



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

September 14, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Lowell Plan Amendment  
DLCD File Number 001-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 28, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

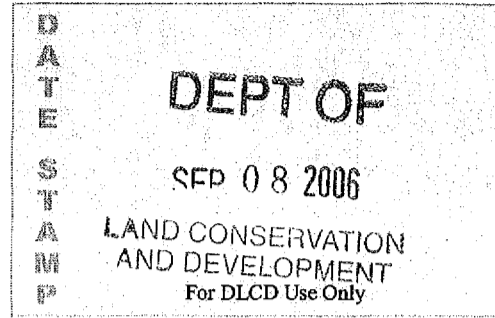
Cc: Doug White, DLCD Community Services Specialist  
Christine Valentine, DLCD Natural Hazards & Floodplains Specialist  
Marguerite Nabeta, DLCD Regional Representative  
Amanda Punton, DLCD Natural Resource Specialist  
Chuck Spies, City of Lowell

<paa> ya/email



# 2 Notice of Adoption

THIS FORM **MUST BE MAILED TO DLCD**  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Lowell Local file number: None  
Date of Adoption: 9/5/2006 Date Mailed: 9/7/2006  
Date original Notice of Proposed Amendment was mailed to DLCD: 5/31/2006

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input checked="" type="checkbox"/> New Land Use Regulation       | <input type="checkbox"/> Other: _____                     |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**Amends numbering system for previously adopted code sections. Adopts definitions for entire Land Development Code. Adopts Lowell Land Development Code Article 9.5, General Development Standards; Article 9.6, Special Development Standards (Wetlands, Floodhazard and Hillside); Article 9.7, Use Standards; and Article 9.8, Improvement Requirements and Standards.**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

**Same**

Plan Map Changed from: n/a to: \_\_\_\_\_

Zone Map Changed from: n/a to: \_\_\_\_\_

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: 2

Was and Exception Adopted?  YES  NO

DLCD File No.: 001-06 (15272)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing?  Yes  No  
If no, do the statewide planning goals apply?  Yes  No  
If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

**US Army Corps of Engineers, US Forest Service, Oregon State Parks, Lane County, Lowell School District, Lowell Fire District.**

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Local Contact: **Chuck Spies** Phone: **(541) 937-2157** Extension: \_\_\_\_\_  
Address: **P.O. Box 490** City: **Lowell**  
Zip Code + 4: **97452-** Email Address: **spiescf@lowell-or.gov**

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### **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:  
**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**CITY OF LOWELL, OREGON**

**ORDINANCE 252**

**AN ORDINANCE AMENDING ORDINANCE 236 AND ADOPTING ARTICLE 9.1, SECTION 9.190 AND ARTICLES 9.5, 9.6, 9.7 AND 9.8 OF THE LOWELL LAND DEVELOPMENT CODE AND REPEALING VARIOUS ORDINANCES.**

**WHEREAS**, Lowell's Land Development Code as adopted by Ordinance 38, and subsequently amended on various occasions is fragmented, out of date, difficult to understand and in need of complete revision, and

**WHEREAS**, the numbering system for the Lowell Land Development Code has changed necessitating an amendment to Ordinance 236, Attachments A, B and C to change Article and Section numbers only, and

**WHEREAS**, the Planning Commission has completed a review of Section 9.190, Definitions, and Articles 9.5, 9.6, 9.7 and 9.8 a revised Lowell Land Development Code and recommended adoption of those Articles, and

**WHEREAS**, public notice was provided to all City of Lowell property owners and a joint public hearing was conducted to receive public input on the proposed new Code, *and*

**WHEREAS**, the City Council finds that all decision criteria required in accordance with the Lowell Land Development Code, Section 2.700 are met, now therefore,

**THE CITY OF LOWELL ORDAINS AS FOLLOWS:**

**SECTION 1:** Ordinance 235 is hereby amended to reflect new Article and Section numbers identified in Attachment A which by this reference, is hereby incorporated into this Ordinance.

**SECTION 2:** Adoption. The following Attachments, by this reference hereby incorporated into this Ordinance, are adopted:

B. Lowell Land Development Code, Article 9.1, Section 9.190, Definitions, dated September 5, 2006.

C: Lowell Land Development Code, Article 9.5, General Development Standards, dated September 5, 2006.

D: Lowell Land Development Code, Article 9.6, Special Development Standards, dated September 5, 2006.

E: Lowell Land Development Code, Article 9.7, Use Standards, dated September 5, 2006.

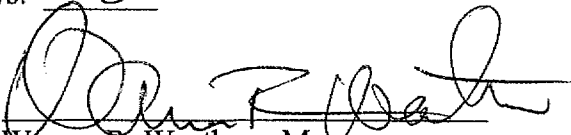
F. Lowell Land Development Code, Article 9.8, Improvement Requirements and Standards, dated September 5, 2006.

**SECTION 3: Repeal.** The following Ordinances are hereby repealed:

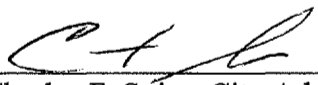
- a.. Ordinance 11, dated April 2, 1962.
- b. Ordinance 38, dated Aug 1, 1972
- c. Ordinance 38.3, dated Feb 18, 1992
- d. Ordinance 38.4, dated May 19, 1992
- e. Ordinance 38.5, dated June 1, 1992
- f. Ordinance 59, dated July 14, 1975
- g. Ordinance 60, dated July 14, 1975
- h. Ordinance 69.1, dated Sept 27, 1994
- i. Ordinance 87, dated Dec 4, 1978
- j. Ordinance 105, dated Aug 5, 1980
- k. Ordinance 109, dated July 21, 1981
- l. Ordinance 112.4, dated Dec 19, 1989
- m. Ordinance 114, dated Aug 18, 1981.
- n. Ordinance 180, dated Aug 19, 1997
- o. Ordinance 181, dated Aug 19, 1997
- p. Ordinance 190, dated Feb 2, 1999
- r. Ordinance 213, dated Dec 3, 2002.

Adopted by the City Council of the City of Lowell this 5<sup>th</sup> day of September, 2006.

Yeas: 5  
Nays: 0

Approved:   
Warren R. Weathers, Mayor

First Reading: August 14, 2006  
Second Reading: September 5, 2006  
Adopted: September 5, 2006  
Signed: September 5, 2006  
Effective Date: October 5, 2006

Attest:   
Charles F. Spies, City Administrator

- Attachment A: Amended Land Development Code Numbering System
- Attachment B: Lowell Land Development Code, Article 9.1, Section 9.190, dated September 5, 2006
- Attachment C: Lowell Land Development Code, Article 9.5, dated September 5, 2006.
- Attachment D: Lowell Land Development Code, Article 9.6, dated September 5, 2006.
- Attachment E: Lowell Land Development Code, Article 9.7, dated September 5, 2006.
- Attachment F: Lowell Land Development Code, Article 9.8, dated September 5, 2006.

### Amended Land Development Code Numbering System

Ordinance 236, Attachments A, B and C are amended as follows to reflect a different Article and Section numbering system. This is an amendment to the numbering system only and no changes have been made to any code language.

