apartments will be mostly the smaller four-plex to six-plex type. The percentage of multi-family units, including duplexes is expected to increase overall.

(d) Planned Developments

Planned Development proposals may increase as a means of addressing the affordable housing issues in the community. Planned Developments can increase overall residential density while providing enhanced living environments that can help to reduce housing costs.

SECTION 9.943 PROJECTED HOUSING DEMAND & NEED

The language of Goal 10 and ORS 197.296 refer to housing need and requires communities to provide needed housing types for households at all income levels. Goal 10's broad definition of need covers all households.

House Bill HB2709 codified in the Statewide Land Use Planning Laws ORS 197.296 also requires an analysis of demand for new housing. Specifically it:

1. Refined the definition of buildable lands to include "redevelopable land".
2. Requires coordination of population projections with the County and State.
3. Sets criteria for prioritizing land for UGB expansions.
4. Sets specific requirements regarding buildable lands for needed housing.

Demand is what households are willing to purchase in the market place. Growth in population leads to a growth in households and implies an increase in demand for housing units that is usually met primarily by the construction industry based on the developer's best judgment about the types of housing that will be absorbed by the market.

Most plans make forecasts of new housing demand based upon population projections. Housing authorities are more likely to address housing needs for special classes of individuals like low-income, those with disabilities or other special needs.

Trying to determine the future socioeconomic and special housing needs for an expanding population is highly speculative at best.

The complexity of determining housing needs comes from consideration of past trends, projecting these trends into the future, and then trying to predict housing needs for Lowell's future population. The following five steps outline the process:

- Project the estimated population growth for a determined time period.
- Project the number of new housing units needed.
- Project the housing mix needed.
- Estimate the number of additional housing units needed by type
- Estimate the expected net density

(a) Population

Lowell's population is projected to increase at a rate of 2.22 percent from 2000 to 2030 for a total population of 1500 by the year 2025 and a population of 1700 by the year 2030. The Census population of 880 in lieu of the LCOG estimate of 957 was utilized as the base because of the projected average annual growth rate (aagr) produced numbers closer to the projected populations of 1,500 and 1,700 identified by the County and State.

(b) Average Household Size

Average household size has been declining both nationally and locally over the past 30 years and is expected to continue to decline. It is assumed that Lowell's average household size will also decline slightly to approximately 2.5 by 2030 due to smaller family size and an increase in older residents.

**TABLE 9.940 L
Lowell Persons Per Household (PPH)**

Year	PPH	% Change
1980	2.75	
1990	2.90	5.5%
2000	2.72	-6.2%

(c) Projected Number of Households

The projected number of households is based on the existing household size of 2.72. This is considered a high figure for future projections since statewide trends indicate something closer to 2.5 due to declining family size and an aging population. The number of households is less than the number of housing units due to the number of vacant housing units.

**TABLE 9.940 M
Lowell Household Projections**

Year	Household Population	Household Size	Number of Households
2000	880	2.72	315
2025	1500	2.50	605
2030	1700	2.50	684
2050	2653	2.50	1,061

The year 2025 is the 20 year population forecast required for a change in the UGB

(d) Vacancy Rate

A 5.8 percent vacancy rate is suggested although the 2000 Census has indicated an existing rate of 7.9 percent.

(e) Needed Housing Units

LCOG has projected a 5.8 percent vacancy rate for all units although rates generally differ between owner and rental units. Adding the projected vacant units to the projected households provides the total number of housing units needed.

**TABLE 9.940 N
Needed Housing Units**

Year	Projected Households	Vacancy Rate	Needed Housing	2000 Housing	Added Housing
2000	315	7.9		346	
2025	605	5.8	640	346	294
2030	684	5.8	724	346	378
2050	1,061	5.8	1,123	346	777

The year 2025 is the 20 year population forecast required for a change in the UGB

(f) Housing Distribution by Type

The distribution of housing types has varied over the years and will continue to be driven by market factors. The projected housing distribution for single-family, manufactured dwellings and multiple-family is summarized in **Table 9.940 O** based on the following assumptions.

(g) Single-family Homes

Site-built single-family housing remains the preferred choice. Although due to the rising cost of housing, manufactured homes have continually increased their share of the housing market. Manufactured homes on individual lots are also statistically included with site-built single-family housing in many housing tabulations.

(h) Manufactured Homes

Manufactured Home Parks have declined in preference and use. Financing has also become extremely limited for MH Parks. However Manufactured Homes will continue to be placed on

individual lots as an alternative to site-built housing. Their lower cost will continue to maintain their market share

(i) Multiple-family Housing

Multiple-family housing in Lowell has been less than that found in other areas. Although due to the increased cost of housing, it is expected to increase over the planning period.

(j) Planned Developments

The City expects and encourages more proposals for Planned Developments during the planning period. Planned Developments can provide mixed uses and higher densities that can lower housing cost.

**TABLE 9.400 O
Projected Housing Distribution by Type**

Time Period	Projected Housing Mix	Added Dwelling Units	Accumulative Total Units	Accumulative Housing Mix
1980				
Single-Family	74.1%		198	
Manuf Homes	16.9%		45	
Multiple-Family	09.0%		24	
Totals	100.0%		267	
2000				
Single-Family	20.3%	16	214	61.8%
Manuf Homes	72.2%	57	102	29.5%
Multiple-Family	07.5%	6	30	08.7%
Totals	100.0%	79	346	100.0%
2000-2025				
Single-Family	50.0%	147	361	56.4%
Manuf Homes	40.0%	118	220	34.4
Multiple-Family	10.0%	29	59	9.2
Totals	100.0%	294	640	100.0%
2025-2030				
Single-Family	50.0%	42	403	55.7%
Manuf Homes	35.0%	29	249	34.4%
Multiple-Family	15.0%	13	72	9.9%
Totals	100.0%	84	724	100.0%
2030-2050				
Single-Family	50.0%	199	602	53.6%
Manuf Homes	30.0%	120	369	32.9%
Multiple-Family	20.0%	80	152	13.5%
Totals	100.0%	399	1123	100%

Numbers vary slightly due to rounding

Manufactured Homes include those on individual lots and those in manufactured home parks.

(k) Residential Densities and Lot Size

The Lowell Single-family Residential District (R-1) has a minimum lot size of ~~5,500~~ 7,000-sq. ft. or approximately 6 dwelling units per net acre.

The Lowell Multiple-family District (R-3) also has a minimum lot size of ~~5,500~~ ~~7,000~~ sq. ft. that permits up to 15 units per net acre or higher under the Conditional Use procedures.

It is assumed that lot sizes will increase and housing density will decrease on the steeper slopes.

The Planned Development provisions of the Lowell Land Use Code also permits increased densities that provide enhanced living environments that can help to reduce housing cost.

Based on all of these factors, an assumed average density for the City is projected to be 6 units per acre.

(I) Projected Population, Needed Housing & Land Need

The following **Table 9.940 P** provides a summary by year of the potential growth rate, needed housing and land need for residential growth. The following assumptions are applied:

- The 2000 Census Population projection of 880 is utilized as the base.
- The Portland State Census estimates for 2001 through 2004 were also applied to formulate the Table 9.400 P.
- The 2000 Census Housing count of 346 is utilized as the base.
- Population Growth Rate – 2.22% per year to the year 2050 is assumed.
- People per household – 2.5 is assumed.
- Housing Vacancy rate – 5.8% is assumed based on the LCOG estimate.
- Average Density 6.0 Units per acre is based on the assumed housing mix.
- Added Land for Streets & Public Purposes – 25%
- Added Land needed to provide locational choices – 25%

Numbers may vary slightly due to multiple sources and varying estimates, although they are very close and relatively consistent.

SECTION 9.944 BUILDABLE LANDS FOR RESIDENTIAL USE

Buildable land needs are addressed in detail in the **Section 9.800, Growth Management**. The City is required to provide sufficient buildable lands to meet the projected land use needs of the City for the planning period, including buildable land for needed housing.

A change in the Lowell Urban Growth Boundary (UGB) requires a need to accommodate long range urban population, consistent with a 20 year population forecast coordinated with affected local governments.

Lowell will require approximately 73 gross acres of buildable residential land to accommodate the additional housing needs of the community based upon the coordinated population projections to the year 2025 for an UGB change.

Lowell will require approximately 194 gross acres of buildable residential land to accommodate the additional housing needs of the community based upon the coordinated population projections to the year 2050.

**TABLE 9.400 P
Projected Population, Housing & Land Need**

Year	Population aagr 2.22%	Housing 2.5 ph+5.8%V	Housing Increase	Land Area 6 u/acre+50%
2000	880	346		0
2001	880	346	0	0
2002	880	346	0	0
2003	890	349	3	1
2004	900	353	7	2
2005	923	390	44	11
2006	946	400	54	14
2007	969	410	64	16
2008	993	420	74	19
2009	1018	431	85	21
2010	1044	442	96	24
2011	1070	453	107	27
2012	1097	464	118	30
2013	1124	476	130	32
2014	1152	488	142	35
2015	1181	500	154	38
2016	1210	512	166	42
2017	1241	525	179	45
2018	1272	538	192	48
2019	1303	552	206	51
2020	1336	565	219	55
2021	1369	580	234	58
2022	1404	594	248	62
2023	1439	609	263	66
2024	1475	624	278	70
2025	1512	640	294	73
2026	1549	656	310	77
2027	1588	672	326	82
2028	1628	689	343	86
2029	1669	706	360	90
2030	1710	724	378	94
2031	1748	740	394	98
2032	1787	756	410	103
2033	1827	773	427	107
2034	1867	790	444	111
2035	1909	808	462	115
2036	1951	826	480	120
2037	1994	844	498	125
2038	2039	863	517	129
2039	2084	882	536	134
2040	2130	902	556	139
2041	2177	922	576	144
2042	2226	942	596	149
2043	2275	963	617	154
2044	2326	984	638	160
2045	2377	1006	660	165
2046	2430	1028	682	171
2047	2484	1051	705	176
2048	2539	1075	729	182
2049	2596	1098	752	188
2050	2653	1123	777	194

Lowell presently has less than 59 Buildable Residential Acres available or a deficit of 135 acres. Most of the City's existing Buildable Land is comprised of small partially vacant parcels that will develop slowly if at all

The City has very few parcels capable of supporting a subdivision.

SECTION 9.945-9.947 RESERVED FOR EXPANSION.

SECTION 9.948 REFERENCED ASSOCIATED DOCUMENTS

1. **Lowell Comprehensive Plan**, Land Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
2. **Lowell Urban Growth Boundary Land Analysis Draft**, Lane Council of Governments, 2001.
3. **Draft Housing Element For Lowell, Oregon**, Lane Council of Governments, 1976.
4. **Census 2000**, U.S. Census Bureau, 2000.

SECTION 9.949 HOUSING GOALS & POLICIES

(a) **Statewide Planning Goals:** Local housing policies must comply with the requirements of **Statewide Planning Goal 10** which reads: "To provide for the housing needs of the citizens of the state".

Goal 10 requires incorporated cities to complete an inventory of buildable residential lands and to encourage the availability of adequate numbers of needed housing types in price and rent ranges commensurate with the financial capabilities of its households.

(b) Lowell Housing Goals

GOAL #1 To increase opportunities for all citizens of Lowell to enjoy safe, decent, sanitary housing at affordable prices.

(c) Policies

Housing Need

1. The City shall strive to provide all citizens of the community with the opportunity to live in sound housing, adequate to their needs, at reasonable cost relative to their income.
2. The City shall support the right for all citizens of the community to obtain adequate housing regardless of their age, race, religion, sex, ethnic background or disability.
3. The City shall not discriminate against needed housing types and programs that address the needs of its citizens.
4. The City shall insure that residential development is supported by the timely and efficient extension of public facilities and services.

5. The City shall continue to support increased residential development while also encouraging business and commercial activities that support residential community needs.
6. The City shall develop standards for mixed housing and commercial use in its downtown commercial core as a part of a Downtown Development Plan.

Existing Housing

7. The City shall ensure adequate standards of fitness for human habitation through enforcement of its codes and ordinances.
8. The City shall support the rehabilitation of existing housing to help maintain the community housing stock and improve the appearance, structural condition and energy efficiency of existing housing.

Housing Types

9. The City shall support a wide range of housing types and innovative residential design and planning concepts.
- ~~10. Manufactured homes shall continue to be permitted on individual lots subject to siting standards that maintain their compatibility with on-site residential construction.~~

Housing Costs

11. The City shall support efforts to reduce housing costs by providing enough residentially zoned land to support a mix of housing types and density that address the needs of its citizens.
12. The City shall not adopt regulations that have the unwarranted affect of increasing the cost of housing.

Buildable Lands

13. The City shall maintain sufficient residential buildable lands within the community to provide locational choices for each housing type that will assist in keeping land costs for housing at reasonable levels.
14. The City shall support orderly in-fill development of underdeveloped land in existing residential areas.

Housing Assistance

15. The City shall support housing and family assistance programs that benefit the local community and shall cooperate with County, State and Federal agencies in meeting the City's affordable housing needs.
16. The City shall cooperate with developers or non-profit organizations to consider the use of excess publicly owned land for construction of affordable housing.

SECTION 9.950 LAND USE

The purpose of the land use element of the Plan is to delineate a land use pattern for the Lowell urban area that will guide the future use of land. The land use plan is based upon the other elements of the Comprehensive Plan, community desires as expressed by citizen reviews, policy statements, projected land use needs to the year 2020, and existing land use patterns.

SECTION 9.951 LOWELL LAND USE

The five primary existing land uses in Lowell include:

- **Residential.**
Residential land uses include all single-family, multi-family and manufactured homes.
- **Commercial.**
Commercial land uses include all general businesses and service facilities including retail and wholesale stores and shops.
- **Downtown.**
Flex-Use 1 and Flex-Use 2 land uses include commercial, mixed-use, and residential uses that are ideal for locating within the Downtown Core Area.
- **Industrial.**
Industrial land uses include all general manufacturing, storage and industrial service facilities.
- **Public and Semi-public.**
Public and semi-public land is a broad category including schools, churches, cemeteries, parks, utilities, and all municipal, institutional and governmental facilities. A separate land use district is not provided for Semi-Public uses. They are permitted in any zone as either a permitted or conditional use.
- **Open Space**
Open Space includes agricultural areas, woodlands, wetlands and riparian corridors together with parks and natural features within the community. A separate land use district is not provided for Open Space uses. Open space is a permitted use in any zone.

SECTION 9.952 EXISTING LAND USE

(a) Primary Land Use Districts

The following are the primary Comprehensive Plan and Zoning Districts in Lowell:

Single-family Residential District R-1 – ~~5,500~~ ~~7,000~~ sq. ft. min lot size

Multiple-family Residential District R-3 - 15 units per acre

<u>Downtown Residential Single-Family Attached</u>	<u>DRA</u>
<u>Downtown Residential Single-Family Detached</u>	<u>DRD</u>
General Commercial District	C-1
<u>Downtown Flex-Use 1</u>	<u>DF1</u>
<u>Downtown Flex-Use 2</u>	<u>DF2</u>
Downtown Commercial	C-2
Light Industrial District	I-1
Public Lands	PL
<u>Public Lands-Downtown</u>	<u>PL-D</u>

(b) 1980 Land Use

The 1978-1989 Lowell Comprehensive Plan contains information that has been compiled into the 1980 Land Use Summary contained in **Table 9.950 A**. This information is presented for comparison purposes with the 2005 Land Use Summary contained in **Table 9.950 B**.

**TABLE 9.950 A
1980 LAND USE SUMMARY**

	1980 CITY LAND USE DISTRICTS						
	Land Area	R-1	R-3	C-1	C-2	I-1	PL
TOTAL TAX LOTS	445.68	346.47	5.26	2.13	0.00	9.60	82.22
	100.00%	77.74%	1.18%	0.48%	0.00%	2.15%	18.45%
DEVELOPED LAND	116.88	70.07	1.26	0.93	0.00	0.00	44.62
% DISTRICT DEV	26.23%	59.95%	1.08%	0.80%	0.00%	0.00%	38.18%
VACANT LAND	328.80	276.40	4.00	1.20	0.00	9.60	37.60
% DISTRICT VAC	73.77%	84.06%	1.22%	0.36%	0.00%	2.92%	11.44%
STREETS	73.00						
	9.90%						
LAKE	219.00						
	29.69%						

TOTAL AREA	737.68	100.00%
<hr/>		
HOUSING	Homes	Percent
Single-Family	198	74.16%
Manufactured Homes	45	16.85%
Multiple-Family	24	8.99%
	267	100.00%

Source 1978-1989 Lowell Comprehensive Plan

(c) 2005 Land Use

The existing pattern of development in Lowell is one of low density with large amounts of vacant and partially vacant land scattered throughout the community on oversized lots. Physical features such as steep slopes, drainageways, flood hazard, wetlands, riparian areas and geologic and soil limitations are constraints to development that limit the use of the property and may prohibit development. Approximately 75% of the vacant property in the City is subject to one or more of these natural development limitations. Some of these areas are classified as undevelopable although some could be developed if sound conservation and construction practices are followed.

An inventory of existing land uses was provided by LCOG in April 2005 from the Lowell GIS Database. The inventory findings are tabulated into a Land Use Summary for each of the Primary Land Use Districts together with a. The Land Use Summary is presented in **Table 9.950 B**

**TABLE 9.950 B
2005 LAND USE SUMMARY**

2005 CITY LAND USE DISTRICTS							
	Land Area	R-1	R-3	C-1	C-2	I-1	PL
TOTAL TAX LOTS	444.77	376.55	14.56	6.12	3.72	7.42	36.40
	100.00%	84.66%	3.27%	1.38%	0.84%	1.67%	8.18%
DEVELOPED LAND	174.30	125.86	2.43	5.74	2.51	2.07	35.69
	39.19%	72.21%	1.39%	3.29%	1.44%	1.19%	20.48%
% DISTRICT DEV		33.42%	16.69%	93.79%	67.47%	27.90%	98.05%
VACANT LAND	270.47	250.69	12.13	0.38	1.21	5.35	0.71
	60.81%	92.69%	4.48%	0.14%	0.45%	1.98%	0.26%
% DISTRICT VAC		66.58%	83.31%	6.21%	32.53%	72.10%	1.95%
STREETS	73.00						
	9.91%						
LAKE	219.00						
	29.72%						
TOTAL AREA	736.77						
	100.00%						
<hr/>							
HOUSING 2003	Homes	Percent					
Single-Family	215	53.88%					

Manufactured Homes	134	33.58%
MH in Parks	6	1.50%
Multiple-Family	44	11.03%
	399	100.00%

Source LCOG Lowell GIS

There are approximately 445 tax lot acres within the existing City Limits / Urban Growth Boundary. Of this total 174 acres are considered developed and 270 acres are vacant. The ratio of developed land to vacant land is approximately 40% Developed (174 acres) to 60% Vacant (270 acres). Much of the vacant land has some form of natural constraints that limit development.

The following information describes the existing conditions in each of the City's land use categories.

Consistent with the recommendation of the Lowell Downtown Master Plan, in 2022, the City of Lowell completed an update to its Development Code. The updated fully codified the Lowell Downtown Master Plan and implemented the new zoning districts as seen on the Regulating Plan. The 2022 update to the Lowell Development Code and implementation of new zoning districts resulted in the following zoning districts being added to the City's Zoning and Comprehensive Plan Map:

- **Downtown Flex-Use 1.**
- **Downtown Flex-Use 2.**
- **Downtown Residential Attached.**
- **Downtown Residential Detached.**
- **Public-Lands Downtown.**

The zoning district and plan designation of Downtown Commercial (C-2) was removed as a zoning district and plan designation from the City's Zoning and Comprehensive Plan Map and from the Lowell Development Code.

(d) Existing Residential Land Use

Residential Districts comprise 88 percent of the City's Tax Lots. Historically, low density single-family residential development has been the primary housing type.

There are 270 acres of vacant single-family residential land although only 66 acres are unconstrained for residential development. Buildable lands are available on vacant lands without building constraints. **Section 9.980 Growth Management** summarizes the various distributions of Developed, Vacant, Constrained and Buildable lands for each Primary Land Use District.

Within the City, 377 acres are presently designated for single-family dwellings in the R-1 Single-family Residential District and another 15 acres for multi-family dwellings in the R-3 Multiple-

family Residential District. **Tables 9.950 A & B** provide a comparative land use and housing summary for 1980 and 2005/2003.

There are 126 acres of developed residential land within the city. In addition, there are approximately 8 dwelling units on 2 acres located in the Commercial C-1 District and 4 dwelling units on 1 acre located in the Commercial C-2 District.

Existing manufactured homes are located on individual lots and account for 20 percent of the total housing in Lowell. Currently, there is only one 6 unit manufactured home park developed and a second one approved but that is currently undeveloped and being considered for conversion to individual lots.

Existing multi-family residential uses currently account for 2 acres of developed land in Lowell. The only multi-family residential structure currently developed is one 16 unit apartment complex. This can have an impact on affordable housing alternatives for younger families and singles in the City.

(e) Existing Commercial Land Use

Lowell's commercial core is strongly impacted by the close proximity to retail and service centers in Eugene and Springfield. It is expected that outside influences will limit commercial development in Lowell until a larger population is achieved. Existing commercial uses comprise approximately 3 acres of the 10 acres zoned for commercial use and are primarily convenience and service businesses.

Lowell's commercial facilities are located on Main Street, Moss Street, and North Shore Drive, the City's primary Major Collector and commercial corridor. The commercial area is comprised of two identifiable areas:

District C-1 The General Commercial District is located on the Jasper-Lowell Road Corridor (Portions of Pioneer Street, North Shore Drive and Moss Street). It contains 6 acres. There are approximately 1.5 commercially developed acres and 0.38 vacant or partially vacant acres. However, 1.5 acres of the developed commercial area is single-family residential and 3 acres are devoted to other uses. Commercial activities in this area include a grocery store, gas station, and the Post Office. Also included are storage buildings and other limited commercial facilities in addition to the Lowell Grange.

District C-2. The traditional downtown core is centered on Main Street, between Pioneer and Moss Street. It contains almost 4 acres. There are 2.52 developed acres and 1.2 vacant or partially vacant acres. However, 0.96 acres of the developed commercial area is single-family residential and 1.56 acres is devoted to commercial uses. The downtown core is centrally located to the entire community with good access and orientation to the Major Collector Streets of Lowell. Commercial activities in this area include a grocery store, gas station, restaurant and an auto body shop.

Collecting a limited number of commercial uses into a compact center can improve the vitality of the area, attracting additional business as the community grows. Encouraging development in the Downtown Core Area with incentives can renew the commercial center of the community

(f) Existing Industrial Land Use

Base industries provide the economic foundation for most communities by providing local jobs and by bringing outside money into the community.

The City's industrial objective is to maintain an adequate supply of industrial sites at locations that are compatible with other land uses and to provide assurances that industrial development is consistent with maintaining environmental and livability assets of the community.

To address industrial objectives, the City has designated that the permitted uses be limited to light manufacturing and warehousing activities within buildings in the I-1 Industrial District. Exterior storage, heavy industrial manufacturing with emissions, and uses with potentially hazardous materials may be allowed by Conditional Use only.

District I-1 contains an industrial park with an existing industry in the northwest corner of the City with access from the Jasper-Lowell Corridor. The Industrial park has 6.89 acres, net public rights-of-way, of designated industrial land within the I-1 District. Of this, two parcels totaling 3.78 acres are developed and two parcels totaling 3.11 acres are available for development

(g) Existing Public & Semi-Public Land Use

Public and Semi-public facilities are essential to the community. These facilities are either owned by various governmental agencies or are operated by private institutions. Public uses include parks, schools, fire districts, Forest Service, State Parks and other governmental facilities. Semi-public uses include privately owned institutions that provide services to residents including, churches, cemeteries, camp grounds, fraternal organizations, utilities, and other agencies. Public uses are established as a separate land use district. Semi-public uses are permitted in all of Lowell's Land Use Districts as a Permitted Use or as a Conditional Use depending upon the zone or use.

District PL, the Public Lands District or Zone contains approximately 36.4 acres of Zoned Public Lands comprising 8.2% of the City's land area.

(h) Existing Open Space

The most significant scenic resources in the Lowell area are Dexter Reservoir, the hillside woodlands, the drainageway riparian areas, and the open farmlands. The Natural Environmental Element, **Section 9.920** contains a detailed description of the natural environment within the City.

There are no commercial forests within the City of Lowell. There are, however, extensive hillside woodlands and riparian vegetation along the small drainageways within the City.

The agricultural lands are also a valuable scenic resource. Ensuring the orderly planned conversion of agricultural lands within the City and prevention of haphazard development will help preserve these values until urban conversion actually occurs.

Parks in Lowell are important in addressing the recreational needs of the community and in providing an attractive environment for visitors. Parks not only enhance the community's appeal but can also contribute to a community's economic potential by helping to attract visitors and businesses. Parks are discussed in detail in **Section 9.970**, Public Facilities & Services.

SECTION 9.953 LAND USE TRENDS

As noted in **Section 9.930**, Population & Economy, population growth in Lowell has been modest at 1.2% to 2% per year since 1960 and has resulted in a population increase of only 219 people and 79 housing units from 1980 to 2000. Therefore statistical trending for Lowell provides little predictive value for the future.

Recent improvements made to the municipal water and sewer system now permits urban developments that were previously constrained by capacity limitations. Regional trends show a substantial increase in residential construction in small communities, particularly those within easy commuting distance from Eugene and Springfield which have the public infrastructure to support such growth.

Although statistical trending has limited value, there are developing trends that could have a significant impact on community development.

(a) Residential Land Use Trends

With the improvements to the municipal water sanitary sewer systems higher densities can be supported. The R-1 Residential District permits a minimum lot size of 7,000 sq. ft. and a Planned Development Overlay-District may allow even higher densities on larger undeveloped parcels with an approved development plan. Unfortunately, there are few of these larger undeveloped parcels that can be developed more economically in this manner. It is expected that a mixed residential density will continue with increasingly higher residential densities occurring during the planning period, but that many of the existing one-half to five acre residential parcels are unlikely to be further partitioned as a result of property owner choice, having been purchased within the City for lack of similar sized rural parcel availability.

Multi-family development has been lagging but is expected to increase due to the increasing cost of housing, particularly for young families and the elderly.

Manufactured Homes are also expected to continue to be a popular means to provide lower cost housing although, due to changes in interest rates and financing, site-built homes are expected to be the predominant housing source throughout this planning period..

(b) Commercial Land Use Trends

The City has 10 acres of commercially zoned land at this time. Only 1acre is utilized for commercial use and the remainder of the 10 commercial acres is utilized for other uses. The commercial facilities are located within the two adjoining commercial Districts.

District C-1. The corridor commercial area contains only 0.38 acres of vacant land. Much of this area's 6.12 acres is devoted to other uses. The corridor commercial area should provide space for heavier commercial uses requiring on-site truck and auto access like lumber yards, equipment sales and light fabrication shops.

District C-2. The City's downtown core area has continued to decline due primarily to the realignment of through traffic off Main Street many years ago. The location and redevelopment of the downtown core area will become increasingly important as a pedestrian friendly center for those persons who do not drive automobiles by providing a walking environment for students, the elderly and those living in adjacent multi-family facilities. Convenient parking areas will be needed for residents and visitors that do not interfere with an integrated shopping environment

The City's commercial development has been diluted due to a limited population, fewer jobs that don't require travel to the Eugene/Springfield urban area, and the proximity of that urban area. The limited development that has occurred has been haphazard and allowed without any specific commercial area planning. Emphasis and increased planning for the Downtown Core Area will greatly improve the appearance and commercial vitality of the City over the long run.

(c) Industrial Land Use Trends

The City's Industrial properties are well located and suited for industrial development. Their location minimizes impacts on residential areas and they are adjacent to Jasper-Lowell Road (Moss Street) with direct access to other major transportation routes, including Highway 58.

District I-1. The industrial Park contains 6.89 acres with only 3.78 acres presently developed. The remaining 3.11 acres are available for development with fully serviced utilities and improved streets.

The City has designated permitted industrial uses to be light manufacturing and warehousing activities within enclosed buildings in the I-1 Industrial District. Exterior storage, heavy industrial manufacturing and uses with permitted emissions may also be allowed by Conditional Use.

(d) Public & Semi-Public Land Use Trends

Because of the wide differences in public and semi-public uses it is virtually impossible to define a land use district applicable to all. Therefore the Public Lands District applies to governmental or institutionally owned lands. All other public and semi-public uses may be located in any zoning district under specified conditions as a Permitted or Conditional Use.

One of the City's largest public lands owners, the U.S. Forest Service, has indicated that they will divest themselves of much, if not all of their land within the next 10 years. This land will have to be considered for reutilization. The office complex on Pioneer Street is very close to the downtown commercial district and could be easily converted to commercial use as a business park. The undeveloped property adjoining Moss Street could be developed for multi-family use. The developed property adjoining Moss and 6th Streets should be considered for light industrial reuse with no more impacts than the present use has on neighboring residential properties. If such a use can not be found, redevelopment for residential uses or semi-public uses would be the City's preference.

(e) Open Space Trends

With a population of only 900 people and a land area of over 445 acres, the need for preservation of open space has not yet become a critical issue in Lowell. However, increasing impacts to the community's watercourses and vegetation suggest that protecting these resources should not be delayed.

The policies and recommendations related to this section and those contained in **Section 9.920**, Environment, are directed toward achieving this goal and thereby ensuring the preservation of open space, the protection of scenic and natural resources, and the promotion of a healthy and visually attractive environment in Lowell.

SECTION 9.954 PROJECTED LAND USE NEEDS

The City has a year 2000, population of 880 and a County coordinated estimated population of 1,500 for the year 2025 and a estimate population of 1,700 for the year 2030. The population projections may be too low now that municipal sanitary sewer system and water system improvements have been implemented. Population projections are discussed in detail in **Section 9.930**.

Future land use needs are based upon the following general criteria guided by the desires of the community expressed through citizen participation during the public review and hearing process:

1. The existing land use pattern and growth trends of the area.
2. The land ownership patterns, particularly public and semi-public, industrial and vacant land ownerships.
3. The natural environmental constraints, including topography, geology, soils, water resources, vegetation, wildlife, and air resources.

4. The accessibility to existing and proposed transportation systems.
5. The availability of existing and proposed community facilities, utilities, and services.
6. The location and suitability for each land use with respect to available natural amenities.
7. Previous planning and zoning commitments to each land use.
8. Lowell's role relative to the Eugene/Springfield Metropolitan Area.
9. The need to maintain an adequate supply of land for each land use.

The above criteria were utilized to determine the needs for the six land use districts applicable to the Lowell Area. Incremental and systematic expansion from the core area outward along existing service corridors is the preferred growth pattern and offers the greatest efficiency and economy for development.

(a) Residential Land Use Needs

Low density residential developments can be expected to predominate in Lowell. Lower density is necessitated by the constraints of the steeper hillsides, by drainageway protections, by the maintenance of the natural resource characteristics of the area and by earlier residential development patterns that created large residential parcels.

It is also recognized that not all designated land will be available for development through personal choice. Additional land beyond the calculated net residential land need has been included in the buildable land needs to provide land for roads and utilities and to provide locational choices to help maintain lower land costs

Large subdivision parcels are lacking in the City. The City needs to preserve the remaining larger acreage parcels for subdivision development that can more economically provide services while maintaining the natural features of an area in support of community livability. Planned Residential Developments are encouraged for larger housing developments within the City to provide adequate review and consideration of proposed developments.

There are also many smaller vacant and partially vacant parcels located throughout the City that are capable of further development. These areas will generally develop more slowly by small contractors as owners decide to sell portions of their larger lots. This is a slower in-fill process that will address only a portion of the City's residential need.

Manufactured Homes will continue to be an important low-cost alternative to site-built construction. Recent trends indicate that they will occur on individual lot rather than in Manufactured Home Parks.

State and County trends indicate that multi-family housing should increase although the percentage share of the residential market will remain low. Most of the multiple-family growth should to be encouraged to locate close to city services and retail areas to lessen transportation

needs and to support the Downtown Core Area. The location of multi-family uses has traditionally been adjacent to commercial areas as a supporting use that forms a transitional buffer between the commercial and single-family residential areas. In a community of Lowell's size and physical characteristics, it is reasonable to encourage this practice.

(b) Commercial Land Use Needs

Comparative land use statistics for 33 Oregon cities show an average of 4.2% allocated for commercial use for cities with 2,500 to 10,000 population. Lowell's 2.2% is lower than this average and much of the commercially designated land is used for other purposes.

Commercial activities that provide goods and services to area residents are essential to a viable community. The location and distribution of commercial facilities is also crucial to the organizational structure of a community and can substantially influence the quality of life in a city.

District C-1. Additional corridor commercial uses that rely on the Jasper-Lowell Corridor such as heavier commercial uses requiring on-site truck and auto access that are not appropriate for the Downtown Core Area should be encouraged in this area.

District C-2. The traditional downtown core is centered on Main Street, between Pioneer and Moss Street. It contains almost 4 acres. There are 2.52 developed acres and 1.2 vacant or partially vacant acres. However, 0.96 acres of the developed commercial area is single-family residential and 1.56 acres is devoted to commercial use. The downtown core is centrally located to the entire community with good access and orientation to the Major Collector Streets of Lowell. Commercial activities in this area include a grocery store, gas station, restaurant and an auto body shop.

Commercial centers can provide the structure for quality community development. Fragmented dispersed development does not contribute to a sense of community. Designating more commercial land than is needed along an arterial road will encourage fragmented random strip development at the expense of the community and should be avoided.

If the needed amount of commercial land is located wisely in commercial centers new commercial businesses will be attracted to the community and will have a higher potential for success because they are supported by the activities generated by adjacent businesses, and are more efficient and convenient for area residents. The City's land use plan and transportation systems are thereby supported and the quality of life in the community is enhanced.

(c) Industrial Land Use Needs

There are cost advantages for industries to locate in small communities and Lowell's services and proximity to Highway 58, Eugene/Springfield and Interstate 5 could increase interest in the community by potential industries.

District I-1. The Industrial Park has ample space and buildings for additional development. If needed in the future this District could be expanded in this area.

(d) Public and Semi-Public Land Use Needs

The public and semi-public needs appear to be accommodated adequately and can expand as needed. Since semi-public uses may be located in any zoning district they have the maximum flexibility to locate where they are needed.

Existing governmental facilities located in the Public Lands District appear adequate to their needs. It is unlikely that there will be a need for expansion of the Public Lands District, in fact, just the opposite is anticipated, with the curtailment of operations on significant amounts of federal land owned by the Forest Services and Army Corps of Engineers. Re-zoning can occur if needed in the future to address future use of excess federal property.

(e) Open Space Needs

The City has a strong interest in preserving the considerable open space and scenic resources of the community and the surrounding area.

Open space may vary from active uses such as agricultural or recreational areas to more passive areas preserved for conservation or scenic values, including unique natural features such as wooded hillsides, or other places of scenic or special interest.