<b>Original</b>	<b>New</b>	
<b>ARTICLE 1</b>	<b>ARTICLE 9.1</b>	<b>ADMINISTRATIVE PROVISIONS</b>
Section 1.110	Section 9.101	Title
Section 1.120	Section 9.102	Purpose
Section 1.130	Section 9.103	Compliance Standards
Section 1.140	Section 9.104	Associated Regulations
Section 1.150	Section 9.105	Interpretation
Section 1.160	Section 9.106	Validity
Section 1.170	Section 9.107	Administration
Section 1.180	Section 9.108	Enforcement
Section 1.190	Section 9.109	Fees
Section 1.200	Section 9.190	Definitions
<b>ARTICLE 2</b>	<b>ARTICLE 9.2</b>	<b>APPLICATION PROCEDURES</b>
Section 2.110	Section 9.201	Pre-Application Consultation
Section 2.120	Section 9.202	Pre-Application Conference
Section 2.130	Section 9.203	Application Procedure
Section 2.140	Section 9.204	Application Site Plan
Section 2.150	Section 9.205	Record File
Section 2.200	Section 9.209	Building Permits
Section 2.300	Section 9.210	Land Divisions
Section 2.310	Section 9.211	Property Line Adjustments
Section 2.311	Section 9.212	Property Line Adjustment Requirements
Section 2.312	Section 9.213	Property Line Adjustment Decision Criteria.
Section 2.313	Section 9.214	Property Line Adjustment Decision Process
Section 2.314	Section 9.215	Property Line Adjustment Filing
Section 2.320	Section 9.220	Subdivision or Partition Tentative Plan.
Section 2.321	Section 9.221	S/P TP Submission Requirements
Section 2.322	Section 9.222	S/P TP Form and Scale
Section 2.323	Section 9.223	S/P TP General Information
Section 2.324	Section 9.224	S/P TP Existing Conditions Information
Section 2.325	Section 9.225	S/P TP Proposed Plan Information
Section 2.326	Section 9.226	S/P TP Accompanying Statements
Section 2.327	Section 9.227	S/P TP Supplemental Information
Section 2.328	Section 9.228	S/P TP Decision Criteria
Section 2.329	Section 9.229	S/P TP Decision Process

Section 2.330	Section 9.230	Subdivision or Partition Plat
Section 2.331	Section 9.231	S/P Plat Submission Requirements
Section 2.332	Section 9.232	S/P Plat Form and Scale
Section 2.333	Section 9.233	S/P Plat Information Required
Section 2.334	Section 9.234	S/P Plat Supplemental Information with Plat
Section 2.335	Section 9.235	S/P Plat Survey Requirements
Section 2.336	Section 9.236	S/P Plat Dedication Requirements
Section 2.337	Section 9.237	S/P Plat Certificate on Final Plat
Section 2.338	Section 9.238	S/P TP Decision Criteria
Section 2.339	Section 9.239	S/P TP Decision Process
Section 2.340	Section 9.240	Filing of Plat
Section 2.350	Section 9.241	Replatting
Section 2.360	Section 9.242	Expedited Land Divisions
Section 2.400	Section 9.250	Site Plan Review
Section 2.500	Section 9.251	Conditional Uses
Section 2.600	Section 9.252	Variances
Section 2.700	Section 9.253	Amendments
Section 2.800	Section 9.254	Annexations
Section 2.900	Section 9.255	Vacations

**ARTICLE 3**

Section 3.110
Section 3.120
Section 3.200
Section 3.300
Section 3.400
Section 3.510
Section 3.520
Section 3.600
Section 3.700
Section 3.800

**ARTICLE 9.3**

Section 9.301
Section 9.302
Section 9.303
Section 9.304
Section 9.305
Section 9.306
Section 9.307
Section 9.308
Section 9.309
Section 9.310

**DECISION PROCESS**

Basis for Decision
Form of Decision
Type of Decisions
Notification
Limited Land Use Review Procedures
Quasi-judicial Public Hearing Procedures
Legislative Public Hearing Procedures
Decision
Appeal Provisions
Revocation

**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 STRUCTURE OR ACCESSORY USE:** A structure or use incidental, appropriate and subordinate to the main use of property and located on the same lot as the main use.

**ADVERSE IMPACT:** An impact that is detrimental to or contrary to the desired effect or so opposed as to cause harmful interference. A negative effect that is detrimental to the public welfare or injurious to people, property or the community environment.

**ALLEY:** A public way which affords only a secondary means of access to property.

**ALTERATION:** Any change, addition or modification in construction or occupancy.

**BASEMENT:** A story partly or wholly underground. A basement shall be counted as a story for purposes of height measurement where more than one-half of its height is above the average



level of the adjoining ground.

**BED and BREAKFAST:** A dwelling where travelers are lodged for sleeping and dining purposes under the provisions of local or state law governing such facilities.

**BIKEWAY:** The general term for the four basic types of bikeways:

- (a) **Bikes lanes** are paved 5 to 6-foot wide designated lanes adjacent to (vehicle) travel lanes.
- (b) **Shoulder Bikeways** are where bicyclists travel within the roadway's paved shoulder. Typically, shoulder bikeways are four to six feet in width.
- (c) **Shared Roadways** are roadways where bicyclists and motor vehicles share the travel lane.
- (d) **Multi-Use Paths** are separated from vehicular traffic. They are two-way pathways about 10 feet wide used by pedestrians, bicyclists and joggers.

**BOARDING AND/OR ROOMING HOUSE:** A building where lodging, with or without meals, is provided for compensation, but shall not include Homes for the Aged, Nursing Homes or Group Care Homes.

**BUILDING:** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING HEIGHT:** The vertical distance from the average adjacent building grade to the highest point of the roof.

**BUILDING INSPECTOR:** An individual with duties and authority to enforce all building codes and the provisions of this Code in accordance with Section 9.209, Building Permits.

**BUILDING LINE:** A line on a plat or map indicating the limit, beyond which buildings or structures may not be erected. Also referred to as the Setback line, the area between the building or setback line and the property line is referred to as the "yard."

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

**CITY:** The City of Lowell, Oregon.

**CLINIC:** Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths, and other members of the healing arts, including a dispensary in each such building to handle only merchandise of a nature customarily prescribed by occupants in connection with their practices.

**CLINIC, SMALL ANIMAL:** A business establishment in which veterinary services are rendered to small domestic pets on an out-patient.

**CLUB:** A facility owned or operated for a social, educational, or recreational purpose, to which membership is required for participation and which is neither operated primarily for profit nor to render a service which is customarily carried on by a business.

**COMMUNITY CENTER:** A facility owned and operated by a governmental agency or a non-profit community organization which is open to any resident of the neighborhood in which the facility is located or to any resident of the City or surrounding area, provided that the primary purpose of the facility is for assembly, and provided further that no permanent or temporary commercial eating or drinking facilities shall be operated on the premises.

**COMMUNITY SEPTIC SYSTEM:** A sewage treatment and disposal system serving two or more dwelling units.

**COMPREHENSIVE PLAN:** A city plan for the guidance of growth and improvement of the City, including modifications or refinements which may be made from time to time.

**COUNCIL:** The City Council of the City of Lowell, Oregon, which is the governing body of said City.

**DAY NURSERY/DAY CARE CENTER:** Any institution, establishment or place, including nursery schools or private kindergartens, in which children are commonly cared for.

**DECIDING AUTHORITY:** The City Administrator, City Planning Commission or City Council, which ever is responsible for making a decision on an application.

**DLCD:** Department of Land Conservation and Development.

**DWELLING** A building or portion thereof, which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one (1) or more families.

**DWELLING, MULTI-FAMILY (APARTMENT):** A building or portion thereof designated for occupancy by three (3) or more families living independently of each other, with the number of families in residence not exceeding the number of dwelling units provided.

**DWELLING, SINGLE-FAMILY:** A detached building, other than a recreational vehicle, designed for and occupied by not more than one family.

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

**DWELLING UNIT:** A single unit providing complete independent living facilities, designed for occupancy by one (1) family, and including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT:** A grant of the right to land for specific purposes without ownership.