Open land may have obvious economic value, as is the case with agricultural and forest lands, but it also has other values that are not always readily apparent. Native vegetation on steep slopes, for example, protects soils from erosion and thereby preserves clean water resources. Open areas also provide a variety of habitat for wildlife. These and other natural resource values are discussed in more detail in **Section 9.920, Environment**.

In addition to economic and conservation values, in recent years there has been a growing awareness of the value of open lands as an esthetic resource which is also important to the general quality of life and livability of an area. Thus open land in general, has a number of significant values and certain types of open land have special significance as needed open space for the community.

Open space can be any size. It can range from broad expanses of agricultural and woodland areas to mini-parks and landscaped areas. Various landscaping measures can be undertaken in new developments which can enhance their appearance while increasing the amount of open space in the community as a whole. These measures range from preserving existing trees and other vegetation to provisions for "cluster developments".

Scenic and open space values should be protected and enhanced both within City and within the surrounding area. Linear greenways should be maintained throughout the community and extended into the surrounding area. Drainage channels should be preserved as linear greenway that can accommodate recreation trails.

SECTION 9.955 BUILDABLE LAND NEEDS

Buildable land needs are addressed in detail in the **Section 9.980**, Growth Management. However, it is evident from the needs analysis summarized in **Table 9.500 B** that additional residential, commercial and industrial land may be needed to support the City's growth and development.

SECTIONS 9.956-9.957 RESERVED FOR EXPANSION

SECTION 9.958 REFERENCED ASSOCIATED DOCUMENTS

1. **Lowell Comprehensive Plan**, Land Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
2. **Lowell Urban Growth Boundary Land Analysis Draft**, Lane Council of Governments, 2001.
3. **Lowell Economic Development Strategic Plan**, Lane Council of Governments, 2003.
4. **GIS Tax Lot Data**, Lane Council of Governments, 2005.
5. **Region 2050**, Lane Council of Governments, 2001-2005.

SECTION 9.959 LAND USE GOALS & POLICIES

(a) **Statewide Planning Goals:** The primary **Statewide Planning Goals** (Goals) related to this Section of the Plan are **Goal 2**, Land Use Planning; **Goal 3**, Agricultural Lands; **Goal 4**, Forest Lands; **Goal 5**, Open Space, Scenic and Historic Areas and Natural Resources; and **Goal 8**, Recreational Needs.

Goal 2 reads in part: "to establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions".

Goal 3 reads: "to preserve and maintain agricultural lands".

Goal 4 reads in part: "To conserve forest lands by maintaining the forest land base" Goal 4 is not technically applicable to the City of Lowell. Land Use Areas containing trees are included under Goal 5, natural resources and open spaces.

Goal 5 reads: "To protect natural resources and conserve scenic and historic areas and open spaces."

Goal 8 reads: "To satisfy the recreational needs of the citizens of the state and visitors" and where appropriate, "to provide for the siting of necessary recreational facilities including destination resorts."

(b) Lowell Land Use Goals

- GOAL 1.** To maintain a land use policy plan that sets forth the suitable kinds, amounts, and intensities of use to which land in various parts of the City should be put.
- GOAL 2.** To preserve open space in the urban environment that will enhance the livability of Lowell.
- GOAL 3.** To provide recreational facilities that address the needs of the community and visitors.
- GOAL 4.** To provide an inviting Downtown Core Area enhanced with mixed uses, sidewalks, bike lanes, landscaping, distinctive lighting and underground utilities.
- GOAL 5.** To promote residential growth in order to create a more self-sustaining community.

(c) Policies

General Land Use

1. Sufficient area shall be maintained for the balanced expansion of all major land uses.
2. Protective development standards shall be applied to areas of identified environmental significance.
3. The City shall encourage the removal and rehabilitation of unused or abandoned/dilapidated buildings.

Residential Land Use

4. A reserve of residential land shall be maintained to accommodate the housing needs of the City.
5. The City shall encourage the use of Planned Developments in order to consider the application of new development.
6. Residential districts shall be protected from heavy through traffic, conflicting land uses, or other encroachments that would impair a safe, quiet living environment.
7. The City shall encourage in-fill development on over-sized lots.
8. The City shall consider mixed use development within the downtown core area.
9. The cumulative effects of development on slopes of 15 percent or greater shall be considered during each review of the Comprehensive Plan to determine whether more restrictive development policies should be adopted.

Commercial Land Use

10. The City shall complete a Downtown Development Plan to encourage commercial and public uses to locate within the downtown core area.
11. The City shall encourage commercial facilities that will serve the needs of the community as well as those of the visiting tourists and recreational participants.
12. The City shall ensure that future commercial development will not have a significant adverse affect on surrounding land uses.
13. Vehicular and pedestrian efficiency and safety shall be required criteria for all commercial developments.
14. The City shall encourage redevelopment of existing commercial properties that are underutilized or those that have fallen into disuse.

Industrial Land Use

15. Future Industrial developments shall not cause significant adverse affects that would seriously harm the residential appeal of the community or overburden its facilities.
16. Industrially zoned sites shall not be divided until a specific development plan is approved.
17. Industrial districts shall be protected from encroachment by incompatible land uses.
18. Review criteria for industrial proposals shall include adequacy of site size for the proposed use, utilization of the natural features of the site and the City's capacity to accommodate the transportation needs and the demand for public services.
19. Utilization of natural features and landscaping as screening and buffers to reduce the impacts of industrial developments on the community shall be encouraged.

Open Space

20. Publicly owned lands shall be encouraged to allow public access for recreational and scenic purposes.
21. The City shall prepare a Park and Open Space Master Plan that incorporates recreation areas, drainage greenways, trails and scenic resources.
22. Natural areas that are generally unsuited for development shall be preserved as protecting buffers to help reduce noise and visual conflicts and for protection of soils, watersheds, wildlife habitats and scenic areas.
23. Streams and drainageways within the community shall be preserved as linear greenways.
24. The City shall require inclusion of landscaping as an integral part of site and street developments.

25. Existing trees shall be preserved where feasible relative to development requirements of the property.

SECTION 9.960 PUBLIC FACILITIES & SERVICES

The purpose of the public facilities and services element of the Plan is to provide guidelines for the orderly and efficient provision of facilities and services needed to support urban development.

SECTION 9.961 CITY GOVERNMENT

Lowell has a Council/Manager form of government. The City Council consists of five elected Councilors. A Mayor is selected by the Council, from its membership, and serves a two year term. The Mayor chairs all meetings and has an equal vote on all matters before the Council. The Council appoints the City Administrator, who serves as the Chief Administrative Officer for the City, and the Municipal Judge. The City has an appointed five member Planning Commission that doubles as a Citizens Advisory Committee as described in Section 9.915, and a standing Budget Committee consisting of five appointed members and all City Council members. The Mayor appoints all committee/commission members with the consent of the full Council. The City Administrator appoints all department heads and approves the hiring of all other City staff. The City contracts for a City Attorney, City Engineer and City Planner who work at the direction of the City Administrator.

The City issues all Building Permits, and through a contract with The Building Department, LLC, administers the building inspections and enforcement program to insure compliance with state building code standards and requirements.

The Lowell City Hall complex is located on Third Street in the center Lowell's developed area adjacent to the Fire District Headquarters Station. The City Hall houses all building general functions and activities of city government. The existing City Hall building currently meets the needs of the City.

Government programs and services that are not provided directly by the City are available through Lane County and State of Oregon programs. Because of Lowell's close proximity to Eugene and Springfield other programs and services are readily available and accessible.

SECTION 9.962 CITY PROVIDED FACILITIES & SERVICES

It is the intent of the City of Lowell to provide urban level services throughout the City and to extend services as annexation occurs during the Planning Period. The City of Lowell has initiated the following programs in compliance with that intent:

1. Street Lighting.
2. Street Improvements.
3. Park Acquisition and Development.
4. Sanitary Sewer System Planning & Management.
5. Water System Planning & Management.
6. Storm Drainage System Planning and Management.

7. Law Enforcement and Public Safety.

(a) Needed Plans & Programs.

The following plans have been or need to be completed to provide for long range planning for public facilities and services. All these plans are to be attached to this Comprehensive Plan as reference documents.

1. Water System Master Plan
2. Sewer System Master Plan
3. Park & Open Space Master Plan
4. Storm Drainage Master Plan.
5. Downtown Development Plan.
6. Roads Master Plan to be replaced by a Transportation System Plan.
7. Wetland & Riparian Area Inventory & Plan.
8. Consolidated Capital Improvement Plan.
9. Disaster Preparedness Plan

(b) Water System

In the Mid 1950s, when Dexter Reservoir was built, the City of Lowell was partially relocated. At that time the Corps of Engineers built the City a new surface water treatment facility. It also provided the City with 1 cubic feet per second or approximately 450 gallons per minute in water rights to the Middle Fork of the Willamette River. Just a few years after the water treatment plant went into operation, the City transitioned to well water because of the relatively high cost to treat surface water. The City retained its water rights to the Willamette River. In the 1980s the City started experiencing capacity problems with its well which had only 80 gallons per minute in capacity. Also, the Federal Clean Water Act set more stringent standards for contaminants allowable in drinking water and it was found that Lowell's well water exceeded the new standards for arsenic. Because of these two problems, a study was conducted and a new Water Master Plan completed in 1998 which recommended that the City return to treating surface water. Throughout the 1990s, the City was forced to place a moratorium on new development because of water capacity problems. It was decided to rebuild the original surface water treatment plant that had been taken out of service 40 years earlier and in 2002, the rebuilt water treatment plant went into operation and the development moratorium was lifted.

Following is an overview of the Lowell Water System. [For more detailed and updated information with respect to Lowell's Water System refer to the Water Master Plan adopted in 2022.](#) ~~[For more detailed information refer to the Lowell Water System Master Plan.](#)~~

The Lowell Water System consists of the following components:

- Water supply
- Water Treatment
- Transmission & Distribution
- Storage
- System Controls

(1) Water supply

Water is presently obtained from Dexter Lake through a 1 cfs (448.86 gpm) Water Right. The intake line is laid on the bottom of the reservoir just east and parallel to the Jasper-Lowell Road causeway across the reservoir connecting with Highway 58. The water is collected at a point just east of the covered bridge at the bottom of the reservoir in the original river bed.

(2) Water Treatment

The Treatment Plant currently is sized to produce 175 gallons per minute of treated water. It consists of a sedimentation and filtration system and temporary storage capability to provide contact time for chlorine disinfectant.

(3) Transmission & Distribution

The City has over 22,000 feet of water pipe lines. Continued expansion and improvements to the water distribution lines will ensure circulation and satisfactory fire flow capability. The distribution system was originally sized to provide adequate fire protection, however little of the system is looped which would enhance the water flows needed for fire fighting and the lack of looping creates the need to routinely blow off the water lines to maintain chlorine residuals at acceptable levels. Much of the original distribution system is approaching 50 years old and is in need of replacement.

(4) Storage

An existing 500,000 gallon storage reservoir should serve the existing and future needs in the Low Elevation Service Area (**LESA**) of Lowell. The reservoir high water level is at 953 feet and provides adequate service from elevation 880 feet to the lake level.

Water storage for the High Elevation Service Area (**HESA**) is presently unavailable except for a small area served by a small (2,500 gallon) upper level reservoir that was required of a development right at the 880 foot level. Additional storage will be needed for future growth and fire protection in the higher elevations. The Master Plan recommends a 300,000 gallon HESA reservoir located in the northeast corner of the City with a water surface level of 1166 feet would serve properties located between 880 and 1080 feet providing service to virtually the entire buildable area of the city. This additional reservoir would also serve as backup capability for the lower elevation reservoir in the event it must be taken out of service for maintenance.

(5) System Controls

Chemical conditioning, mixing and disinfecting processes are performed at the treatment plant. The electrical control system regulates pumping of water to the reservoir based on water levels in the reservoir. A SCADA system continually monitors the operations of the treatment plant and notifies operators of system malfunctions.

(6) Water Consumption

At the time the Master Plan was completed in 1998 water consumption was 27,440,000 gallons. The gallons per capita use per day was 78 gallons. This is considered below average. Average use is usually 125-150 gallons per day. In 2004, the metered and billed consumption was 21,896,990 which equated to approximately 75 gallons per day per person. During the same year, the water plant treated 28,924,946 gallons. The difference between the produced and billed quantities is attributed to unmetered uses such fire fighting, maintenance, including filter backwash and water line blow-off, and repair of the system and leaks.

(7) Future Water Demand

Population/Demand Projections.

The following population projections are based on the Master Plan growth projections of 3% per year and County coordinated projections of 2.2% and are adjusted to reflect actual 2005 data.

TABLE 9.960 A

Year	Population	EDUs	2.2% Growth	
			Ave Daily Demand(gpm)	Max Daily Demand (gpm)
2005	900	375	68	205
2010	1003	416	75	227
2020	1248	514	93	281
2030	1551	635	115	347

TABLE 9.960 B

Year	Population	EDUs	3.0% Growth	
			Ave Daily Demand(gpm)	Max Daily Demand (gpm)
2010	1043	432	78	236
2020	1402	576	104	315
2030	1883	768	139	420

Water Source

The maximum monthly demand (MMD) is estimated at 630,000 gallons per day (gpd) which is the limit of the City’s water rights.

Water Intake Line

The existing Water Intake Line is sized to provide for 830 gallons per minute, nearly double the City’s water rights

Water Treatment Plant

The treatment Plant should have a capacity of 317,000 gpd to meet the 20-year MMD. It’s current capacity is 252,000 gpd based on 24 hour operation. Allowing for 4 hours of down time for maintenance daily, a more realistic current capacity is 210,000 gpd.. Capacity is limited by clear well size for chlorine contact time.

Storage

Current storage capacity is 500,000 gallons. Current minimum storage capacity is estimates at 531,000 gallons and optimum storage at 718,800 gallons. Following are the estimated future storage capacity needs:

TABLE 9.960 C

Year	Water Storage Requirements		
	Minimum	Optimum	Fire Reserve
2010	578,000 gallons	949,000 gallons	380,000 gallons
2020	618,000 gallons	1,151,000 gallons	380,000 gallons
2050	750,000 gallons	1,860,000 gallons	380,000 gallons

Water Transmission Lines

Water Transmission Lines are sized on the basis of peak consumption, fire flow requirements and minimum pressure for a 50 year design period.

(8) Current and Future Limitations.

The current water system has capacity through 2030 for average daily flows, but does not meet the needs for peak flow, primarily in the summer months. Currently, there are short periods of time when water can not be made as fast as it is being used. The above information also shows that minimum storage needs are not being met. A combination of additional storage and clear well capacity is needed to meet minimum storage capacity and production capacity that can accommodate peak flow periods.

Refer to the 1998 Water System Master Plan for more details.

(c) Sanitary Sewer System

The first phase of major improvements recommended by the 2001 Sewer Master Plan were completed in 2003. The Plan recommends Phase 2 improvements to be completed in 2008, at the point the population reaches 1,463. The population figures used in the Plan are significantly higher than actual experience as a result of the 2000 census, which had Lowell at 880 population instead of the 1,150 starting point used in the Plan. In 2005, the City had a Portland State population estimate of 900 and was serving 395 EDUs. This 429 fewer in population and 73 fewer in EDUs than projected in the 2001 Master Plan. Assuming the 3.2% growth projected in the Master Plan beyond 2005 is realized, the City is eight years behind the projections contained in the Plan and Phase II improvements will not be required until approximately 2015

The City of Lowell existing wastewater facilities include:

- Piped Collection System.
Primarily a gravity system.
- An Alder Street Pump Station.
- Wastewater Treatment Plant.
A trickling filter system providing secondary treatment & disinfection.
- A Submerged 16-inch Discharge to Dexter Reservoir near the dam.

(1) Collection System

Portions of the Collection System are aging and need improvements to correct infiltration/Inflow (I/I) problems. The primary collection trunk line on Moss Street was recently upgraded to a 15-inch collector main and the Pump Station pumps were replaced with two 350 gpm pumps.

(2) Treatment Plant

Improvements recommended as Phase 1 in the Master Plan have been completed and have increased capacity to a population of approximately 1450. These improvements included replacement of the Headworks, improvements to the screening and secondary treatment, the disinfection equipment, the solids drying beds and solids disposal capabilities. Phase 2 improvements will further increase capacity to a population of 2290. These improvements include construction of additional primary treatment and solids stabilization capacity. I/I continues to be a problem and additional I/I will decrease this capacity.

(3) Projected Needs

As a result of the out-of-date population projections contained in the Sewer Master Plan, until an update is completed, the City should use the population projections at 2.2% and 3.0% contained in Section 9.613 for the Water System for projecting Sewer System capacity needs.

(4) National Pollutant Discharge Elimination System (NPDES) Permit

The City's current NPDES permit provides for a population capacity of 1,115 and needs to be increased at the next renewal. The recent sewer treatment plant improvements were designed and constructed to meet regulatory requirements for increased discharges.

Refer to the 2001 Wastewater Facility Plan for more details.

(d) Stormwater Drainage

The City has no Stormwater Drainage Master Plan or designed stormwater drainage system. Because of the City's location primarily on hillside areas, primary storm drainage is provided by natural drainageways channeling stormwater from those hillside areas into Dexter Reservoir. In the more developed portions of the City, stormwater drainage is provided through a combination of open ditches and stormwater sewers which channel stormwater into the existing natural drainageways. New requirements limiting Total Maximum Daily Load for various contaminants being discharged into the Willamette River will require the City to complete a Stormwater Drainage Management Plan in the near future.