**FACT:** Something that has actual existence, an actual occurrence or a piece of information presented as having objective reality. In the Land Use Hearing Process, facts are the information

submitted as evidence that is relied upon in making a decision on a land use issue. The justification for the decision shall be based on the criteria, standards and facts set forth in the hearing.

**FENCE, SIGHT-OBSCURING:** A continuous fence, wall, evergreen planting or combination thereof, constructed and/or planted so as to effectively screen the particular use from view.

**FLOOR AREA:** The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the vertical projection of the roof or floor above.

**GARAGE, PRIVATE:** A fully enclosed detached accessory building or a fully enclosed portion of the main building for the parking of automobiles of the occupants of the premises.

**GARAGE, PUBLIC:** A building other than a private garage used for the care, repair, parking or storage of automobiles.

**GRADE (GROUND LEVEL):** The average elevation of the finished ground level at the centers of all walls of a building.

**HOME OCCUPATION:** A lawful occupation carried on by a resident of a dwelling, where the occupation is secondary to the main use of the property as a residence provided the use does not alter the character of the dwelling, there is no exterior display of stock and no employees other than family members.

**HOTEL/MOTEL:** A building or group of buildings used for transient lodging containing more than 5 guest rooms without guest room cooking facilities used primarily for sleeping purposes. On-site restaurant facilities may also be provided.

**LCDC:** Land Conservation and Development Commission.

**LOADING SPACE:** An off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**LOT (PARCEL):** A unit of land that is created by a legal division of land.

**MANUFACTURED DWELLING:** A structure transportable in one or more sections, each built on a permanent chassis, and which is designed to be used for permanent occupancy as a dwelling and is not designated as a "recreational vehicle" or prefabricated structure as defined by the State or Oregon.

**NEIGHBORHOOD ACTIVITY CENTERS:** Schools, parks, and other like sites.

**NONCONFORMING STRUCTURE LOT OR USE:** A lawful existing structure, lot, or use,

at the time this Code, or any amendment thereto, becomes effective which does not conform to the standards of the zone or district in which it is located.

**OCCUPANCY:** The purpose for which a building, or part of a building, is used or intended to be used.

**OWNER:** An individual, association, partnership, or corporation having legal or equitable title to land, other than legal title held for purpose of security only.

**PARCEL:** See LOT.

**PARKING SPACE:** An off-street enclosed or unenclosed surfaced area of not less than 180 square feet, not less 8 feet wide and 18 feet in length, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street by a surfaced driveway which affords ingress and egress for automobiles.

**PARTITION:** Either an act of partitioning land or an area or tract of land partitioned.

**PARTITION LAND:** To divide land into two or three parcels of land within a calendar year, but does not include:

- (a) A divisions of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning Code.
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan.

**PEDESTRIAN CONNECTION:** A continuous, unobstructed, reasonably direct route intended and suitable for pedestrian use between two points. Pedestrian connections include but are not limited to sidewalks, walkways, accessways, stairways and pedestrian bridges.

**PEDESTRIAN WAY:** A right-of-way for pedestrian traffic.

**PLANNING COMMISSION:** The Planning Commission of the City of Lowell.

**PLAT:** A final subdivision plat, replat or partition plat.

- (a) **Partition Plat:** A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
- (b) **Subdivision Plat:** A final map and other writing containing all the descriptions, locations,

specifications, dedications, provisions and information concerning a subdivision.

- (c) **Replat:** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**PROFESSIONAL OFFICE:** An office occupied by doctors, dentists, accountants, attorneys, optometrists, architects, professional engineers or surveyors or persons engaged in similar occupations.

**PROPERTY:** A lot or parcel, or a single unit of land which, at the time of application for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control.

- (a) **Corner Property:** A lot or parcel at least two adjacent sides of which abut streets other than alleys, provided the angle of intersection of the adjacent streets does not exceed 135°.
- (b) **Through Property:** A lot or parcel having frontage on two parallel or approximately parallel streets other than alleys.
- (c) **Panhandle Property:** A lot or parcel which has access to a right-of-way by means of a narrow strip of land which is part of that parcel.

**PROPERTY LINE:** The legal boundary of a lot or parcel. The division line between two units of land.

- (a) **Front Property Line:** The lot or parcel line separating the property from a street other than an alley, and in the case of a corner property, the shortest property line along a street other than an alley.
- (b) **Rear Property Line:** The lot or parcel line which is opposite and most distant from the front property line.
- (c) **Side Property Line:** Any lot or parcel line not a front or rear property line.

**PROPERTY WIDTH:** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

**PROPERTY LINE ADJUSTMENT:** The relocation of a common property line between two abutting properties.

**PUBLIC AND SEMI-PUBLIC BUILDING OR USE:** A building or use, owned or operated by a religious, charitable, or other nonprofit organization; a public utility; or any social agency such as a church, school, auditorium, meeting hall, library, art gallery, museum, fire station, cemetery, park, playground, community center or similar use.

**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, structures 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.

**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.**

**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.
- (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.

**SECTION 9.512 COMMERCIAL & INDUSTRIAL SETBACKS**

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

**SECTION 9.513          PARKING**

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

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

- (8) All off-street parking areas within or abutting residential districts or uses shall be provided with a sight-obscuring fence, wall or hedge as approved by the City to minimize disturbances to adjacent residents.
- (b) Location Standards for Parking Lots:
- (1) Required off-street parking shall be provided on the development site unless a Variance is approved by the City 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 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**

<u>USE</u>	<u>SPACE REQUIREMENT</u>								
<b>(a) Residential</b>									
(1) One and two family dwellings	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">Studio</td> <td>Space for one car per unit</td> </tr> <tr> <td>1 Bedroom</td> <td>Space for one car per unit</td> </tr> <tr> <td>2 Bedroom</td> <td>Space for two cars per unit</td> </tr> <tr> <td>3+ Bedroom</td> <td>Space for two cars per unit</td> </tr> </table>	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
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	1.5 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>(b) Institutional</b>									
(1) Convalescent hospital, nursing home, sanitarium rest home, home for the aged	One space per three beds for patients or residents								
<b>(c) Place of Public Assembly</b>									
(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,	Two spaces per teacher								

## kindergarten

- |     |  |  |
|-----|--|--|
| (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) | <b>Commercial</b>  |  |
| (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) | <b>Industrial</b>  |  |
| (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) | <b>Unspecified Uses</b>  | 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 width of 16 feet, of which 12 foot must be paved, except where the City has approved an access to multiple lots sharing the same access in which case the total 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 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.

**SECTION 9.517            STREETS**

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

- (g) **Alignment:** As far as is practicable, streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 260 feet between the center lines of streets having approximately the same direction.
- (h) **Future Extensions of Streets:** Where necessary to give access to or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary of the subdivisions or partition 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.
- (l) **Cul-de-sacs:** A cul-de-sac should have a maximum length of 500 feet but may be longer where unusual circumstances exist. A cul-de-sac shall terminate with a circular or hammerhead turn-around.
- (m) **Street Names:** Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names and numbers shall conform to the established pattern in the City and shall be subject to the approval of the City.
- (n) **Street Name Signs:** Street name signs shall be installed at all street intersections to City standards.
- (o) **Street Lights:** Street lights shall be installed to City standards and shall be served from an underground utility.
- (p) **Traffic Signs/Signals:** Where a proposed intersection will result in the need for street signals to serve the increased traffic generated by the proposed development, they shall be provided by the developer or land divider and the costs shall be born by the developer or land divider unless an equitable means of cost distribution is approved by the City.