SECTION 9.963 PARKS & RECREATION (See Lowell Parks Master Plan)

~~The scenic and recreational resources of Lane County are of exceptional quality. Its spectacular beauty includes the wilderness of the high Cascades, lakes, reservoirs, rivers and streams.~~

~~Lowell is situated in an area that features a wide variety of recreational opportunities. Within a six-mile radius of Lowell can be found a variety of regional parks, which include:~~

~~(a) Rural Riverfront Parks~~

- ~~● Jasper State Recreation Site. Sixty-two acres south of the river across from Jasper, with picnic facilities, a playground, group recreational facilities, and a proposed expansion of 71 acres on the eastern side.~~
- ~~● Fall Creek Park. Five acres midway between Jasper and Unity, with picnic facilities (Lane County Park).~~
- ~~● Clearwater Park. Ninety acres on north side of river across from Mt. Pisgah and presently undeveloped (Lane County Park).~~
- ~~● Elijah Bristow State Park. Eight hundred forty seven acres located along the Middle Fork of the Willamette River from Dexter State Recreation Site westward two miles, with natural areas, picnicking, hiking and equestrian trails.~~
- ~~● Pengra Access. A State Park located across the river from Elijah Bristol which has a boat ramp and boater parking area.~~
- ~~● Additional Boat Launches. The Army Corps of Engineers maintained two boat launch areas adjacent to Dexter State Recreation Site below Dexter Dam, one on each side of the river.~~

(b) Reservoir Parks

- ~~Dexter State Recreation Site. Presently 93 acres on Dexter Reservoir has parking, picnicking, boat launching facilities and an 18 hole Disc Golf Course.~~
- ~~Lowell State Recreation Site. Presently 46 acres on Dexter Reservoir between the City of Lowell and Dexter Dam, with boating, swimming, concessions and picnicking facilities~~
- ~~Orchard Park . One hundred acres between Lowell and Lookout Point Dam on Dexter Reservoir. (U.S. Army Corps of Engineers Park).~~
- ~~South Beach Park. Four acres located between Route 58 and Dexter Reservoir, used for picnicking (U.S. Army Corps of Engineers Park).~~
- ~~Meridian Park. Located on the north side of Lookout Point Reservoir just east of the dam. Facilities include restroom, picnic area and high water boat launch. (U.S. Army Corp of Engineers Park.~~
- ~~Signal Point Boat Launch. Located on north side of Lookout Point Reservoir approximately 6 miles east of the dam. Contains a year round boat launch, parking and restroom facilities. (U.S. Army Corp of Engineer Facility)~~
- ~~Ivan Oakes Park. Located on Lookout Point Reservoir (U.S. Army Corps of Engineers Park)~~
- ~~Winberry Park and Boat Ramp, North Shore Park, Sky Camp, Vascara Campground, Fisherman's PONT Group Camp, Free Meadow, Lakeside 1 and Lakeside two, all located on Fall Creek Reservoir and operated by State Parks, which provide a variety of recreational activities.~~

(c) Lowell City Parks

- ~~Paul Fisher Park. Located at the intersection of Moss and 3rd Street next to City Hall, this approximately 2.0 acre park contains picnic and playground facilities~~
- ~~Rolling Rock Park. Located on the south side of North Shore Drive between Moss Street and Pioneer Street, this approximately 1.5 acre park is developed as a heritage park with displays of historic logging and railroad equipment. It contains picnic and restroom facilities and it the site of the annual Blackberry Jam Festival.~~
- ~~Future Planned Park Area. The City currently owns approximately 8 acres of wooded land on the east side of town which used to be the Union Pacific Railroad right-of-way. This land is currently undeveloped but but approximately 2 acres is anticipated to be developed as a natural park with hiking and picnic facilities at some future date.~~

~~Recreational opportunities within the community should be expanded through the continued improvement of city, neighborhood and local area parks, together with the school grounds. The integration of city parks with the regional parks will serve the local needs of students and residents while providing attractive recreational opportunities for tourist and visitors~~

~~It is important that the City develop a Parks & Recreation Master Plan in the near future. This plan is needed to identify improvements for existing parks, to plan for future parks and recreational facilities and to plan for the development of linear greenways and trails within the community. The Master Plan should also include a Capital Improvement Program to identify costs and priorities for park acquisition and improvements.~~

SECTION 9.964**FACILITIES AND SERVICES PROVIDED BY OTHERS**

(a) Solid Waste

Lane County has a Solid Waste Management Plan to provide systematic control of storage, collection, transport, separation, processing, recycling, recovery and disposal of solid waste on a countywide basis. Solid waste management, through the countywide solid waste plan, should provide a basis for meeting future solid waste needs of Lowell

Lowell is served by two private refuse haulers. The residents of Lowell also have access to the County’s Rattlesnake Creek Road Transfer Site located southwest of Lowell. Waste from this latter transfer site is hauled by Lane County to Short Mountain Landfill, Hazardous wastes which are not recycled are sent to the Arlington Landfill, the authorized hazardous waste disposal site in Oregon. Information as to what constitutes a hazardous waste may be requested from DEQ’s regional representative in Eugene or from the Lane County Solid Waste Division.

(b) Lowell School District 71

The Lowell School District encompasses the City of Lowell and the Fall Creek, Unity and Lookout Point Areas. School facilities include one grade school and one combination high school/middle school. Enrollment in 2005 was 300 students.

School district enrollment has been steadily declining over the last 30 year. It has declined from a total of 472 in 1975 to 300 in 2005. This decline is a result of several circumstances. The City of Lowell, which accounts for less than 50% of enrollment has not had the infrastructure to support growth through much of the 1980s and 1990s. State land use laws have made rural residential development more costly than typical families with school age children can afford. Societal changes towards smaller families with fewer children have also led to a decline in school age children. In order to increase enrollment in the Lowell School District, the provision of housing that will attract families with children is a primary City goal.

In projecting enrollment, it must be assumed that there will be no significant increase in school age enrollment from the unincorporated areas outside the City with changes to State land use regulations. Assuming a 3% growth rate within Lowell and that 50% of the current enrollment are City of Lowell residents, resulting in a net school enrollment growth of 1.5%, the following enrollment growth can be anticipated. If the City is successful in attracting families with school age children, net enrollment might increase as much as 2.5%

**Table 9.960 D
Enrollment Projections**

<u>% Growth</u>	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>
1.5%	323	350	377	407	438
2.5%	339	384	432	486	526

**Table 9.960 E
Lowell School District Capacity**

Grade School	425
High School	250
TOTAL	675

Source: Lowell School District

The current overall capacity of the Lowell School District appears adequate to accommodate projected school enrollment.

(c) Fire Protection

Fire Protection is provided through the Lowell Rural Fire Protection District. The District operates from two stations, the headquarters station is located within the City of Lowell with a sub-station located in the community of Fall Creek. The District covers an area of 23 square miles surrounding and including the City of Lowell.

Primary services provided by the District include structural fire suppression, wild land fire suppression, emergency medical first response, Fire & EMS public education and prevention and specialized rescue services. Currently the District is staffed with a Full-time Fire Chief and 22 Volunteer Fire Fighters.

The Districts response equipment includes three 1,000-gallon engines, one 1,200-gallon tender, two wild land mini pumper's and one Rescue unit.

The fire district provides excellent service to Lowell. Current levels of protection are enhanced not only by advanced training activities, but by excellent working relationships with other neighboring districts. The District maintains mutual aid agreements with all fire agencies in Lane County and with Oregon State Forestry, Easter Lane District. Through these agreements, the Lowell Rural Fire Protection District automatically enlists the assistance of surrounding districts when emergencies are reported to be large. This quick response significantly reduces the response time of needed personnel and equipment that reduces property damage and loss of life.

(d) Post Office

Lowell has a Post Office facility constructed in 1988 which serves the City of Lowell and adjacent rural areas as Zip Code 97452. It also serves the Fall Creek/Jasper areas as Zip Code 97438. The Post Office contains 472 post office boxes (there are an additional 240 Post Office boxes located in Jasper and Fall Creek) and employs approximate 2 people. It contracts service to two contract routes for mail delivery to 535 addresses.

(e) Health and Social Services

The City of Lowell has limited health facilities. The City has no doctors or medical facilities. There is one dentist with offices in the City. The nearest routine medical facility is the Lakeshore Clinic in Dexter, approximately 4 miles away. Primary, specialized and emergency medical treatment is available in the Eugene and Springfield urban area, 15 to 30 miles west of Lowell. Fire department personnel are available for emergency aid.

Health and social service programs originating in a small community are rare, consequently they must be sought out from larger jurisdictions. Local organizations provide some assistance and social services to local residents but the majority of these services are obtained in nearby Eugene or Springfield and from Lane County or the State of Oregon.

(f) Law Enforcement Services

The City of Lowell does not have its own police department. Law Enforcement services within Lowell are provided primarily by the Lane County Sheriff's Office. Because the Sheriff's Office does not have sufficient personnel to provide the level of service needed, the City contracts with the City of Oakridge for additional patrol capability.

Because of the City's small tax base and low permanent tax rate, it is not likely that the City will be able to provide full time law enforcement capability in the next 30 years without increasing its tax rate significantly. An alternative to a City Police Department might be a regional law enforcement district that could be established to provide full time law enforcement to a wider regional area.

(g) Energy & Communication Systems

Primary energy and communications services are provided by the following companies:

- Lane Electric Cooperative
- Qwest Telephone Company
- Charter Communications (Cable)

(1) Voice Communication Services

Advanced telecommunications capacity is a primary concern for many communities in the region. There are two consortia that facilitate access to broadband fiber optic facilities: Fiber South Consortium and the Lane Klamath Regional Fiber Optic Consortium. Fiber optic lines have been installed in Coburg, Cottage Grove, Creswell, Springfield, Oakridge, Westfir, and Lowell, but are not yet activated for Lowell.

All of the Voice Communication services currently available in Lowell are provided by Qwest.

(2) Data Communication Services

The following Data Communication services are available in Lowell:

- Analog dial up
- Frame Relay service
- Digital Subscriber Lines (DSL)

All of the Data Communication services available in Lowell are provided by Qwest.

Frame Relay service is available in Lowell at the same price as in the Eugene-Springfield metro area. Digital Private Lines are available in Lowell at a different price as in the Eugene- Springfield metro area.

(3) Video Communication Services

The only commercial Video Communication service available in Lowell at this time is one-way cable service, provided by Charter Communications.

(4) Telecommunications Infrastructure

Telecommunication services throughout Lowell are provided by way of traditional twisted pair copper wire.

Some fiber optic cable has been installed in Lowell, but it is not currently utilized. There is a long haul fiber optic cable passing through Lowell. The incumbent Local Exchange Carrier has installed fiber optic connections between this long haul fiber system and the small central office. The City of Lowell, using financial support from the Regional Investment Board, has installed fiber optic cable from the long haul cable southward to the downtown area and northward to the Industrial Park. No switching equipment has been installed on this cable.

(5) Energy

The Lane Electric Cooperative provides electricity services to Lowell at competitive rates.

The City of Lowell has no natural gas service.

(6) Franchise Agreements

The City maintains Franchise Agreements with energy and communication companies and the two solid waste companies serving Lowell. Franchise Agreements, that provide fees to the City for permitting access over the City's public ways, are an important source of revenue.

SECTION 9.965 PLANNING IMPLICATIONS

Public facilities and services are an essential planning component and provide the primary elements to support community growth. Lowell's public facilities and services are capable of supporting additional community growth although there are improvements needed.

Schools and fire protection are currently serving Lowell very well, although expansion of both the level of service and support facilities may be needed as growth occurs. Both of these facilities have available land for their expansion needs. The City should maintain communication with these agencies and keep them informed of future community growth trends that could impact their level of service and facility needs.

The municipal sewer system and water system are capable of accommodating the community growth with the system improvements that were completed between 2000 and 2003. Additional capacity needs beyond those just completed are identified in the respective master plans and Systems Development Charges are being collected to help pay the cost for that extra capacity.

In summary, Lowell's public facilities and services are currently serving the needs of the community and, with identified improvements, Lowell is capable of providing an excellent level of service to an expanding community.

SECTIONS 9.966-9.967 RESERVED FOR EXPANSION

SECTION 9.968 REFERENCED ASSOCIATED DOCUMENTS

1. **Lowell Comprehensive Plan**, Land Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
2. **Lowell Economic Development Strategic Plan**, Lane Council of Governments, 2003.
3. **Lowell Water System Master Plan**, Systems West Engineering, November 1998.
4. **Lowell Wastewater Facilities Plan**, Tetra Tech/KCM Engineers, April 2001
5. **Lowell Public Works Construction Standards**, City of Lowell, February 2003
6. **Lowell Standards for Public Improvements**, City of Lowell, September 1994

SECTION 9.969 PUBLIC FACILITIES & SERVICES GOALS & POLICIES

(a) **Statewide Planning Goals: Statewide Planning Goal 11, Public Facilities and Services**, reads: "To plan and develop a timely, orderly, and efficient arrangement of public facilities and services, to serve as a framework for urban and rural development".

(b) Lowell Public Facilities & Services Goals

- GOAL 1.** To improve the quality of life in Lowell through improved public services and facilities.
- GOAL 2.** To provide public facility plans as a guide for the efficient development of future community facilities, utilities, and services consistent with long range community needs.
- GOAL 3.** To provide for the timely, orderly, and efficient provision of public facilities and services to serve as a framework for future community growth and development.
- GOAL 4.** To coordinate with other public agencies to maximize the efficiency and effectiveness of all public facilities and services.

(c) Policies**City Government**

1. The City shall insure that public facilities, utilities, and services contribute to an orderly and efficient framework for incremental community growth and development.
2. The City shall consider the impacts on community facilities and services as part of the City's review and approval process.

3. The City shall require public facilities and services to be available in advance or concurrent with development.
4. The cost of providing public facilities and services for any development or proposed land division shall be the financial responsibility of the developer unless provided by other means approved by the City.
5. The City shall prepare and implement Master Plans for needed urban facilities and services.
6. The City shall prepare a short and long range Capital Improvement Program to guide financial implementation of needed facilities and services.
7. The City shall coordinate with Local Service Providers to ensure that community needs are addressed.
8. The City shall continue to support regional efforts to provide recreational, cultural and other services not available in the City of Lowell.

Parks and Recreation

9. The City shall design park and recreation programs to address the needs of all age groups within the community.
10. The City shall increase diversity of recreational opportunities, events, and planning.
11. The City shall provide adequate funding to maintain and operate parks.
12. The City shall develop a vibrant parks system, acquire parkland to accommodate future needs and equitably distribute parks and recreation services as the community grows.
13. The City shall require developers to deed park land as a condition of development approval or provide an in-lieu-of fee for park acquisition or improvement.
14. The City shall support connections within Lowell parks system and to other regional systems.
15. The City shall protect and improve Lowell residents' access to Dexter Lake.
16. Develop and advance partnerships with local, state and federal organizations.
- ~~17. The City shall prepare and maintain a Park & Open Space Master Plan that provides the City with a unifying park, open space, bike and pedestrian system.~~
- ~~18. The City shall provide additional parks to accommodate the growing needs of the community.~~
- ~~19. The City shall integrate State and Federal park and open space planning into City planning.~~
- ~~20. The City shall require developers to deed park land as a condition of development approval or provide an in-lieu-of fee for park acquisition or improvement.~~

Water System

21. New development shall adhere to adopted City standards in all new extensions and

replacement of water mains.

22. The City shall maintain and implement a Water System Master Plan that will be reviewed and updated at least every 5 years.
23. Except under approved circumstances, all development shall connect to the City water system.

Sanitary Sewer System

24. The City shall maintain and implement a Sewer System Master Plan that will be reviewed and updated at least every 5 years.
25. Existing development utilizing on-site disposal systems with identified health or pollution hazards shall be required to connect to the municipal sewer system.
26. Except under approved circumstances, all development shall connect to the City sewer system.

Storm Drainage

27. The City shall complete and implement a Drainage System Master Plan that will be reviewed and updated at least every 5 years.
28. Future developed areas shall be provided with an adequate storm drainage system with full the costs being borne by the developer unless approved otherwise by the City.
29. Storm drainage shall be a consideration in the City's review and approval procedures to determine potential impacts on existing and future land uses and the natural environment.
30. No development shall obstruct the natural drainage channels in Lowell, as identified on the Drainage System Master Plan.

Police Protection

31. The City shall strive to expand the level of police and emergency service.

Fire Protection

32. The City shall closely coordinate with the Fire District for the protection of life and property and reduction of fire insurance ratings.
33. As municipal water service is extended, fire hydrants shall be provided with the extended system.
34. Lands divisions and commercial and industrial development proposals shall be submitted to the Fire District for review and recommendation.

Emergency Response

35. The City of Lowell shall coordinate disaster planning efforts with other Emergency Response Agencies in the local area.

Schools

36. The City shall closely coordinate with the Lowell School District as part of its ongoing planning effort.
37. The City shall partner with the School District to improve facilities that benefit the entire community.

Post Office

38. The City shall coordinate addressing and street names for new subdivisions and new developments with the Post Office.

Health and Social Services

39. The City shall cooperate with federal, state and county agencies providing health and social services to residents of Lowell.

Energy & Communication Systems

40. All new and replacement utilities including electric power and communication lines shall be located underground.
41. The City shall encourage serving utilities to convert existing overhead utilities to underground service.
42. Multiple use of single utility easement corridors shall be encouraged wherever possible.
43. Energy conservation shall be encouraged in the development and use of public facilities.
44. The City shall seek to up-grade the City's communication services.

Solid Waste

45. The City shall encourage recycling efforts within the community.
46. Hazardous wastes shall not be imported, stored for unreasonable periods of time or disposed of within the City of Lowell.

SECTION 9.970 TRANSPORTATION

The purpose of the transportation element of the Plan is to provide guidelines for the orderly and efficient provision of transportation facilities needed to support urban development.

SECTION 9.971 LOWELL TRANSPORTATION

In response to Goal 12, the City has completed and adopted a **Lowell Master Road Plan (LMRP)** in 1999 and is incorporated by reference into the Lowell Comprehensive Plan. The City of Lowell Attachment A, Ordinance 244 TC-80 11/15/05

needs to prepare and adopt a **Lowell Transportation System Plan (LTSP)** when funds are available. The elements summarized herein will provide the basis for a Lowell Transportation System Plan

The **LMRP** is summarized herein in the format that will be utilized in a Lowell Transportation System Plan (**LTSP**). For more detailed information refer to the existing **LMRP** on file at the Lowell City Hall.

A **LTSP** will address five transportation Elements:

- **Street System**
- **Pedestrian System**
- **Bicycle System**
- **Public Transportation System**
- **Air, Rail, Water and Pipeline Systems**

Although the major element of the transportation system is the street network, the Plan seeks to strengthen all modes of transportation and thereby facilitate the improved flow of people, goods and services.

It is also important to recognize that transportation systems function as more than systems for the safe and efficient movement of people and goods. They also become the basic structural and organizational framework on which a community grows and develops. The Comprehensive Plan recognizes this interrelationship with other Plan elements and seeks to improve it through recommended improvements to the primary transportation system.

Changes to the transportation system can have a wide variety of economic, social and environmental impacts. Major transportation facilities should efficiently meet economic and social needs, without disrupting urban social units, unique natural resources, or cohesive land use districts.

SECTION 9.972 STREET SYSTEM

(a) Regional Connections

Lowell is located along Oregon State Highway 58, which intersects Interstate 5 to the west at a point south of Eugene, and intersects U.S. Highway 97 to the east at a point between the communities of Crescent and Chemult in Klamath County. Interstate 5 runs through the length of the Willamette Valley, serving inter-city commuters, tourists and freight, connecting the region to Washington and California.

The majority of workers who live in Lowell commute to Eugene-Springfield to work. Lowell's transportation system consists primarily of streets and highways. The two major routes to the metro area are one heading northwest to Springfield through Jasper via Pengra Road and Jasper-Lowell Road, and one to Interstate 5 (I-5) by way of Highway 58, passing Dexter and Pleasant Hill. Highway 58, a major freight route, continues past Lowell, southeast through Oakridge, and later intersects with Highway 97. Lowell is 15 miles from Eugene-Springfield and is 125 miles from Portland..

Improvements to Highway 58 between Lowell and I-5 have improved safety and reduced congestion.

The City's local and regional access networks are excellent while the local transportation systems within the community are less adequate since they are in the early stages or development.

(b) Jurisdictional Responsibility

Most of the primary streets in the City are owned and maintained by Lane County or the Oregon Department of Transportation (ODOT). The following identifies jurisdictional responsibility:

ODOT

- State Highway 58

Lane County

- Pengra Road / North Shore Drive / West Boundary Road.
- Jasper-Lowell Road / Moss Street north of North Shore Drive.
- Pioneer Street/Jasper-Lowell Road from North shore Drive to Highway 58.

City of Lowell

- Pioneer Street (north of North Shore Drive)
- Moss Street (south of North Shore Drive)
- Hyland Lane
- Main Street
- Summit Street (private)
- Lakeview Street
- Alder Street
- Everly
- Loftus Avenue
- Parker Lane
- Cannon Street
- Damon Street
- Marina Vista Drive
- Carol Street
- "D" Street
- Wetleau Drive
- Sunridge Drive
- Trailblazer Court
- 1st Street
- 2nd Street
- 3rd Street
- 4th Street
- 6th Street
- 7th Street
- Industrial Way
- Seneca Way

(c) Lowell Streets

The principal means of transportation in Lowell is by automobile. The City is a commuter town where many residents are employed outside of Lowell and depend upon private transportation to get to work and shopping areas.

Most of the existing roadways in Lowell have been built to rural standards with minimum pavement widths, no curb and gutter and with open drainage ditches.

Most of the traffic is concentrated on the principle route through town – Pioneer Street, North Shore Drive and Moss Street. Existing traffic volume on City streets is low. Traffic volumes projected for the next 20 years are based primarily on the Lane County traffic model. All of the streets are expected to operate at acceptable levels (Level of Service C or better) during the next twenty years. No intersections within the City are expected to operate at unacceptable levels during the next 20 years, however left turn lanes may be required at the intersections of Moss Street and North Shore Drive and Pioneer Street and North Shore Drive as traffic increases.

Livability factors and community appearance need to be considered in the design of the City's street system. Increased traffic flows can cause higher noise levels, and commercial and industrial land uses may need to have buffer zones or street landscaping to lessen noise and maintain the community's livability.

Land use and traffic have a direct relationship. Each type of land use has its own traffic generation characteristics. Commercial businesses and public facilities generate higher levels of traffic than residential areas where through traffic should be minimized. A circulation system should make it easier for people to reach their destination without conflicting with adjacent land uses. Conflicts can occur when too many businesses have individual access drives that can cause congestion and traffic hazards particularly on Pengra Road and Jasper-Lowell Road.

By using a street functional classification system, land use conflicts can be minimized. Standards for street design and construction are derived from the functional street classifications and are detailed in the Lowell Land Use Development Code.

(d) Future Streets

The **LMRP** indicates suggested locations for future streets. These streets are conceptual in nature but are provided as a guide for future development. Future street locations are depicted in the **LMRP** Map on page 8. They are subject to adjustment in conformance with specific development proposals and approval by the City of Lowell.

(e) Functional Street Classification

Street planning plays a significant roll in determining the growth and the form of a community. Streets are classified according to their function including the degree of access and the need for efficient movement of through traffic. Future streets include proposed extensions in the Low Elevation Service Area (**LESA**) below elevation 880 feet and street extensions in the High Elevation Service Area (**HESA**) above the 880 foot elevation. Lowell's traffic circulation is based on five interrelated types of streets:

- **Major Collector Streets**

- **Minor Collector Streets**
- **Local Streets**
 - **Future LESA Extensions**
 - **Future HESA Extensions**

(1) Major Collector Streets

The Major Collector Streets are the principal mover of traffic within and through the community. It connects with other regional routes outside of the City. Major Collector Streets generally emphasize mobility over access. Major Collector Streets require access management to protect their mobility function.

Lowell Major Collectors include:

- **Pioneer Street** (Jasper-Lowell Rd) south of North Shore.
- **North Shore Road** (Pengra Rd.) from Pioneer westward to City Limits.
- **Moss Street** (Jasper/Lowell Rd.) north of North Shore.

(2) Minor Collector Streets

The collector street collects traffic within an area and distributes it to the arterial street system. Collectors provide links between community areas or neighborhoods and the arterial system.

Lowell Minor Collectors include:

- **North Shore Road** (West Boundary Road) east of Pioneer
- **Main Street** to Moss.
- **Hyland Lane** to 4th Street.
- **4th Street** Hyland to Moss.

Future LESA Extensions

The **LMRP** identifies a loop extension from Main Street to 4th Street and an extension of Hyland Lane to 6th Street together with other shorter street connections.

Future HESA Extensions

The **LMRP** identifies other connecting loops in the High Elevation Service Area together with other street connections when services including a water reservoir are provided to the **HESA**.

(3) Local Streets

A Local Streets provide direct access to abutting land and offers the lowest level of traffic mobility. Through traffic on local streets is discouraged. All of the streets not otherwise classified are Local Streets.

(f) The Jasper-Lowell Corridor

The "Jasper-Lowell Road Corridor" includes the Causeway, Pioneer to North Shore, North Shore from Pioneer to Moss and Moss Street to the City Limits where it becomes Jasper-Lowell Road. It is the primary corridor of Lowell where most of the City's businesses and High School are located with direct access to the City Hall and Fire Station. Future improvements to the "Corridor" will be needed as growth occurs including curb & gutters, storm drainage, sidewalks and bicycle lanes. Further upgrading of the street system could include turn lanes, raised medians, traffic signals and controls, limited access management, parking and street lighting,

(g) Downtown Core Area

The Downtown Core Area is centered on Main Street and extends from the High School to North Shore Drive, which is part of the Jasper-Lowell Corridor. This area has struggled to maintain itself over the years. Public and commercial businesses have located outside of the area causing fragmentation and dispersal of facilities that usually define a City. Renewal of the "Downtown" should begin immediately and should be continually improved as the community grows. The City should seek participation in a downtown planning program with the Oregon Downtown Development Association that can help provide the impetus needed to initiate this important effort. Pedestrian facilities, pedestrian scaled street lighting, sidewalks, landscaping and ties to the Park can also provide an attractive identification feature for the Downtown Core Area of the corridor.

(1) Pedestrian Enhancements

The addition of sidewalks with curbside landscaping between the curb and sidewalk would soften and enhance the appearance the Corridor and make it more pedestrian friendly and add to the attractiveness of the Downtown area. Raised medians and crosswalks on North Shore Drive can help control traffic and provide pedestrian crossings and refuge helping to increase safety and connectivity between the north and south sides of North Shore Drive in the Downtown Core Area where school children and elderly residents of Lowell will walk. Pedestrian scaled street lighting can also provide an attractive identification feature

(2) Parking

Parking needs will increase as the City grows. Head-in parking requires backing and maneuvering onto the street system. This can work well on secondary streets but can cause traffic conflicts and hazards on Major Collectors like the Corridor Roads. Improved on-street and off-street parking will be needed as growth occurs. A centralized parking lot in the Downtown Core Area should be investigated. This will be needed in the future and will help in the revitalization of the downtown core area.

(h) Pedestrian Facilities

The State Transportation Planning Rule requires sidewalks along Arterials, Collectors and most local streets in the urban area of the City. Sidewalks are now lacking on most of Lowell's streets and these are curbside walkways.

The most basic form of transportation is walking. Walking lends itself to Lowell's small community size with low density residential development and pleasant open space areas, that provide a relaxing walking environment. Little attention has been previously directed toward the provision of sidewalks and other pedestrian facilities in the community due to its rural nature. The need to provide more pedestrian facilities along major streets will increase as the community grows. Areas that generate pedestrian traffic such as the schools, commercial areas, and recreational facilities need to be improved to provide safety and encourage pedestrian use. Pathways and trails along tree lined drainageways should also be pursued, particularly those connecting residential areas with the Downtown area and City Parks would be a valuable recreational and transportation asset to the community.

(i) Bicycle Facilities

A bikeway is a facility designed to accommodate bicyclists. They may be a shared roadway, a shoulder bikeway, an identified bike lane or off-street bikeways. There are no bike lanes or off-street bike paths in Lowell. Bicycles must use road shoulders, where they exist, and share roadways with vehicles on the City's other streets. The use of bicycles, both for recreation and as an alternative form of transportation has continued to increase. Use of bicycles can reduce street congestion and the consumption of fuel resources. In small communities with open space amenities, a system of bikepaths and walkways can interconnect and unite the community, improve safety and reduce reliance on the automobile. Lowell's close proximity to Lane County and State recreation areas suggests the need for a regional bikeway system.

Walkways and bikeways are needed facilities. Sidewalks and bikeways should be provided on all the Major Collector Streets and in the vicinity of the proposed Downtown Core Area.

SECTION 9.973 PUBLIC TRANSPORTATION SERVICES

The Mass Transit Division of the Oregon Department of Transportation estimates that fully one-third of all Oregonians are "transportation disadvantaged". They are either too old, too young, too poor, or are unable to use private vehicles as a means of transport. At present, the transportationally disadvantaged are limited to the young and elderly in Lowell. Their needs are primarily associated with the rural isolation from large shopping areas and medical services. A more detailed analysis of the needs of the transportationally disadvantaged in Lowell and the possible solutions to their problems need to be addressed

Public transportation is available to local residents. Lane County Transit (LTD) provides bus service between Eugene and Lowell via Highway 58.

The present outlook for Lowell is for the continued use of the automobile as the principal means of travel unless a regional transit system is successful. The success of public transportation depends on demand, which depends on population and a willingness to use the service. It also requires the coordination and cooperation of neighboring communities with transit facilities.

SECTION 9.974 AIR, RAIL, WATER & PIPELINE FACILITIES

(a) Air

There are no public or private airports in Lowell. The nearest commercial airport is located in Eugene approximately 30 miles away and Portland International Airport, the largest commercial airport in Oregon, is located approximately 130 miles north of Lowell.

(b) Rail

The Union Pacific Railroad main line passes by Lowell adjacent to Highway 58 across Dexter Lake. Railroad service continues to move freight and passengers throughout the Willamette Valley region and the Union Pacific and Burlington Northern Santa Fe provide freight service to industrial sites throughout Lane County. Amtrak provides passenger rail service from Eugene to Portland, Seattle, and major cities in California. Approximately 20 to 24 trains pass by Lowell each day including 4 passenger trains. Although no passenger service is available in Lowell, service is provided in 20 miles away in Eugene connecting the area to national routes as an alternative to other modes of travel.

(c) Water

There are no water transportation services in or servicing the City of Lowell.

(c) Gas Pipelines

There are no pipeline transportation services in or serving the City of Lowell.

SECTIONS 9.975-9.977 RESERVED FOR EXPANSION**SECTION 9.978 REFERENCED ASSOCIATED DOCUMENTS**

1. **Lowell Master Road Plan**, Branch Engineering, 1999 Update.
2. **Lowell Public Works Construction Standards**, City of Lowell, February 2003 Edition.
3. **Lowell Comprehensive Plan**, Land Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
4. **Lowell Economic Development Strategic Plan**, Lane Council of Governments, 2003.

SECTION 9.979 TRANSPORTATION GOALS & POLICIES

(a) Statewide Planning Goals: Statewide Planning Goal 12, Transportation reads: "To provide and encourage a safe, convenient and economical transportation system."

(b) Lowell Transportation Goals

- GOAL 1.** To develop a street network that is safe, accessible and efficient for motorists, pedestrians, bicyclists and transportation disadvantaged in Lowell.
- GOAL 2.** To encourage continuance and expansion of public transportation services to major activity centers for the residents of Lowell.
- GOAL 3.** To encourage alternatives to the use of private automobiles.
- GOAL 4.** To prepare a Transportation System Plan for the City of Lowell.

(c) Policies**Transportation Planning**

1. The City shall seek funding to prepare and implement a Lowell Transportation System Plan to expand on and replace its Master Road Plan which will be maintained in the interim as the plan for future transportation facilities.
2. All development proposals, plan amendments, or zone changes shall conform to the Lowell Master Road Plan or Transportation System Plan.

3. The City shall include consideration of impacts on existing or planned transportation facilities in all land use decisions.
4. The City shall develop a Capital Improvement Program to identify, prioritize and construct transportation projects.

Street System

5. The City of Lowell shall protect the function of existing and planned roadways identified in the Lowell Master Road Plan or Transportation System Plan through the application of appropriate land use regulations, exactions, voluntary dedication, or setbacks.
6. Access to lots shall be provided before they are developed.
7. Planning or improvements to any transportation shall include a workable drainage plan to reduce drainage problems and prevent ponding and flooding.
8. New developments shall comply with the Lowell Design Standards and Public Works Construction Standards for all street right-of-ways and parking areas, except when site specific conditions require a flexible interpretation or enforcement of the adopted standards.
- ~~9. Off-street parking shall be provided by all land uses to improve traffic flow, promote safety, and lessen sight obstruction along the streets.~~
10. Street and pedestrian lighting that utilize proper lighting levels, low energy fixtures, and do not cause nuisance conditions to adjacent areas shall be provided in all new developments.

Pedestrian & Bicycle Ways

11. The City of Lowell supports the development of the Eugene to Pacific Crest Trail and will work with all appropriate agencies to ensure its realization.
12. The City shall require developers of property adjacent to open space and park land to construct bike paths and pedestrian trails to access these areas.
13. The City shall encourage agencies having jurisdiction over open space and park lands adjacent to the City to provide trails and bike paths connecting to any City trail and bike system.
14. The City shall continue a program of providing sidewalks and paths to encourage and increase safety for pedestrian traffic.
15. City shall include requirements for pedestrian ways and bikeways when approving development proposals and street improvements.

Public Transportation

16. The City, County and Lane Transit District shall address the needs of the transportationally disadvantaged in Lowell and shall make recommendations for possible solutions to identified problems.

17. The City shall encourage greater use of public transportation systems and shall work with regional transportation officials in the siting of public transportation stops and commuter transfer points in Lowell.
18. The City shall encourage the use of carpools and park-and-ride lots in the area and other strategies to reduce the number of single occupant vehicles.
19. The City of Lowell shall participate with other agencies to maintain and expand a regional transportation system..

Rail Transportation

20. The City shall cooperate in regional planning to assist the railroad in providing safe convenient rail service to the region.

SECTION 9.980 GROWTH MANAGEMENT

Note: The information contained in Section 9.980, Growth Management, must be amended before the City makes application to the County for Urban Growth Boundary Expansion or establishment of an Urban Reserve, unless a specific Urban Reserve for the City of Lowell is established through the Region 2050 Planning Process. An amendment is required to update data contained in Tables 9.980 A and 9.980 C relating to land area by land use district and land area for which development constraints are identified/quantified and for text language which discusses land use constraints and conclusions drawn from those tables. Funding was not available for this Comprehensive Plan revision to verify accuracy of current land area by land use district or to identify and quantify all development constraints including, but not limited to, hillside development, protected drainageways, landslide risk, flood hazards, wetlands, public and private easement agreements and certain deed restrictions. There were also minor changes to specific comp plan/zoning district map proposals that were incorporated into the tables prior to the changes being made. These realignments of land area by land use district are minimal and will be corrected when this section is amended.