- (q) **Private Streets:** Private streets are permitted within Planned Developments, Manufactured Home Parks, singularly owned developments of sufficient size to warrant interior circulation on private streets or on small developments where integration into the public road system is impractical. Design standards shall be the same as those required for public streets unless approved otherwise by the City. The City shall require verification of legal requirements for the continued maintenance of private streets.
- (r) **Mail Boxes:** Provisions for mail boxes shall be provided in all residential developments where mail service is provided. Mail box structures shall be placed as recommended by the Post Office having jurisdiction and shall be noted on the plan.
- (s) **Clear Vision Areas:** In all districts a clear vision area shall be maintained at the corners of all property located at the intersection of two streets or a street-alley. A clear vision area shall also be maintained at all driveways intersecting a street. **See Figure 9.5-2**
  - (1) All properties shall maintain a clear triangular area at street intersections, alley-street intersections and driveway-street intersections for safety vision purposes. The two sides of the triangular area shall be 15 feet in length along the edge of roadway at all street intersections and 10 feet in length at all alley-street intersections and driveway-street intersections. Where streets intersect at less than 30 degrees, the triangular sides shall be increased to 25 feet in length. The third side of the triangle shall be a line connecting the two exterior sides.
  - (2) A clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstruction exceeding 3 feet in height, measured from the top of the curb, or, where no curb exists, from the established street center line grade. Trees exceeding this height may be located in this area, provided all branches or foliage are removed to a height of 8 feet above grade.

#### SECTION 9.518            SIDEWALKS

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

- (a) Sidewalks shall be constructed within the street right-of-way. Sidewalk easements shall only be accepted where the City determines that full right-of-way acquisition is impractical.
- (b) Sidewalks shall connect to and align with existing sidewalks. Sidewalks may transition to another alignment as part of the approval process.

- (c) The City may approve alternate sidewalk alignments and widths to accommodate obstructions that cannot be altered.
- (d) Sidewalks in residential areas shall be a minimum of five (5) feet in width and shall be installed adjacent to the curb unless a planter strip of at least four (4) feet in width is approved adjacent to the curb where sufficient right-of-way is available.
- (e) Sidewalks adjacent to Major Collector or Arterial Streets are required and shall be a minimum of five (5) feet in width separated by a planter strip of five (5) feet in width adjacent to the curb. Sidewalks may be approved adjacent to the curb where direct access is required. Sidewalks adjacent to the curb shall be a minimum of seven (7) feet in width or a minimum of ten (10) feet in width adjacent to Commercial properties. Planter openings adjacent to the curb are encouraged within the ten (10) foot wide walks.
- (f) Planter strips and the remaining right-of-way shall be landscaped and incorporated as part of the front yard of adjacent property.
- (g) Mid-block Sidewalks. The City may require mid-block sidewalks for long blocks or to provide access to schools, parks shopping centers, public transportation stops or other community services. Mid-block sidewalks shall be raised and shall be 6 feet in width.
- (h) Internal pedestrian circulation shall be provided within new office parks and commercial developments by clustering buildings and construction of accessways.

#### **SECTION 9.519           BIKEWAYS**

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

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

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

- (a) General Provisions. It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except as a part of an approved drainage plan. Paving, roof\_drains and catch basin outflows may require detention ponds or cells and discharge permits. Maintaining proper drainage is a continuing obligation of the property owner. The City will approve a development request only where adequate provisions for storm and flood water run-off have been made

as determined by the City. The storm water drainage system must be separate and independent of any sanitary sewerage system. Inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development plan submitted for approval. All proposed drainage systems must be approved by the City as part of the review and approval process.

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

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

#### **SECTION 9.521 WATER**

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

- (d) **Water Plan Approval.** All proposed plans for extension and installation of the public water system must be approved by the City as part of the tentative plan review and approval process.
- (e) **Restriction of Development.** The Planning Commission or City Council may limit or deny development approvals where a deficiency exists in the water system or portion thereof which will not be corrected as a part of the proposed development improvements.

#### **SECTION 9.522            SANITARY SEWER**

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

#### **SECTION 9.523            UTILITIES**

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

**SECTION 9.524 EASEMENTS**

- (a) Easements granting limited use of property for any defined purpose may be approved for any lot or parcel.
- (b) Access easements may be approved by the City as provided in **Section 9.516**. The Planning Commission or City Council may require wider access easements if special circumstances exist.
- (c) Utility easements shall be provided for sewers, water mains and public or private utilities necessary to provide full service to all developments. Land dividers shall show on the Tentative Plan and on the final Plat all easements and shall provide all dedications, covenants, conditions or restrictions with the Supplemental Data submitted for review. Minimum interior utility easements shall be 10 feet wide centered on lot or parcel lines where feasible. A wider easement may be required if multiple utilities will be utilizing the same easement or if topography dictates otherwise. An exterior utility easement adjacent to the public right-of-way will be required if at least five feet of unimproved public right-of-way is not available.
- (d) Water Courses. If a tract is traversed by a water course such as a drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way containing the top of bank, vegetative fringe, and such further width as will be adequate for protection and maintenance purposes. Culverts or other drainage facilities shall be sized to accommodate storm and flood run-off from the entire upstream drainage area at full build out and shall be verified and approved by the City.

**SECTION 9.525 BLOCKS**

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

- (d) **Traffic Circulation:** Blocks shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers, commercial areas, and industrial areas; and to provide safe convenient and direct traffic circulation.

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

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

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

#### **SECTION 9.527 GRADING**

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

- (a) Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.
- (b) Fill slopes shall not exceed two feet horizontally to one foot vertically.

- (c) The type and characteristics of imported fill soils shall be the same or compatible with the existing soils on the site.
- (d) Fills for streets and building sites shall be engineered and approved by the City.
- (e) All sites shall be graded to direct storm water to City storm sewers or to natural drainage ways.

#### **SECTION 9.528 LANDSCAPING**

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

(a) **General Provisions.**

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

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

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

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

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



(c) **Fences:**

- (1) Residential fences, hedges and walls may be located within yard setbacks. Height is limited to 6 feet in required side, rear or interior yards, 3 feet in any required front yard or 4 feet if the top 1 foot of the fence is 75% open, and 3 feet in height in a Vision Clearance Area. Commercial or industrial properties may have 8 foot high fences except in a street facing front yard setback.
- (2) Materials. Residential fences and walls shall not be constructed of or contain any material which would do bodily harm such as electric, barbed or razor wire, broken glass, spikes, or any other hazardous or dangerous materials. Commercial or industrial properties may have barbed wire at the top of fences over 6 feet in height .
- (3) Sight-obscuring fences, walls or landscaping may be required to screen objectionable activities as part of the City's review and approval process. Sight-obscuring means 75% opaque when viewed from any angle at a point 25 feet away. Vegetative materials must be evergreen species that meet this standard year-round within 3 years of planting.
- (4) Maintenance. Fences shall be structurally maintained in a safe condition of repair and shall not lean over an adjoining property or sidewalk, have missing sections or slats, or broken supports.