The Growth Management Section of the Plan builds on the background data and findings in the previous Plan Sections to provide the basic framework for future development in the City of Lowell. It addresses the basic issues of growth and urbanization in response to Statewide Planning Goal 14: "To provide for an orderly and efficient transition from rural to urban land uses to accommodate urban population and urban employment inside urban growth boundaries, to insure efficient use of land, and to provide for livable communities".

The primary focus of the Growth Management Section is to ensure an orderly and efficient conversion of land to urban use. This Section presents the overall development strategy for the lands within the City of Lowell

As an introduction to the Growth Management strategy for the City of Lowell, this Section begins with a brief historical profile that responds in part to **Goal 5, Historic Resources**. Subsequent Sections address the overall pattern of development in Lowell and the issues posed by urban growth.

The final Section assesses the energy implications of both the overall growth strategy as well as the energy implications of other elements of the Plan and responds to **Goal 13**, "To conserve energy".

SECTION 9.981 HISTORICAL BACKGROUND

It is the City's desire to preserve and protect the historic structures in Lowell. In this regard, there are a number of laws which seek to protect historic and archeological sites. Applicable Federal laws are the National Historic Preservation Act (Public Law 89-665) and the National Environmental Policy Act (Public Law 91-910). The State of Oregon also has laws on the books, specifically Oregon Revised Statutes 273.705, 273.711 and 273.990, which require protection of historic sites and objects on all state-owned lands

The land surrounding Dexter Lake was examined in April 1973 by members of the University of Oregon Museum of Natural History and the Department of Anthropology. No paleontological sites were found, but five archaeological sites were discovered. Four of these were open camp sites and one was a quarry. All four of the camp sites found during this survey had been damaged in part by construction. The camp sites are located within the government reserve and are the responsibility of the U.S. Army Corps of Engineers.

Lowell has two areas of historical significance: the Lowell Covered Bridge and the Hyland Cemetery. There are also individual buildings within Lowell that have local historical significance or meet age requirements to be considered historic resources, however no historic context statement or survey of historic sites has been accomplished in Lowell.

The Lowell Covered Bridge, first built in 1907, spans what was the old stream bed of the Middle Fork of the Willamette River. In 1945, the bridge was raised and rebuilt to accommodate the creation of the Dexter Dam reservoir. In 1978, a new bridge structure was constructed parallel to the covered bridge to accommodate the increased truck traffic with larger and heavier loads. The Lowell Covered Bridge was essentially abandoned in place. A project has been funded and designed to repair the bridge and convert it into an interpretive center to highlight and inform the public about the history and significance of Oregon covered bridges. The Lowell Covered Bridge is on the Statewide Inventory of Historic Properties and has been added to the National Register of Historic Places.

The Hyland Cemetery is located off North Shore Drive and contains 30 marked gravesites. The oldest of the graves dates back to 1868. The City of Lowell maintains the cemetery and is in the process of acquiring ownership.

The Wetleau House, located at 220 East Main Street, is a two-story, wood frame building constructed in 1902. The Wetleau House has a gable roof with a cross gable on its north elevation, and is noted for a window in the parlor on the northeast corner which is turned at an angle. The Wetleau House is on the Statewide Inventory of Historic Properties.

The Lowell Grange Hall, constructed in 1914 on property owned by the Hyland family, was entered on the Nation Register of Historic Places in 2005. The building was Lowell's Grade School until 1940. The building's original construction has been largely covered and includes a cedar shingle roof, cedar lap siding and square nails. The school was expanded in the 1930s to include a stage. Its kitchen and indoor plumbing were added after the Hyland family sold the property to the Grange in 1940. Lowell's city council meetings were held in the Grange Hall from 1954 until the current City Hall was constructed in the 1970s. The Grange continues to serve Lowell as a traditional community gathering spot and location for public events and activities.

Originally settled in 1852, Lowell was initially named Cannon, after an early settler by that name. The town site of Lowell was known by the landmark of Butte Disappointment, which locals now call Lowell Butte. The town was originally located on a portion of 2,450 acres of land owned by Amos D. Hyland, who held many thousands of acres of timberland in the area. In 1882, Hyland named the town Lowell after his hometown in Maine.

Lowell was a timber town until the late 1980s. The early industries in the area were hop raising, stock raising, and logging. The present town site of Lowell was once a huge hop yard.

The first sizable increase in population occurred in conjunction with the building of the Lookout Point Reservoir and Dexter Reservoir by the U.S. Army Corps of Engineers in 1948. The Dam ushered in a new era for the people who had settled on the Middle Fork of the Willamette River near Lowell. Much of the town of Lowell was relocated when the Dexter dam was built. Many of the houses had to be moved out of the river bottom east of town and new houses were built north of town for the new employees hired to build the dam.

The City was incorporated in 1954. Timber related activities, public lands management and some agricultural uses, which have significantly declined over the last 30 years, are still evident in the Lowell area.

Over the years, the city has sought to maintain its viability as an attractive residential community with a local employment base.

SECTION 9.982 CHARACTERISTICS & DEVELOPMENT PATTERNS

The City of Lowell contains 737 acres. An additional “Area of Interest ” is also provided around the City. This is an area of influence that could have an impact on the community and is identified in Exhibit “A” of the “Joint Agreement for Planning Coordination Between Lane County and the City Of Lowell”.

Currently, the City Limits and Urban Growth Boundary (UGB) are the same therefore the City has no UGB area outside of the City Limits.

(a) Characteristics

Lowell was founded in 1852 as a farming and timber community. With the construction of the Lookout Point and Dexter Dams in 1948 much of the town was relocated and new construction established the City’s present location. Butte Disappointment has remained a local landmark together with Dexter Lake formed by the lower Dexter Dam. These settings at the foothills of the Cascade Mountains, together with the Lowell Covered Bridge entrance to the City from Highway 58, contribute significantly to Lowell’s unique image and character.

Other significant features include a complete high school and grade school system, an abundance of local parks within and adjacent to the community and US Forest Service, Corps of Engineers, and State Parks facilities.

(b) Development Patterns

Today Lowell contains approximately 737 acres, however only 445 acres are developed or developable properties. The remainder is Federal Reservation including the portion of Dexter Reservoir and its shoreline within the City and public rights-of-way. The City has a 2004 resident population of 900 people and 353 dwelling units.

Lowell is organized around the Jasper-Lowell Road Corridor, the north-south transportation spine of the community linking Highway 58 with Unity, Fall Creek, Jasper and Springfield. Within the City, the Jasper-Lowell Road Corridor consists of Pioneer Street entering from the south off Highway 58, North Shore Drive between Pioneer Street and Moss Street, and Moss Street north of North Shore Drive. Prior to the construction of Dexter Reservoir, the City's original development was located between North Shore Drive and the Willamette River. When portions of the City were relocated, development extended north and continues to extend north and east along the lower slopes of Butte Disappointment.

(1) **Industrial** development is located immediately adjacent to the Jasper-Lowell Corridor at the north end of the City. This is a relatively new development that has room for expansion.

(2) **Commercial** development is located immediately adjacent to the Jasper-Lowell Corridor from the High School on Pioneer Street in the south to Third Street in the north and in the older Downtown Core Area centered on Main Street, one block south of North Shore Drive.

(3) **Residential** development is characterized by single-family homes and manufactured homes on individual lots. Two-thirds of these homes are site built and one-third are manufactured homes. There is one multiple-family development and one manufactured home park that is presently being converted to individual lots.

Newer developments to the north, east and west of the core area have been developed with larger lots that, while they could be re-divided in the future, partitioning is unlikely on a large scale as a result of deed restrictions and property owner preference for these oversized lots.

SECTION 9.983 DEVELOPMENT CONSTRAINTS

Constraints to future development in Lowell include economic, availability, and environmental constraints.

(a) **Economic** constraints are related to Lowell's small population, location and proximity to a wide range of commercial services and established industrial development in the Eugene/Springfield metropolitan area.

(b) **Availability** constraints include a lack of large lots conducive to subdivision development and the likelihood that many of the smaller parcels will not be further divided because of deed conditions, property owner preference and other constraints on additional development. Currently, water service is not available above the 880 foot elevation for lack of an upper level reservoir. Construction of an upper level reservoir is provided for in the Water System Master Plan, but until constructed, all land above 880 feet will be unavailable. The majority of the land to be served by this reservoir also has the additional development constraint for having steep slopes. Lack of availability of public roads and public utilities is a constraint to partitioning or subdivision of many of the 1 to 5 acre parcels because these were developed as large residential parcels with no provision for City streets and public water and sewer lines. Further dividing these larger

residential parcels would require replacement of private drives and private water and sewer lines serving a small number of residences with public roadways and utilities because of the additional development.

(c) Environmental constraints to development include flood hazard areas, wetlands and riparian areas and steep hillsides. These are summarized below and in **Section 9.920**.

(1) Topography & Slope

Hillside slopes in the east and northeast portions of Lowell often exceed 15 percent. Development of areas with slopes exceeding 15 percent should be carefully controlled. It is possible to develop home sites in these areas provided the slope is adequately addressed in the design and construction of a development. However it is not always possible to develop hillside land to normal urban densities. Some of these hillside slopes exceed 25%, further impacting development. Street widths and locations must be carefully chosen to avoid large cuts and fills. The excessive slope designation is intended to be used as a guide in preparing and reviewing specific development requests and as a basis for the application of adequate development standards. The City has adopted specific Hillside Development Standards to guide development on slopes over 15 percent.

The City has no detailed study of the developability of its undeveloped hillside areas. The Lowell UGB Land Analysis quantifies the amount of excessive slope areas, but only provides unsupported assumptions as to the density of development that the hillside areas can economically support. A Study of the City's hillside areas should be undertaken as soon as possible to determine the future development density that should be expected.

(2) Soils & Geology/Landslide Hazards

The soils and geology within the Lowell area present concerns regarding the location and density of development. Shallow clay soils over weather rocks present drainage problems and potential slide conditions. These problems become more hazardous as slopes increase. During heavy rains the water table extends to the surface and causes ponding and surface flow in some places. The State of Oregon has identified hillside slide hazards as a particular problem within State and has recently required local jurisdictions to develop plans to identify areas of potential slide hazards and to develop plans to mitigate slide hazard potential and/or restrict development on hillsides that may be susceptible to landslides. The City has no comprehensive geological study related to the potential for landslide hazards as a result of additional development, especially in those areas of steep slopes, and without such information, is unable to quantify the extent of landslide hazard development constraints.

(3) Drainage

Drainage courses are essential community elements that direct water to Dexter Reservoir. Drainageways impact developmental decisions and building locations and need to be protected as development occurs. Maintaining drainageways as open linear greenways within developments can provide a significant amenity while protecting these necessary elements and the environmental function they serve. The extent to which these drainageways take away from a buildable lands inventory needs to be quantified.

(4) Wetlands

The Lowell UGB Land Analysis identifies a small portion of Lowell undeveloped property as constrained as a result of wetlands. It highly likely that, due to the clay-type soils found in much of the City and wetlands that have been identified during recent studies, that there may be significantly more wetlands constraints than were identified in the UGB Land Analysis. The City

should consider completing a City-wide wetlands survey to determine the extent of development constraints associated with wetlands.

(5) Flood Hazard

The City participates in the federal National Flood Insurance Program and has adopted Flood Hazard standards and policy, however the impacts of flood hazards are minimal within the City of Lowell. According to the Flood Insurance Rate Map for Lowell, the only land within Lowell that is within Zone A is Dexter Reservoir itself and the shoreline areas to the elevation of the top of the Dexter Dam. This land is entirely within the US Army Corps of Engineers federal reservation.

Section 9.920, Environment, has a description and references to other sources for a more detailed summary of environmental constraints.

(d) Other Constraints.

The City has a large amount of publicly owned land which is developed for a specific purpose, including land owned by the City for facilities, parks and open space, by the School District, by the Fire District and by the U.S. Forest Service and Corps of Engineers. The special public use of these properties precluded further development for other uses. The City also has a Bonneville Power Transmission line constructed going east to west across the City from Lookout Point Dam which is established by easements that don't allow development within the easements. Finally, the City has a previous subdivision containing 25 two acre plus parcels containing a single residential dwelling that, by deed restrictions, can not further divided.

e) Constrained Lands Summary

Table 9.980 A summarizes the developed, vacant and constrained lands in Lowell. This Table was derived from the 2001 UGB Land Analysis after being updated to the current year, including land use changes made at the time of the 2005 revision of this Plan. Of the 445 tax lot acres 174 are developed and 271 are vacant or partially vacant. The UGB Land Analysis identifies 204 acres as constrained vacant lands leaving only 66 acres of unconstrained "Buildable Land". Constrained Lands are 78% of the vacant land in the City and 46% of the City's total Tax Lots. What is unclear is the level to which the constrained lands may be developable until a more detailed study can be made of the above identified development constraints.

**TABLE 9.980 A
LAND USE CONSTRAINTS**

		2005 CITY LAND USE DISTRICTS					
	Land Area Acres	R-1	R-3	C-1	C-2	I-1	PL
TOTAL TAX LOTS	444.77	376.55	14.56	6.12	3.72	7.42	36.40
	100.00%	84.66%	3.27%	1.38%	0.84%	1.67%	8.18%
DEVELOPED LAND	174.30	125.86	2.43	5.74	2.51	2.07	35.69
% DEV LAND	39.19%	72.21%	1.39%	3.29%	1.44%	1.19%	20.48%
% DISTRICT DEV		33.42%	16.69%	93.79%	67.47%	27.90%	98.05%
VACANT LAND	270.47	250.69	12.13	0.38	1.21	5.35	0.71
% VAC LAND	60.81%	92.69%	4.48%	0.14%	0.45%	1.98%	0.26%
% DISTRICT VAC		66.58%	83.31%	6.21%	32.53%	72.10%	1.95%
CONSTRAINED LAND	204.00	202.20	1.80	0.00	0.00	0.00	0.00
% CONST LAND	45.87%	99.12%	0.88%				
% DISTRICT CONST		53.70%	12.36%				
% VACANT CONST	75.42%						
STREETS	73.00						
	9.91%						
LAKE	219.00						
	29.72%						
TOTAL AREA	736.77						
	100.00%						
HOUSING 2003		Homes	Percent				
Single-Family	215	53.88%					
Manufactured Homes	134	33.58%					
MH in Parks	6	1.50%					
Multiple-Family	44	11.03%					
	399	100.00%					

SECTION 9.984 DEVELOPMENT OPPORTUNITIES

The City has well defined areas available within the City to accommodate needed industrial, commercial and residential expansion.

Industrial land is zoned and available for development in the northwest corner of the City adjacent to the Jasper-Lowell Corridor. There are approximately 5.5 acres of developable property within the Industrial Park together with available leased space in existing buildings.

(a) **Commercial** land is zoned for development although most of the property is in other uses except for approximately 1.5 vacant acres. There is vacant property in the Downtown Core Area where the City is seeking to encourage development to restore the community's center. There are other properties that have potential for redevelopment for commercial use including the school bus yards and several residential dwellings.

(b) Residential land is zoned and available for development within the City. However, of the 270 acres of vacant residential land, 204 acres are constrained leaving only 66 acres of unconstrained buildable residential land. Much of this land is comprised of small sized rural parcels that could be divided to urban sized lots although this in-fill process usually develops more slowly than larger parcels that could accommodate larger subdivisions. There are few developable properties within the City large enough to support more economically developed larger residential subdivisions.

(c) Open Space

Drainage channels together with steep hillside areas containing trees and native vegetation offer an opportunity to provide valuable open space for the community while providing habitat protection and additional safeguards from landslides. These areas can add visual amenities and buffers that enhance developments environmentally and economically.

(d) Planning Considerations

Present community attitudes appear to prefer maintaining the livability of the community with a preference for larger residential lots, expanded commercial services and low impact industrial development. However, emerging growth pressures together with the availability of municipal water and sewer service suggest the City should incorporate planning policies and guidelines to provide for the orderly and efficient conversion from rural to urban densities to maximize service economies.

Three factors will play an important role in Lowell's potential for growth. First is the communities shared desire to increase population to increase enrollment in the Lowell School District and to attract needed commercial businesses. Second is the improved capacity in the municipal water and sewer systems. Second is the proximity of Lowell to the Eugene/Springfield Metropolitan Area. The livability of a small rural community together with accessibility to regional market places and employment centers enhances Lowell's potential for residential growth.

SECTION 9.985 PROJECTED GROWTH NEEDS

Because projected growth needs, especially as they relate to residential growth, are a function of population projections, a discussion of historic trends and future growth goals is important. As identified in the Lowell UGB Land Analysis as corrected following the 2000 Census, Lowell's annual average growth rate for the 40 years between 1960 and 2000 was 1.42%. This growth rate, while steady over the 40 year period, is lower than County average growth rates. This can be attributed to two factors. The first is that during this entire period, there was a gradual decline in jobs generated by the forest products industry and related U.S. Forest Service jobs in the area. Secondly, as the residential migration from the Eugene/Springfield urban area to outlying small cities started increasing in the last 20 years, Lowell was limited in its ability to attract residential development as a result of nearly continuous moratoriums on development caused by water and sewer system capacity limitations.

**TABLE 9.980 B
POPULATION, HOUSING & LAND NEEDS**

Year	Population aagr 2.22%	Housing 2.5 ph+5.8%V	Housing Increase	Land Area 6 u/acre+50%
2000	880	346		0
2001	880	346	0	0
2002	880	346	0	0
2003	890	349	3	1
2004	900	353	7	2
2005	923	390	44	11
2006	946	400	54	14
2007	969	410	64	16
2008	993	420	74	19
2009	1018	431	85	21
2010	1044	442	96	24
2011	1070	453	107	27
2012	1097	464	118	30
2013	1124	476	130	32
2014	1152	488	142	35
2015	1181	500	154	38
2016	1210	512	166	42
2017	1241	525	179	45
2018	1272	538	192	48
2019	1303	552	206	51
2020	1336	565	219	55
2021	1369	580	234	58
2022	1404	594	248	62
2023	1439	609	263	66
2024	1475	624	278	70
2025	1512	640	294	73
2026	1549	656	310	77
2027	1588	672	326	82
2028	1628	689	343	86
2029	1669	706	360	90
2030	1710	724	378	94
2031	1748	740	394	98
2032	1787	756	410	103
2033	1827	773	427	107
2034	1867	790	444	111
2035	1909	808	462	115
2036	1951	826	480	120
2037	1994	844	498	125
2038	2039	863	517	129
2039	2084	882	536	134
2040	2130	902	556	139
2041	2177	922	576	144
2042	2226	942	596	149
2043	2275	963	617	154
2044	2326	984	638	160
2045	2377	1006	660	165
2046	2430	1028	682	171
2047	2484	1051	705	176
2048	2539	1075	729	182
2049	2596	1098	752	188
2050	2653	1123	777	194

The City completed upgrades on both its water and sewer systems in 2004, increasing capacity in both as identified in Section 9.600. Because of experienced population growth in other small communities in the County, projected growth needs for both the water and sewer system were estimated at approximately 3%. This is consistent with the City's desire for growth to support School District enrollment, to provide a commercial business customer base and to increase the revenue base for the City. Lane County coordinated population projections adopted in 2005 recognized some increase in growth rates in Lowell by setting the City's growth projections at 2.22% through 2030. The City also feels that it needs to project growth needs to 2050 to provide for a longer planning period to provide for public infrastructure needed to support growth that is anticipated to occur. **Table 9.980 B and C** provides projections of growth in population, housing needs and land needs over 50 years at the County coordinated population growth projection of 2.22%. The 2050 population projection is consistent with the average of the Lane County Region 2050 planning projections for the various County growth scenarios being studied.

A 3.0% growth rate over the same planning period as projected in the water and sewer system master plans would result in a population of 3,858, a housing need of 1,665 and a land area need of 357, or 291 acres of additional land.

Because of the recent completion of capacity building improvements to the water and sewer systems, there has not been adequate time to evaluate the effect of those improvements, and their resultant end to building moratoriums, on growth. Growth should be evaluated and new population projections made within 5 years without the former growth constraints, to include an updated buildable lands inventory.

(a) Residential Acreage Needs

Lowell will need approximately 73 additional gross acres of unconstrained buildable residential land to accommodate the additional housing needs of the community based upon the coordinated population projections to the year 2025 for a UGB change.

Table 9.980 C identifies 194 acres needed for residential growth by 2050 based upon a 2.2% projected population growth rate. The following distribution of needed land is greater than the available unconstrained buildable land within the Lowell City Limits:

a. R-1 Single-family, 155 acres Less 48 unconstrained buildable acres, a need of 107 acres.

b. R-3 Multi-family, 39 acres Less 10 unconstrained buildable acres, a need of 29 acres.

It is evident from the needs analysis summarized in **Table 9.980 C** that additional residential land is needed to support the City's growth projections to the year 2050. As growth occurs additional commercial and industrial lands will also be needed.

**TABLE 9.980 C
PROJECTED LAND NEEDS**

2005 CITY LAND USE DISTRICTS							
	Land Area Acres	R-1	R-3	C-1	C-2	I-1	PL
TOTAL TAX LOTS	444.77	376.55	14.56	6.12	3.72	7.42	36.40
	100.00%	84.66%	3.27%	1.38%	0.84%	1.67%	8.18%
DEVELOPED LAND	174.30	125.86	2.43	5.74	2.51	2.07	35.69
% DEV LAND	39.19%	72.21%	1.39%	3.29%	1.44%	1.19%	20.48%
% DISTRICT DEV		33.42%	16.69%	93.79%	67.47%	27.90%	98.05%
VACANT LAND	270.47	250.69	12.13	0.38	1.21	5.35	0.71
% VAC LAND	60.81%	92.69%	4.48%	0.14%	0.45%	1.98%	0.26%
% DISTRICT VAC		66.58%	83.31%	6.21%	32.53%	72.10%	1.95%
CONSTRAINED LAND	204.00	202.20	1.80	0.00	0.00	0.00	0.00
% CONST LAND	45.87%	99.12%	0.88%				
% DISTRICT CONST		53.70%	12.36%				
% VACANT CONST	75.42%						
UNCONSTRAINED LAND	66.47	48.49	10.33	0.38	1.21	5.35	0.71
% BUILD LAND	14.94%	72.95%	15.54%	0.57%	1.82%	8.05%	1.07%
% DISTRICT BUILD		12.88%	70.95%	6.21%	32.53%	72.10%	1.95%
STREETS	<u>73.00</u>						
	9.91%						
LAKE	<u>219.00</u>						
	29.72%						
TOTAL AREA	<u>736.77</u>						
	100.00%						
YEAR	POP PROJ	HOUSING NEED	LAND NEED	PROJECTED LAND NEED ACRES			
2025 PROJECTIONS	1512	640	73	65.70	7.30		
NEEDED LAND				17.21	-3.03		
2030 PROJECTIONS	1710	724	94	79.90	14.10		
NEEDED LAND				31.41	3.77	3	5
2050 PROJECTIONS	2653	1123	194	155.20	38.80		
NEEDED LAND				106.71	28.47	6	2
						10	

(b) Commercial Acreage Needs

There is no anticipated need for additional designated commercial land initially. What is needed is an emphasis on downtown renewal to attract additional commercial uses to the Downtown Core Area to revitalize the community. As the City grows, it is anticipated that the need for additional commercial lands will increase to 4% of the City’s land use.

(c) Industrial Acreage Needs

There is no anticipated need for additional designated industrial land initially. However as growth occurs additional industrial demand may occur. The City should be prepared to expand the industrial land base to always have a small inventory of Industrial land available for industrial development opportunities that may present themselves.

(d) Public Lands Acreage Needs

Additional designated Public Lands are not anticipated. However, growth of public and semi-public areas can be accommodated within the other land use districts as needs arise. Therefore, there is no need for additional designated public lands.

Based upon the City's Population Projections there is a need for additional residential land to accommodate the growth of the City through the 2050 Planning Period.

SECTION 9.986 LOWELL URBAN GROWTH STRATEGY**(a) Lowell Urban Growth Boundary History**

The City of Lowell does not have an Urban Growth Boundary (UGB) beyond the City Limits. However, there is a demonstrated need to expand the UGB during the planning period based upon the City's population projections over a planning period extending to 2050.

In order to expand an Urban Growth Boundary or to annex any portion of land outside of the City Limits, the City and County must comply with Statewide Planning Goal 14.

Statewide Planning Goal 14 reads: "to provide for an orderly and efficient transition from rural to urban land use to accommodate urban population and urban employment inside urban growth boundaries, to insure efficient use of land, and to provide for livable communities". Urban Growth Boundaries shall be established to identify and separate urbanizable land from rural land.

An Urban Growth Boundary is a boundary that is intended for application in the urban-rural fringe, or the area surrounding a city that contains urbanizable lands that are:

1. Determined to be necessary and suitable for future urban uses;
2. Can be served by urban services and facilities; and
3. Are needed for the expansion of an urban area.

According to **Goal 14**, establishment or change of the boundary shall be based upon consideration of the following factors.

Urban Growth Boundaries

Urban growth boundaries shall be established and maintained by cities, counties and regional governments to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land. Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments. An urban growth boundary and amendments to the boundary shall be adopted by all cities within the boundary and by the county or counties within which the boundary is located, consistent with intergovernmental agreements.

Land Need

Establishment and change of urban growth boundaries shall be based on the following:

1. Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and
2. Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.

Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.

Boundary Location

The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:

1. Efficient accommodation of identified land needs;
2. Orderly and economic provision of public facilities and services;
3. Comparative environmental, energy, economic and social consequences;
4. Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Urbanizable Land

Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its

potential for planned urban development until appropriate public facilities and services are available or planned.

(b) City/County Coordination & Cooperation

Statewide Planning Goals require that planning for areas adjacent to a city be a cooperative process between the City and County. Accordingly, the City of Lowell and Lane County have established a Lowell Planning Area as an area of mutual interest requiring City and County planning coordination.

The **City/County Management Agreement** specifies the procedures and standards for management of the Planning Area outside the City Limits.

(c) Comprehensive Plan / Zoning Map

The Comprehensive Plan Map is often thought of as "The Plan". Although a key component of the Comprehensive Plan, the Plan Map is only one part of the plan. The Plan is composed of information and goals and policies as well as a map. It is the interrelationship of these components that gives the map its significance. The Plan Map identifies the intended urban land use for all lands within the City of Lowell in terms of the plan designations explained below.

The City has combined the Comprehensive Plan and Zoning Map into a single map that identifies the City's Land Use and Zoning Districts. The Map identifies six land use categories or districts on 445 acres in addition to streets and a portion of Dexter Lake that together comprises 737 gross acres within the existing City Limits.

The Comprehensive Plan Map identifies the various land use designations that apply in the City of Lowell. . A brief description of the Land Use Districts in the City follows.

(1) Residential designations identifies areas for site-built single-family or manufactured housing and multiple-family housing. Downtown residential zones (DRA and DRD) allow for residential and commercial uses. Residential land use and zoning designations that apply in the City of Lowell include:

- Single-Family Residential District R-1**—~~(5,500)~~ **7,000** sf minimum lot size.)
- Multiple-Family Residential District R-311** ~~(5,500)~~ **7,000** sf minimum lot size.)
- Downtown Residential Attached DRA** ~~(2,00~~ **2,000** ~~sf minimum lot size)~~
- Downtown Residential Detached DRD** ~~(4,000~~ **4,000** ~~sf minimum lot size)~~

(2) Commercial designations identifies areas for commercial development. Land designated for commercial use reflects consideration of parcel size, adjacency to primary transportation routes and access to the community. Commercial land use and zoning designations that apply in the City of Lowell include:

- General Commercial C-1**
- ~~**Downtown Commercial C-2**~~

(3) **Downtown Flex-Use** designations allow for a mix of commercial and residential uses that are encouraged to locate in the Downtown District. Each respective Downtown Flex-Use zoning designation has specific building standards. These standards are intended to ensure that new development strengthens and enhances the existing character and scale of the Downtown District and its surroundings. Downtown Flex-Use land use and zoning designations that apply in the City of Lowell include:

Downtown Flex-Use 1 DF1

Downtown Flex-Use 2 DF2

(4) **Industrial** designations identify identifies areas for industrial development. Land designated for industrial use reflects consideration of parcel size, topography, existing and surrounding land uses, and access to highway transportation. Industrial land use and zoning designations that apply in the City of Lowell include:

Light Industrial District I-1

(5) **Public and Semi-public** land is accommodated within all other designated land use districts. In addition, a Public Lands designation is applied to permanent governmental land and associates facilities and uses in the City of Lowell as:

Public Lands PL

(6) **Public Land-Downtown PL-D** designations are for areas zoned Public Lands-Downtown within the Downtown District and as seen on the Regulating Plan. The PL-D zoning designation has specific building standards. These standards are intended to ensure that new development strengthens and enhances the existing character and scale of the Downtown District. Lands zoned Public-Lands Downtown appear on the Regulating Plan as:

Public Lands-Downtown PLD

(d) Growth Management

The following needs assessment provides much of the criteria for the management of growth within the City of Lowell:

- The need to accommodate long-range urban population growth requirements consistent with Statewide Planning Goals.
- The need for housing and employment opportunities consistent with the existing livability of the community.
- The need to provide for the orderly and economic provision of public facilities and services consistent with existing development patterns.
- The need to maximize efficiency of land uses within and on the fringe of the existing urban area in order to provide for orderly growth.

- The need to establish compatibility of proposed urban uses with adjacent rural activities and to ensure a smooth transition from rural to urban uses.
- The need to maintain an adequate supply of land, which can be economically developed, for each land use to insure competitive choices in the market place and reduce land costs.
- The need to support the local School District and other governmental agencies having facilities and programs in the City.
- The need to encourage economic growth in the Lowell area to capitalize on underutilized human and infrastructure capabilities.
- The need to provide industrially designated lands of sufficient size to accommodate a diversity of possible uses with adequate space and buffers to ensure compatibility with surrounding uses.
- The need to reestablish the Downtown Core Area as the City's centralized service commercial area.
- The need to preserve buildable lands for residential use that are suitable, available and not subject to hazardous development limitations.
- The need to establish growth policies and patterns that are consistent with the growth needs and desires of the community.
- The need to retain adequate open space and recreational areas consistent with the rural character and livability of the Lowell area.
- The need to include large parcels of urbanizable land that are of adequate size to support subdivision so as to maximize the utility of the land resource and enable the logical and efficient extension of services.
- The need to maintain a Planning Area between the Lowell City Limits and the rural areas of the County
- The need to initiate an Urban Reserve area as a reserve for future growth of the community.
- The need to initiate an Urban Growth Boundary expansion to accommodate the projected growth needs of the City.

The growth of the City is a natural process that results from an increasing population and the associated urban services needed to support that population. The manner in which a city grows is important because it reflects the shape, form and character of the community.

Growth should seek to contribute to a city's livability and environmental quality. Orderly urban growth within the City should yield an urban pattern that avoids areas of critical environmental concern while accommodating the needs of its citizens. The logical progression for growth in a

community is from the core area outward so efficient and economical extension of public facilities and services is phased and coordinated with the need for additional land. Incremental and systematic expansion from the core area outward along existing service corridors is the preferred growth pattern and offers the greatest efficiency and economy of development.

For the City of Lowell, this outward growth will likely be concentrated to the west along Pengra Road, north along Jasper-Lowell Road, and east along West Boundary Road. Expansion southward across Dexter Reservoir to Highway 58, while providing some opportunities for economic development, is unlikely due to the cost to provide public utilities across the reservoir. The City is the logical provider of public facilities and services. It is the objective of the City's Growth Management Strategy for Lowell to encourage urban development and the conversion of rural land to urban uses in such a way that the expansion of public facilities and services can be accomplished in a fiscally sound manner, while still providing required City services on an equitable basis to all residents.

The underlying growth management strategy focuses on the current ability of the City to adequately support future development without detracting from the community's livability.

(e) Needed Studies & Information

The **Lowell Comprehensive Plan 2005** is a compilation of existing data recognizing that additional information is needed to provide a more complete framework for community growth and development. Existing Plan Policies prepared in 1980 have been reviewed and amended by the Lowell Planning Commission and Citizens Advisory Committee to bring them into compliance with Statewide Planning Goals and the current needs and aspirations of the community.

The following data and studies are needed:

- A Wetland & Riparian Area Inventory.
- A Transportation System Plan.
- A Downtown Development Plan.
- A Buildable Lands Inventory.
- A Drainage System Master Plan.
- An update of the Water System Master Plan.
- An update of the Sanitary Sewer System Master Plan.
- A Parks & Recreation Plan
- A Capital Improvement Program.

Lowell's Growth Management Strategy is a dynamic process. It is a continuing on-going process that must be reviewed and periodically updated to meet the changing needs of the community.

SECTION 9.987 ENERGY

Energy may not traditionally be considered an aspect of a City's economy, however, the growing demand on energy resources, coupled with the resultant cost increases for energy, impact the economic future of a community. This element looks at energy impacts on Lowell and identifies various energy conservation measures, as well as energy conservation programs available to Lowell's residents.

As the United States enters a future of increasing energy demands, a local comprehensive plan must consider the topic of energy. Lowell's current status as primarily residential community could place the City in a vulnerable position as future energy prices increase. A reduction in petroleum, or major price increases, could affect Lowell's citizens by increasing cost to access employment and market opportunities outside of the community.

The Comprehensive Plan promotes energy conservation through various techniques. Some techniques include the use of efficient land use patterns, encouraging effective housing rehabilitation and construction methods, and formulating energy efficient transportation policies, such as those encouraging pedestrian ways, bikeways, public transportation and carpools.

The greatest potential for the consumer to conserve energy is through measures such as the use of energy efficient appliances, better management of home energy uses, home improvement programs and the recycling of domestic waste products. The consumer can also greatly reduce home heating and cooling bills through improved home insulation.

In recent years, new developments have focused on utilization of the LEED Program (Leadership in Energy and Environmental Design), Green Building Guidelines and Sustainable Development to reduce energy consumption and provide more environmentally friendly developments. The City supports these efforts and encourages their use in all future development within the City of Lowell.

Because much of the developable land within the City of Lowell is on south facing hillsides, there is an additional opportunity to take advantage of active and passive solar energy technology. The use of solar energy can greatly reduce the need for more traditional and costly energy resources and should be encouraged for development within Lowell.

Federal and state legislation together with the utility companies have provided incentives for energy conservation. The following items are some recommended measures that can be taken by the homeowner to reduce energy consumption.

1. More than 70% of the average Oregon household's energy expense (other than transportation) is for space heating. Water heating is another major energy user. Lowering of the thermostats of both appliances, or the use of semi-automatic thermostat setbacks can help cut back on energy demand.
2. Insulation installed in ceilings, exterior walls, heated basements or crawl spaces, around heating ducts and water heaters in unheated spaces.
3. Weatherproofing windows and doors, including weather-stripping, double glazing windows, and installing storm windows and doors.
4. Furnace improvements, replacement of old burner units with more efficient ones, the use of forced air units, chimney heat recovery devices, automatic furnace flue dampers and heat pumps.
5. Fireplace improvements such as outside air inlets, glass screens, fireplace grates and flue heat exchangers.
6. Ground cover, usually consisting of plastic sheets under the house in crawl spaces.