(d) **Parking Areas:**

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

(e) **Service Facilities:**

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

**SECTION 9.529 EXTERIOR LIGHTING**

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

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

#### **SECTION 9.530 SIGNS**

##### **(a) General Sign Provisions:**

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

##### **(b) Perimeter Street Signs:**

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

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

**(3) Building Signs:**

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

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

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

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

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

**ARTICLE 9.6 SPECIAL DEVELOPMENT STANDARDS****SECTION 9.601 SPECIAL DEVELOPMENT STANDARDS, GENERAL.**

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

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

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

**SECTION 9.610 WETLANDS DEVELOPMENT STANDARDS.**

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

- (a) **Regulation.** Development within wetlands is prohibited unless replacement or enhancement mitigation is accepted by the regulatory agencies. The Oregon Division of State Lands (DSL) is the coordinating agency for wetland permits. The US Army Corp of Engineers (Corps) is the federal regulatory agency administering Section 404 of the National Clean Waters Act. There are also other state and federal coordinating agencies including DLCDC.
- (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 Corps of Engineers.**

**SECTION 9.621 PURPOSE.**

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

**SECTION 9.622 GENERAL PROVISIONS.**

- (a) This Section shall apply to all areas of special flood hazards within the jurisdiction of the City of Lowell. The degree of flood protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Code shall not create liability on the part of the City of Lowell, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Code or any administrative decision lawfully made thereunder.
- (b) The areas of special flood hazard identified by the Flood Insurance Study for Lane County and incorporated areas and the Flood Insurance Rate Map (FIRM) Number 41039C1695 F, dated June 2, 1999, and any revision thereto, are adopted by reference and declared to be a part of this Code.
- (c) New development, including the construction of dwelling units and other structures, is not allowed on undeveloped properties within the 100 year floodplain as identified on FIRM, or as may be established on subsequent updates unless no practicable, non-floodplain sites are available. The burden of proof that such sites are not available rests with an applicant. A finding that no practicable, non-floodplain sites are available must be approved by the City Council to allow floodplain development.
- (d) Exception to (c) above: New development of recreational facilities and commercial facilities along the shores of Dexter Reservoir under the control of the US Army Corps of Engineers for which a permit has been issued by the Corps, may be permitted conditional upon such development meeting the requirements of this section.
- (e) Additional development and redevelopment of currently developed lots within the floodplain is permitted conditional upon such development meeting the requirements of this section.
- (f) A Development Permit shall be required before construction or development begins within designated 100 year floodplain. The permit shall apply to all structures including manufactured dwellings and all other development including fill and other activities. The following additional information shall be submitted:
  - (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
  - (2) Elevation in relation to mean sea level to which any structure has been floodproofed.

- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the flood hazard development standards of this Section.
  - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (g) The City Administrator is the Permit issuing authority. The issuing authority shall:
- (1) Determine that the requirements of this Code have been satisfied.
  - (2) Determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  - (3) Review all development proposals to determine if proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this Code, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
    - A. If it is determined that there is no adverse effect, then the proposal shall be granted consistent with provisions of this Code without further consideration of these effects.
    - B. If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
  - (4) When base flood elevation data has not been provided, the City Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer this Section.
  - (5) Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of **Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76)**.
  - (6) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - (7) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - (8) Information to be obtained and maintained:
    - A. Where base flood elevation data is provided through the Flood Insurance Study, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
    - B. For all new or substantially improved floodproofed structures:



1. Verify and record the actual elevation (in relation to mean sea level), and;
  2. Maintain the floodproofing certifications required in Section 4.1 (3) of the NFIP.
- C. Maintain for public inspection all records pertaining to the provisions of this Code.
- (g) In approving or disapproving a Flood Hazard development proposal, the deciding authority shall also consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and:
- (1) The danger that materials may be swept onto other lands to the injury of others.
  - (2) The danger to life and property due to flooding or erosion damage.
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (4) The importance of the services provided by the proposed facility to the community.
  - (5) The necessity to the facility of a waterfront location, where applicable.
  - (6) The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage.
  - (7) The compatibility of the proposed use with existing and anticipated development.
  - (8) The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area.
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (h) Flood Hazard Development Permit Fee Established.
- (1) The City, by resolution, will establish fees for application and issue of floodplain and floodway development permits.
  - (2) If any development activity occurs prior to issuing a permit under this section, the fee for approval of the permit, after the fact, will be five (5) times the normal cost of the permit as established by resolution. If a permit is not subsequently issued, the property owner is responsible, in addition to the permit fee, for all costs to remove the development. If not approved, the development must be removed within 90 days of the date of notice of disapproval.

**SECTION 9.623 FLOOD HAZARD DEVELOPMENT STANDARDS.**

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

- (a) Anchoring
  - (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - (2) All manufactured dwellings must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Dwelling Installation in Flood Hazard Areas" guidebook for additional techniques).
- (b) Construction materials and methods
  - (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (3) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (c) Utilities
  - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate Infiltration of flood waters into the systems and discharge from the systems into flood waters.
  - (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (d) Subdivision proposals
  - (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
  - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development.

(e) Review of building permits

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

(f) Residential construction

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

(g) Nonresidential construction

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

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their

- development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Turner Planning Commission.
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 5.2-1(2) of the NFIP.
  - (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

(h) Manufactured dwellings

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

(i) Recreational Vehicles

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

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

(j) Placing Fill in the Floodplain

- (1) Placing any amount of fill material within the floodplain or floodway in a manner that would alter the direction of stormwater flow or otherwise divert stormwater from its normal course requires review a flood hazard development permit.
- (2) Notwithstanding subsection (1) above, placement of up to 50 cubic yards of fill, either temporarily or permanently, is allowed without a City permit if such fill just raises the land surface without diverting or altering flow but may require permits from other agencies. If there is any question as to impact on stormwater flow, subsection (1) above applies.
- (3) A fill permit application will not be processed without a full explanation of the purpose of the fill, The maximum quantity of fill to be placed, the exact location of the proposed fill, and submission of a certificate by a registered professional engineer or registered architect demonstrating that the proposed

fill will not increase flood levels during the occurrence of a base flood discharge or otherwise negatively impact the property of others.

(k) Floodways

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

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

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

**SECTION 9.624 FLOOD HAZARD DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

**Start Of Construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of

excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Structure** means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

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

- (1) Before the improvement or repair is started, or
- (2) If the structure has been damaged or is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety codes.
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**SECTIONS 9.625 through 9.629 reserved for expansion.**

**SECTION 9.630 HILLSIDE DEVELOPMENT**

The purpose of this Section is to provide standards governing development of hillside land within the City to alleviate harmful and damaging effects of on-site erosion, sedimentation, runoff, access issues and to regulate the effects of excavation and grading on hillsides.

**SECTION 9.631 SCOPE.**

This Section shall apply to all areas of the City where the slope of the land is 15 percent or greater. In all areas of the City, concurrent with application for a building permit, excavation or fill permit or land division, the applicant shall provide elevation data adequate to determine slope characteristics of the property or portions thereof being developed. If the City determines that the property does have areas of 15 percent slope or greater, then the proposed development shall, in addition to other applicable City ordinances, rules and regulations, also be reviewed for compliance with the requirements of Sections 9.630 through 9.635.

**SECTION 9.632 HILLSIDE DEVELOPMENT STANDARDS**

- (a) General grading. Any grading performed within the boundaries of a hillside development shall be kept to a minimum and shall take into account the environmental characteristics of that property, including but not limited to prominent geological features, existing streambeds, drainage ways, and vegetative cover.
- (b) Slope stability. Potential slope instability problems such as slip planes, clay layers and dome-shaped bedrock shall be identified. Mitigation measures sufficient to render these areas safe for structures and infrastructure development shall be applied.
- (c) Building sites. Building sites shall be designed to minimize the need to alter the natural grade during construction of individual buildings. Mass pad grading or continuous terracing of building sites is not allowed. Lot development plans must demonstrate that the lot is large enough to safely accommodate both the planned structure(s) and the needed cuts and/or fills.
- (d) Retaining walls. Especially on cutbanks, retaining structures are preferred in lieu of larger excavations to minimize the amount of disturbed area. Retaining walls over 4 feet high shall be engineered. Smaller walls shall be constructed in conformance with the soils and geology report recommendations and the engineer's plans. Designs for retaining structures shall give consideration to aesthetics and shall use mitigations such as terracing and/or landscaping plants to reduce the structures' apparent height and mass.
- (e) Cut and Fill Standards.
- (1) All cut and fill slopes generally must not exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (i.e. 1:1/2 or 1:1) may be conditionally



approved by the City upon certification, by a qualified engineer that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the engineer.