All the above actions qualify for and meet state guidelines for insulation programs that may be eligible for refunds, tax credits, and loans for home insulation projects.

The federal government also has various programs operating under different agencies, that subsidize energy conservation measures.

Anyone interested in applying for any of these programs, either at the state or federal level, should contact the Oregon Department of Energy for additional information.

SECTION 9.988 REFERENCED ASSOCIATED DOCUMENTS

1. **Lowell Comprehensive Plan**, Lane Council of Governments; 1978, 1980, 1981, 1982 LCDC Acknowledged and 1989 Amended.
2. **Lowell Urban Growth Boundary Land Analysis Draft**, Lane Council of Governments, 2001.
3. **Lowell Economic Development Strategic Plan**, Lane Council of Governments, 2003.
4. **GIS Tax Lot Data**, Lane Council of Governments, 2005.
5. **Region 2050**, Lane Council of Governments, 2001-2005.

SECTION 9.989 GROWTH MANAGEMENT GOALS & POLICIES

(a) **Statewide Planning Goals:** The primary **Statewide Planning Goals** (Goals) related to this Section of the Plan are **Goals 5, 7, 13 and 14**, although Goals 5 and 7 are also included in Section 9.200, Environment.

Goal 5, Historic Resources reads: "To protect natural resources and conserve scenic and historic areas and open space." In response to the historic preservation portion of this goal the following Lowell Policies are included to help insure the protection and maintenance of historic resources for future generations.

Goal 7, Areas Subject to Natural Disasters and Hazards reads: "To protect life and property from natural disasters and hazards." Developments subject to damage or that could result in loss of life shall not be planned nor located in known areas of natural disasters and hazards without appropriate safeguards. Plans shall be based on an inventory of known area of natural disaster and hazards.

Goal 13, Energy Conservation reads: "To conserve energy." Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.

Goal 14, Urbanization reads: "To provide for an orderly and efficient transition from rural to urban land uses to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities." The Growth Management Element of the Plan builds on the data in all the other plan sections to provide the basic framework for future development in the City of Lowell by addresses the basic issues of growth and urbanization.

The Policies of this Section of the Plan are intended to implement the City's overall growth management strategy and provide for continued intergovernmental coordination as the basis for the orderly development of the City of Lowell.

(b) Lowell Growth Management Goals

- GOAL 1.** To preserve historic resources and other places of special significance in the Lowell area.
- GOAL 2.** To provide a planned and efficient transition from rural to urban land use.
- GOAL 3.** To provide conservation and development policies to guide future development.
- GOAL 4.** To allocate enough land in each land use category to accommodate the anticipated growth needs of the City through 2050.
- GOAL 5.** To protect life and property from natural disasters and hazards.
- GOAL 6.** To promote energy conservation in all developments.
- GOAL 7.** To promote residential growth in order to create a more self-sustaining community.

(c) Policies**Historic and Cultural Resources**

1. The City shall encourage preservation of significant historical, archaeological, cultural and other areas of local significance, including structures, objects and sites.
2. The City shall cooperate and assist agencies, organizations or groups in preserving places of historic, cultural, or special significance to the Lowell area.
3. The City shall assume responsibility for maintenance of the Hyland Cemetery and shall consider acquiring the Cemetery and pursue designation as a "Pioneer Cemetery.
4. The City shall cooperate with Lane County to maintain the Lowell Covered Bridge as a Historic Site and Interpretive Center for the State's covered bridges and other significant resources.
5. The City shall support owners of historically significant structures in efforts to gain recognition on County, State or Federal historical registries and in obtaining available funding for maintaining such historically significant sites.

Environmental Quality

6. The City shall ensure that potential adverse environmental impacts from development proposals are mitigated as part of the City's project review approvals.
7. The City shall encourage quality in the design of places and buildings that is responsive to the needs of the people and the opportunities and constraints of the environment.

8. The City shall require protective conditions for natural drainage channels, wetlands, riparian areas and hillside vegetation as part of the City's project review approvals.
9. Landscaping shall be included as an integral part of site development standards.

Constrained Lands

10. The City shall enforce development standards and apply review procedures for identified constrained lands and shall require investigations and, if necessary, design and engineering plans for developments proposed for such lands.

Urban Growth Strategy

11. The City shall accommodate long-range urban population growth requirements consistent with Statewide Planning Goals.
12. The City shall encourage housing and employment opportunities consistent with the existing livability of the community.
13. The City shall provide for the orderly and economic provision of public facilities and services consistent with existing development patterns.
14. The City shall maximize efficiency of land uses within and on the fringe of the existing urban area in order to provide for orderly growth.
15. The City shall establish compatibility of proposed urban uses with adjacent rural activities and ensure a smooth transition from rural to urban uses.
16. The City shall maintain an adequate supply of land for each land use to insure competitive choices in the market place and reduce land costs.
17. The City shall encourage industrial and business developments that are compatible with the area's environmental assets and the livability of the community to help improve the economy of Lowell.
18. The City shall re-establish the Downtown Core Area as the City's centralized service commercial area.
19. The City shall provide buildable lands for residential use that are suitable, available and not subject to hazardous development limitations.
20. The City shall support and encourage planning and projects to provide affordable housing to families with children in support of increasing enrollment in the Lowell School System.
21. The City shall encourage a variety of housing types and densities and shall support innovative and creative housing methods and planning alternatives.

22. The City shall retain adequate open space and recreational areas consistent with the rural character and livability of the Lowell area.
23. The City shall initiate an Urban Reserve area as a reserve for future growth of the community and shall emphasize inclusion of large parcels free from significant development constraints.
24. The City shall review and update growth projections within 5 years and at least every 5 years thereafter and initiate an Urban Growth Boundary expansion at such time as those projections indicate a need for urban expansion to maintain a reasonable inventory of buildable land.

Energy

25. The City of Lowell shall encourage energy conservation measures and energy efficiency for all development proposals as part of its project review criteria.
26. The City shall support energy conservation and efficiency programs including:
 - a. Utilization of alternative energy sources including solar energy.
 - b. Energy efficient site development standards including solar orientation.
 - c. Utilization of the LEED Program (Leadership in Energy and Environmental Design), Green Building Guidelines and Sustainable Development.
27. The City shall support insulation and weatherization of existing homes and encourage energy conservation measures in new construction.

SECTION 9.990 COMPREHENSIVE PLAN MAPS INDEX

The following maps are incorporated into the Lowell Comprehensive Plan 2005:

9.990 A Comprehensive Plan Use & Zoning Districts

This map was updated and adopted with the 2005 Comprehensive Plan Revision. [The Comprehensive Plan Map and Zoning Districts Map was amended in 2023 with the adoption of the revised Land Development Code. The new Comprehensive Plan Map and Zoning Districts Maps have been acknowledged by DLCD.](#)

9.990 B Master Road Plan Map

The Road Master Plan Map is dated October 1999 and is contained in the 1999 Update of the City of Lowell Master Road Plan

9.990 C Topographic Map

This Map is from the 1982 DLCD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 D Slopes Exceeding 15%

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 E Soil Map

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 F Development Constraints Map

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 G Forest Productivity

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 H Agricultural Suitability

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 I Vegetation Map

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 J Drainage Map

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 K Floodplain Map

This Map is a copy of a portion of Flood Insurance Rate Map Number 41039C1695 F with an effective date of June 2, 1999.

9.990 L Area Public Lands Map

This Map is from the 1982 DLCDD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 M Community Facilities Map

This Map is from the 1982 DLCD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 N Historic Map

This Map is from the 1982 DLCD Acknowledge Comprehensive Plan and has not been reviewed or updated.

9.990 O County/City UGB Management Agreement Area of Interest

This is a copy of the map attached to the Joint Agreement for Planning Coordination Between Lane County and the City of Lowell, signed by the City of Lowell on November 7, 2000. The map shows a section of Urban Growth Boundary (UGB) extending beyond the Lowell City Limits on the northeast side of the City for which no documentation of approval can be found in City records.

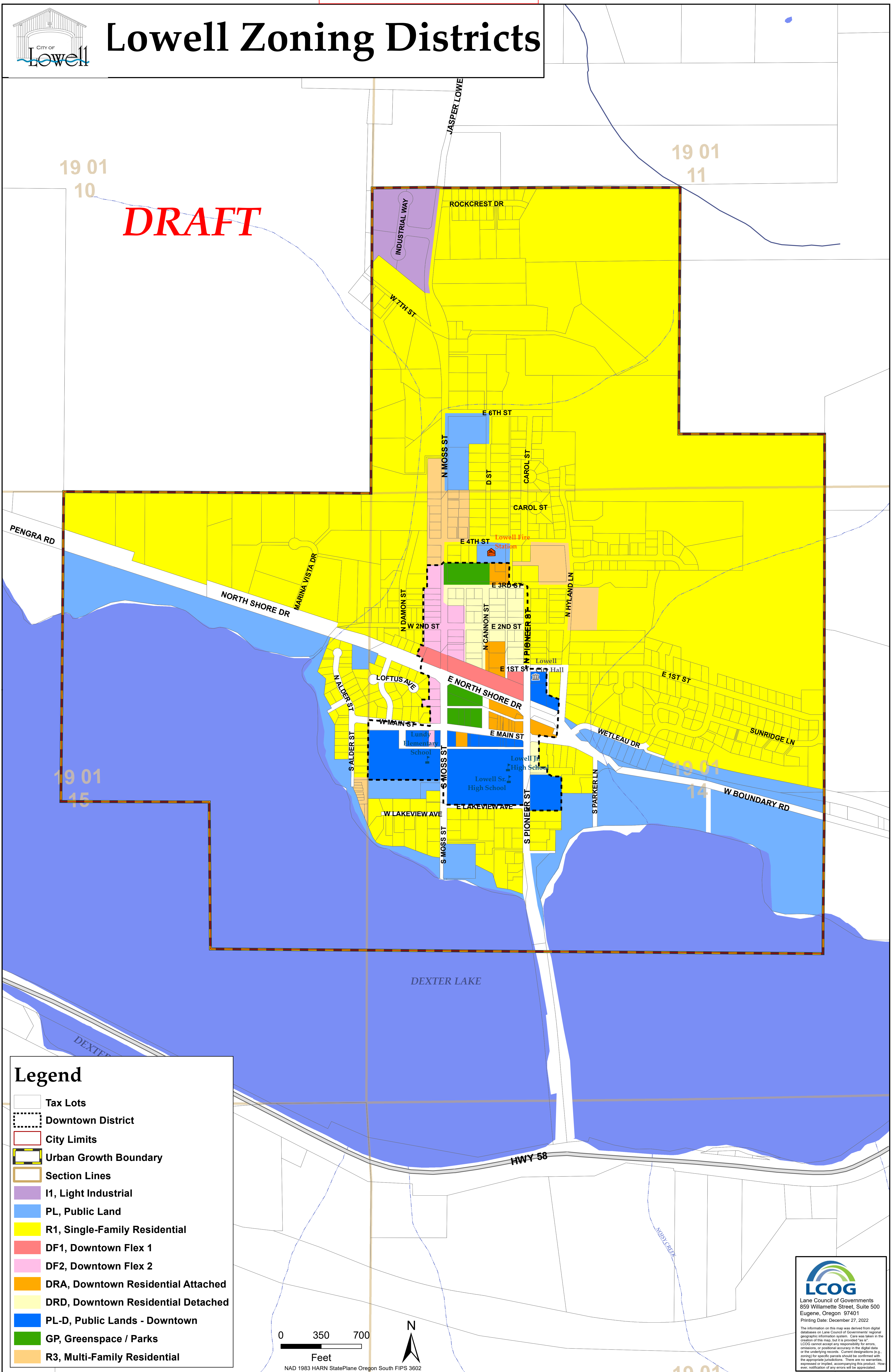
9.990 P Regulating Plan Map

This map was adopted as part of the Lowell Downtown Master Plan. The map was updated as part of the Lowell Land Development Code update in 2023. The map sets forth the zones that lie within the Downtown District. The new zones implemented by the Regulating Plan are also reflected on Lowell's Comprehensive Plan Use & Zoning Districts maps. The Regulating Plan has been acknowledged by DLCD.



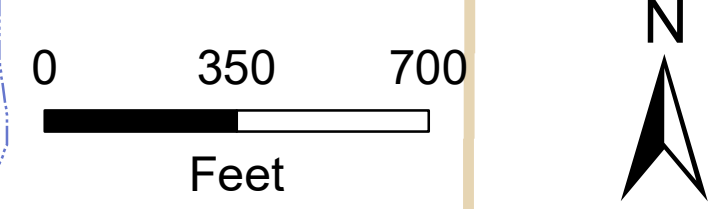
Lowell Zoning Districts

DRAFT



Legend

- Tax Lots
- Downtown District
- City Limits
- Urban Growth Boundary
- Section Lines
- I1, Light Industrial
- PL, Public Land
- R1, Single-Family Residential
- DF1, Downtown Flex 1
- DF2, Downtown Flex 2
- DRA, Downtown Residential Attached
- DRD, Downtown Residential Detached
- PL-D, Public Lands - Downtown
- GP, Greenspace / Parks
- R3, Multi-Family Residential

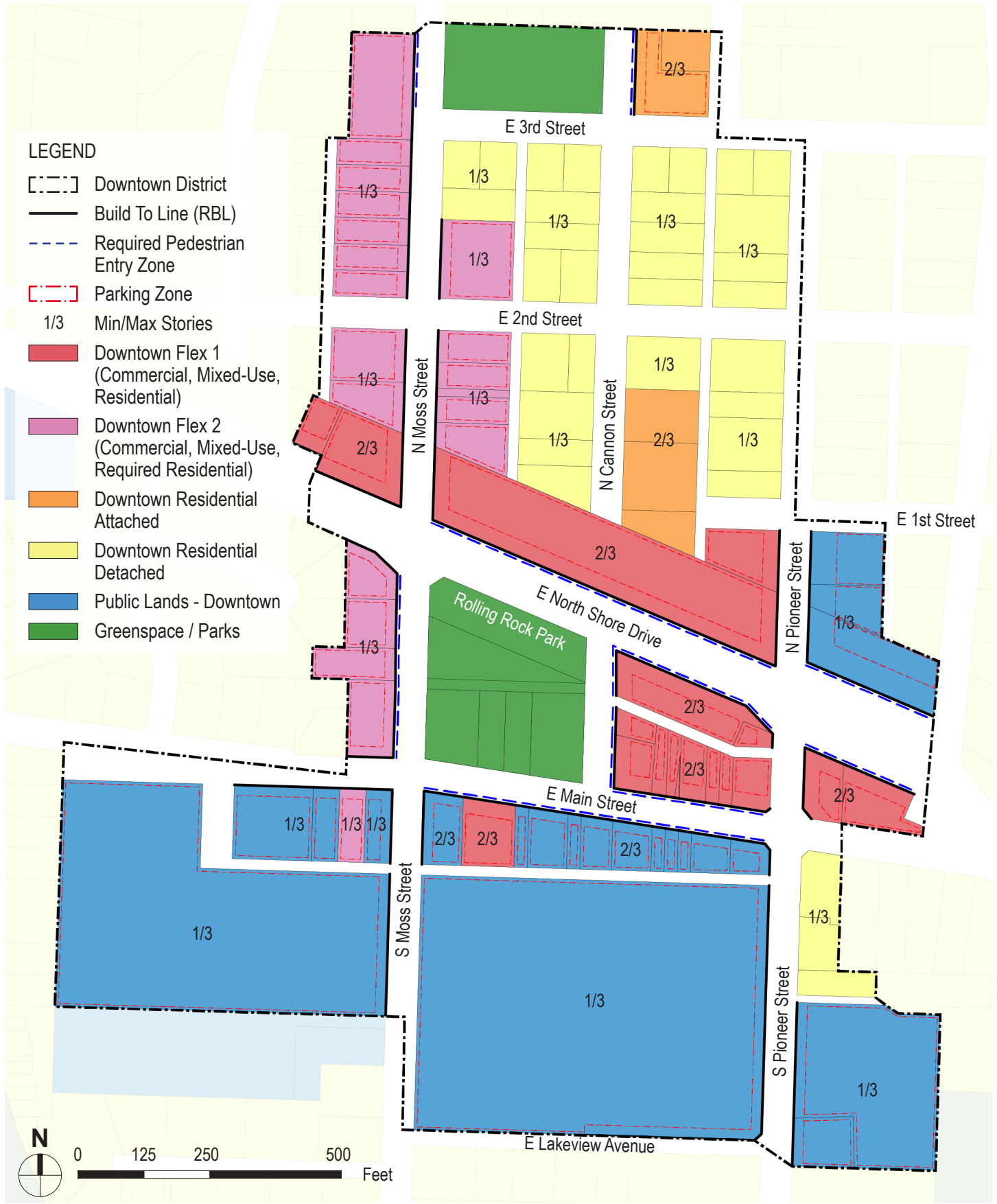


NAD 1983 HARN StatePlane Oregon South FIPS 3602

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The information on this map was derived from digital databases on Lane Council of Governments' regional geographic information system. Care was taken in the creation of this map, but it is provided "as is". LCOG cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current designations (e.g., zoning) for specific parcels should be confirmed with the appropriate jurisdictions. There are no warranties, expressed or implied, accompanying this product. How ever, notification of any errors will be appreciated.

DOWNTOWN REGULATING PLAN



LEGEND

- Downtown District
- Build To Line (RBL)
- Required Pedestrian Entry Zone
- Parking Zone
- 1/3 Min/Max Stories
- Downtown Flex 1 (Commercial, Mixed-Use, Residential)
- Downtown Flex 2 (Commercial, Mixed-Use, Required Residential)
- Downtown Residential Attached
- Downtown Residential Detached
- Public Lands - Downtown
- Greenspace / Parks