(2) Cuts and fills shall be designed to avoid movement or episodic erosion during heavy rains or earthquakes, mechanical overloading of underlying soils and undercutting of adjacent areas. Fills shall be benched as required to provide a proper bond with the existing terrain.

(3) Unless proven otherwise by specific soils information to the contrary, cuts shall be presumed to be incapable of revegetation without special treatments, such as importation and retention of topsoil. Plans must be submitted for all cuts in excess of 2 feet deep, showing either a covering for the cut, such as stonework, or a revegetation plan that does not rely on the ability of the exposed subsoil to support plant growth.

(f) Revegetation. Earthwork shall be designed so that all disturbed areas will be restored to have at least 6" of topsoil. Revegetation of projects exposing soil shall be aggressively pursued so that bare ground will not be unnecessarily exposed to the weather between November 1 and May 30. Construction schedules shall be drawn up to limit the period of time that soil is exposed and unprotected. The existing vegetative ground cover should not be destroyed, removed, or disturbed more than 15 days prior to grading or construction of required improvements. Soil exposed during the removal or significant disturbance of ground cover vegetation shall be built upon (i.e. covered with gravel, a slab, foundation or other construction), landscaped (i.e. seeded or planted with ground cover) or otherwise protected within 15 days of grading or other pre-development activity. Provided, however, that these restrictions do not apply during the months of June, July, August and September.

(g) Modification of Public Street Standards. Street width, grade and alignment, right-of-way width, and sidewalks in hillside areas shall be designed to minimize changes to existing topography and provide adequate access to adjacent properties. Cuts and fills in excess of four feet deep shall be considered significant and should be avoided where feasible. Modifications to established standards, if necessary to meet these requirements, shall be made as provided below.

(1) Street grades may exceed the maximum grade standards of the Lowell *Standards for Public Improvements* where topographical conditions make it impractical to meet those standards, subject to the following conditions:

A. Driveways and intersections shall not be permitted where street grades exceed 15 percent.

B. Street grades of over 15 percent shall not be permitted for a distance of more than 200 feet in any 600 foot long section of street.

C. Street grades shall not exceed 20 percent for any distance.

(2) Requirements specified in the Lowell *Standards for Public Improvements* for public right-of-way width, pavement width, and/or installation of sidewalk may be modified where topographical conditions make it impractical to meet those standards, subject to the following conditions:

A. Reduction in public right-of-way width may be made if the proposed right-of-way is large enough to accommodate the street and sidewalk(s), and 5-foot public utility easement is provided on each side of the right-of-way and slope easement is provided where required.

B. Reduction in pavement width to 21 feet may be made for access lanes with less than 250 vehicle trips per day, that are not dead-end, and that will be no parking on one side. For not more than one 200 foot section of street per block, any road may be reduced to 20 feet if the road is not dead-end, will be no parking on both sides along the narrowed portion, and if at least one parking space is provided for each lot taking driveway access from the narrowed portion; said parking shall be within 200 feet of the driveway access. On all other roadways, the City Council may allow the above described pavement width reductions only after consultation with the City Engineer and the local fire official, and upon a finding that the proposed width will provide adequate parking and emergency vehicle access. All no parking areas shall be signed and curbs shall be painted yellow.

C. All sidewalks shall be a minimum of 5 feet wide. All streets shall have vertical curbs adjacent to sidewalks. For short distances, street-side sidewalks may be relocated to an off-street location that will provide equivalent service, conditional upon right-of-way being available or public access easements being provided. Sidewalks may be approved for only one side of the street for access lanes with less than 250 vehicle trips per day. On all other roadways, the City Council may allow sidewalks on only one side upon a finding that a single sidewalk will provide adequate pedestrian safety

(3) The City may require modification of street improvement construction standards for any portion of proposed street improvements being constructed in areas of special concern identified in the Soils and Geology Report.

(h) Storm Drainage. In addition to City-wide storm drainage system development standards contained in **Section 9.520**, hillside storm drainage systems shall be designed to:

- (1) Protect cuts, fills, roadways, retaining walls and structures from saturation, slope failure and settling.
- (2) To anticipate and mitigate the rapid movement of debris into catch basins, and storm water flows bypassing catch basins.
- (3) Insure that concentrated storm water is disposed of in a controlled manner does not create significant erosion or adverse effects on downhill properties.

(i) Preservation of Trees and Existing Vegetation. Construction shall be done in a manner that avoids unnecessary disruption to vegetation and trees. Temporary protective fencing shall be established around all trees designated for protection prior to the commencement of grading or other soil disturbance. Grade changes and trenching shall

not be made within 5 feet of the dripline of such trees without written concurrence from an arborist that such changes will not cause permanent damage to the tree.

#### **SECTION 9.633 SUBMISSION REQUIREMENTS FOR LAND DIVISIONS.**

When land division application is submitted in which all or a portion of the development contain slopes which are 15% or greater, the following additional reports and plans shall be submitted:

(a) Surveyor's Report. A scale drawing of the property prepared by a licensed surveyor, showing existing topography at two-foot contour intervals, watercourses both permanent and intermittent, and natural physical features such as rock outcroppings, springs and wetlands. Also show the location and dimensions of any existing buildings or structures on the property where the work is to be performed, the location of existing buildings or structures on land of adjacent owners that are within 100 feet of the property.

(b) Soils and Geology Report. This report shall be prepared by a suitably experienced and qualified licensed engineering geologist or geotechnical engineer, and shall include the following for each proposed lot and for public right-of-way areas proposed for development which have slopes greater than 15%:

(1) Data regarding the subsurface condition of the whole site such as the nature, depth and strength of existing soils, depth to bedrock, location of soft soils, hard stratum, potential slip planes, geological weak zones, clay seams or layers, unconsolidated deposits, and previous grading activities. The report shall also address existing water tables, springs, watercourses and drainage patterns, seismic considerations, and any offsite geologic features or conditions that could impact or be impacted by onsite development. Locations of exploratory boreholes shall take into consideration the terrain and geology of the site instead of following a general grid pattern.

(2) Conclusions and recommendations regarding the stability of underlying slopes and of proposed cuts and fills, any remedial or preventative actions that are required, any limitations upon the use of the site, grading procedures, requirements for vegetation preservation and revegetation, special coverings or treatments for areas that cannot be readily revegetated, erosion control methods, drainage systems, setbacks from slopes or other geologic features, foundation and building design, and backfills.

(c) Engineer's Plans. Detailed plans shall be prepared for all proposed public improvements by a suitably qualified licensed civil engineer. Detailed plans for private development on each parcel may also be provided and if provided, will be accepted as required building permit submittals. These plans shall be based upon the findings of the required soils and geology report, and shall include the following information:

(1) Infrastructure Plan. A scale drawing plan showing the location and approximate grade of all proposed streets, walkways and alleys, and the location

of proposed easements, lots, common areas, parks, open space and other land proposed for dedication to the City. Also indicate the locations of utilities such as sewer and water lines.

(2) **Grading Plan.** A scale drawing grading plan of the property, showing existing and proposed finished grades at two-foot contour intervals, retaining walls or other slope stabilization measures, cuts and fills, and all other proposed changes to the natural grade. Include cross-sectional diagrams of typical cuts and fills, drawn to scale and indicating depth, extent and approximate volume, and indicating whether and to what extent there will be a net increase or loss of soil.

(3) **Drainage Plan.** Detailed plans and locations of all proposed surface and subsurface drainage devices, catch basins, area drains, dewatering provisions, drainage channels, dams, sediment basins, storage reservoirs, and other protective devices together with a map showing drainage areas, the complete drainage network, including outfall lines and natural drainageways which may be affected by the proposed development, and the estimated run-off of the area(s) served by the drains.

(4) **Erosion Control Plan.** Descriptions and/or drawings of proposed changes to soils and/or existing vegetation on the site; specific methods proposed to restore disturbed topsoil, minimize the identified potential erosion problems, and revegetate areas which will be stripped of existing vegetation; and a schedule showing when each stage of the project will be started and completed, including the total area of soil surface which is to be disturbed during each stage and the length of time soils will be left exposed.

(5) **Affidavit.** The authoring engineer shall include a statement that the plans are consistent with the soils and geology report required by this Section, and with the standards of Section 9.632.

(d) One copy of each individual lot survey, geotechnical report and development engineering plans submitted and approved with the tentative plan shall be filed with the City at the time of submission of the final plat and one copy shall be provided to the purchaser of the individual lot.

#### **SECTION 9.634 SUBMISSION REQUIREMENTS FOR BUILDING PERMITS.**

The requirements of this shall section apply to all submissions for building permits and for excavation and grading permits applied for separately from a building permit.

(a) **Surveyor's Report.** A scale drawing of the property prepared by a licensed surveyor, showing existing topography at two-foot contour intervals, watercourses both permanent and intermittent, and natural physical features such as rock outcroppings, springs and wetlands. This information is in addition to required development site plan submittal requirements.

(b) **Soils and Geology Report.** This report shall be prepared by a suitably experienced and qualified licensed engineering geologist or geotechnical engineer, and shall include the following for areas to be developed having 15% or greater:

(1) Data regarding the subsurface condition of the site such as the nature, depth and strength of existing soils, depth to bedrock, location of soft soils, hard stratum, potential slip planes, geological weak zones, clay seams or layers, unconsolidated deposits, and previous grading activities. The report shall also address existing water tables, springs, watercourses and drainage patterns, seismic considerations, and any offsite geologic features or conditions that could impact or be impacted by onsite development.

(2) Conclusions and recommendations regarding the stability of underlying slopes and of proposed cuts and fills, any remedial or preventative actions that are required, any limitations upon the use of the site, grading procedures, requirements for vegetation preservation and revegetation, special coverings or treatments for areas that cannot be readily revegetated, erosion control methods, drainage systems, setbacks from slopes or other geologic features, foundation and building design, and backfills.

(c) Blueprints. Detailed plans shall be prepared for all proposed development on the lot. These plans shall become part of the working drawings 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 the existing and proposed grades, across the entire length of the structure all the way to the property lines on each side.

(5) Trees. Location of any trees to be retained and the location of protective fencing to be installed prior to construction shall be shown.

(6) Special Inspections. If any special soils or foundation inspections are required, this shall be noted on the plans.

(7) Affidavit. The authoring engineer shall include a statement that the plans are consistent with the soils and geology report required by this Section, with standards of **Section 9.632** and with any conditions of approval for the underlying development.

**SECTION 9.635 APPROVAL PROCESS AND AUTHORITY.**

(a) Land Divisions. For land divisions, review and approval under this Section shall be undertaken as a part of the land division development approval process in accordance with **Sections 2.320 through 2.340.**

(b) Building Permits. Submissions for Building Permits subject to requirements of **Section 9.634** shall be reviewed by the City and approved by the City Administrator.

(c) Excavation and Fill Permits. Submissions for excavations or fills of greater than 50 cubic yards on property subject to hillside development standards and requiring submissions in accordance with **Section 9.634** will be reviewed by the City and approved by the City Administrator.

**SECTION 9.636 FEES AUTHORIZED.**

The City Council, by Resolution, may establish a fee for review and approval of hillside development applications.

(a) For land divisions, the fee shall be per lot for every lot containing any slopes which are 15% or greater and shall be in addition to the land division application fee.

(b) For building and excavation and fill permits requiring review and approval by the City, a flat fee shall be established that is in addition to the established building permit fee schedule.

(c) Fees shall be set no higher than the cost for paid and contracted staff to review and approve the submittals and reasonable overhead.

**SECTIONS 9.637 through 9.699 reserved for expansion.**

**ARTICLE 9.7 USE STANDARDS****SECTION 9.701 USE STANDARDS**

In addition to the Development Standards specified in **Articles 9.5 and 9.6**, there are also uses that may occur in more than one district. The following Sections specify development standards applicable to specialized uses within the City of Lowell.

**SECTION 9.702 HOME OCCUPATION STANDARDS**

A Home Occupation is a Conditional Use for any single-family home and must comply with the Conditional Use provisions of **Section 9.251** and the following additional standards:

- (a) The home occupation shall be secondary to the main use of the dwelling as a residence.
- (b) All aspects of the home occupation shall be contained and conducted within a completely enclosed building.
- (c) The home occupation shall be limited to either a pre-existing garage or accessory structure, or not over 25% of the living area of the dwelling. If located within an accessory structure or a garage, the home occupation shall not utilize over 500 square feet of floor area.
- (d) No structural alteration, except the provision of an additional entrance, shall be permitted to accommodate the home occupation. Such structural alteration shall not detract from the outward appearance of the property as a residential use.
- (e) No persons other than those residing within the dwelling shall be engaged in the home occupation unless approved by the Planning Commission.
- (f) No window display or sample commodities displayed outside the dwelling shall be allowed.
- (g) No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or any other factor.
- (h) No parking of customer vehicles in a manner or frequency that would cause disturbance or inconvenience to nearby residents or that would necessitate the provision of additional off-street parking shall be allowed.
- (i) No signs shall be permitted except for a single name plate not to exceed 1.5 square feet in area.

**SECTION 9.703 BED AND BREAKFAST STANDARDS.**

A Bed and Breakfast is a Conditional Use for any single-family home and must comply with the Conditional Use provisions of **Section 9.251** and the following additional

## standards:

- (a) That all residences used for Bed and Breakfasts be either business-owner occupied or the business-owner must reside adjacent to the Bed and Breakfast. The business-owner shall be required to reside on or immediately adjacent to the property to the property occupied by the Bed and Breakfast, and occupancy shall be determined as the Bed and Breakfast or adjacent dwelling location being the primary residence of the owner during the operation of the Bed and Breakfast. "Business-owner" shall be defined as a person or persons who own the property and Bed and Breakfast outright; or who have entered into a lease agreement with the property owner(s) allowing for the operation of the Bed and Breakfast. Such lease agreement to specifically state that the property owner is not involved in the day-to-day operation or financial management of the Bed and Breakfast, and that the business-owner is wholly responsible for all operations associated with the Bed and Breakfast, and has actual ownership of the business.
- (b) That no more than three (3) units (sleeping rooms) are provided on a daily basis or weekly period, not to exceed 14 consecutive days, for the use of travelers or transients for a charge or fee. Provision of a morning meal is customary as implied by this title.
- (c) That only one ground or wall sign, constructed of a non-plastic material, non-interior illuminated of 6 square feet maximum size be allowed. Any exterior illumination of signage shall be installed such that it does not directly illuminate any residential structures adjacent or nearby the Bed and Breakfast.
- (d) That each Bed and Breakfast until shall have one off-street parking space , and the owner occupant shall have two parking spaces. Off- street parking must comply with safety regulations in paragraph (i) of this section.
- (e) That the primary resident on site be at least 21 years old.
- (f) The primary residence may be altered or adapted for Bed and Breakfast use, including expansion of floor area. Additional structures may be allowed to accommodate additional units, but must be in conformance with all setbacks and lot coverage of the underlying zone.
- (g) Transfer of business ownership of a Bed and Breakfast shall be subject to all requirements of this Section, and subject to Conditional Use Permit approval and conformance with the criteria of this Section. All Bed and Breakfasts receiving their initial approvals prior to the effective date of adoption of this code section shall be considered as approved, conforming uses, with all previous approvals, conditions and requirements remaining in effect upon the change of business ownership. Any further modifications beyond the existing approvals shall be in conformance with all requirements of this Section.
- (h) An annual inspection by the Lane County Health Department shall be conducted as required by the laws of Lane County or the State of Oregon.
- (i) Off-street parking, ingress and egress must meet the minimum requirements of the Lowell Fire District.



**SECTION 9.704 RESIDENTIAL CARE HOME STANDARDS**

A Residential Care Homes for 5 or less people and Group Child Care Homes for 12 or less children are a Permitted Use in a dwelling located within any residential district with the following additional standards:

- (a) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (b) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (c) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

**SECTION 9.705 RESIDENTIAL CARE FACILITY STANDARDS**

A Residential Care Facility other than a private residence for more than 12 children or for more than 5 adults is a Permitted Use in the Multi-family Residential District, R-3 and may be allowed in accordance with the Conditional Use provisions of **Section 9.251** in the Single-family Residential R-1 District with the following additional standards:

- (a) Access shall be from a designated arterial or collector street.
- (b) Requirements for front, rear, side and street side yards, for Care Facilities shall comply with the District standards in which the facility is located.
- (c) Additional landscaping, privacy fencing, buffers or other screening devices may be required to screen or protect the facility or adjacent properties.
- (d) Outdoor areas shall be provided in accordance with State Standards for each type of use. The outdoor area shall be adequately fenced in order to provide for the safety and privacy of those at the facility.
- (e) The Care Home shall be readily accessible for people with disabilities and fire or other emergency access.
- (f) The Care Home shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

**SECTION 9.706 MULTIPLE-FAMILY STANDARDS**

Medium density multiple-family housing is allowed in the R-3 residential district up to 15 units per acre and high density Multiple-family housing may be allowed in accordance with the Conditional Use provisions of **Section 9.251**.

- (a) Access shall be from a designated arterial or collector street.

- (b) Requirements for front, rear, side and street side yards, for high density shall comply with the R-3 District standards.
- (c) On-site bicycle storage facilities, bicycle paths and pedestrian ways shall be provided for developments exceeding six dwelling units.
- (d) The City may require conditions of approval when deemed necessary for the mitigation of potential adverse impacts on a neighborhood or adjacent areas:
- (e) The City may regulate the type of dwelling units for high density multiple-family to mitigate potential adverse impacts on a neighborhood or adjacent areas.
- (f) Additional landscaping or screening on the property boundary may be required to mitigate potential adverse impacts on adjacent properties.

**SECTIONS 9.707 through 9.709 reserved for expansion.**

**SECTION 9.710 MANUFACTURED DWELLING STANDARDS**

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918 specify the standards and regulations for Manufactured Dwelling (MD) use in the State of Oregon. The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) defines the state standards and **Section 9.711** through **Section 9.717** provide additional supporting standards for all manufactured dwelling developments within the City of Lowell. The standards contained herein are intended to support suitable living environments for residents of manufactured dwellings and to increase compatibility with adjacent land uses.

**SECTION 9.711 GENERAL MANUFACTURED DWELLING PROVISIONS**

- (a) **Definitions.** The definitions of terms used are as defined in the Oregon Manufactured Dwelling and Park Specialty Code (OMDS) or **Section 9.190** of this Code.
- (b) **Relationship to Deed Restrictions.** Nothing in these provisions shall be interpreted as superseding more restrictive deed covenants, conditions or restrictions (CC&R's). The Standards contain herein are the "minimum requirements" of the City. Applicant/Owners may specify more restrictive standards for their development as part of their CC&R's.
- (c) **Manufactured Dwelling Construction & Safety Standards.** All manufactured dwellings must comply with the minimum construction standards in effect at the time of construction, and all associated rules, regulations, amendments and interpretations of both federal and state authorities. All manufactured dwellings placed in the City of Lowell must bear a U.S. Department of Housing and Urban Development, HUD, certification label or a State of Oregon Manufactured Dwelling Insignia of Compliance.
- (d) **Building Permit.** The owner of a lot upon which a manufactured dwelling is to be installed shall, before installation, obtain a Manufactured Dwelling Building Installation Permit, and any other required permits, from the City. In applying for and obtaining said

permit, the owner of a lot shall be deemed to have agreed to comply with Oregon State Standards and the terms of this Code.

- (e) **Inspection.** The manufactured dwelling shall be inspected by the Building Inspector, who shall determine that the manufactured dwelling complies with State standards for manufactured dwelling construction and siting, the standards set forth in this Code and, prior to approval of installation, require the owner of said manufactured dwelling to bring the manufactured dwelling up to the required standards by repair and improvement.

No reconstruction or equipment installation shall have been made to the manufactured dwelling unless it has been state approved as evidenced by an appropriate State of Oregon insignia.

- (f) **Perimeter Enclosures & Support Systems.** All load bearing foundations, supports, and enclosures shall be installed in conformance with state regulations and with the manufacturer's installation specifications. There are two primary types of perimeter enclosures permitted:

(1) **Perimeter Skirting:** Skirting shall be constructed in accordance with the Oregon Manufactured Dwelling Standards. Permitted perimeter skirting materials are any material or system approved by the State of Oregon.

(2) **Perimeter Foundations:** shall be constructed in accordance with the Council of American Building Officials (CABO) One and Two Family Dwelling Code in addition to the Oregon Manufactured Dwelling Standards. Permitted perimeter foundation materials are concrete or masonry.

- (g) **Accessory Structures.** All accessory structures must be constructed to the Oregon State One and Two Family Dwelling Code.

- (h) **Removal.** If a manufactured dwelling is removed, the owner shall immediately disconnect and cap all sewer, water and utility services. The owner of the property shall within (6) months of said removal, make application for and replace said manufactured dwelling with an approved manufactured dwelling, or remove the foundation and all protrusions above the slab or ground level. Should the property owner fail to comply, the city may contract for removal and disconnection, and collect the costs thereof from the property owner or place a lien against the real property for the unpaid amount.

- (i) **Continued Use.** Any manufactured dwelling in place at the time of passing this Code and appropriately connected to a sewer and water system, but otherwise not conforming to the above requirements, may be maintained in the place of location. Any replacement of or addition to said manufactured dwelling shall comply with the requirements stated herein and The State of Oregon Installation Standards.

## SECTION 9.712 CLASSIFICATION OF MANUFACTURED DWELLINGS

For purposes of these regulations, manufactured dwellings are divided into two classes, "A" and "B". The classes are segregated by the size of the manufactured dwelling. All manufactured

dwellings placed within the City after the effective date of this Code must comply with the following placement standards.

- (a) **Class "A":** A Class "A" manufactured dwelling is one that complies with the following standards:
- (1) A double-wide or multi-sectional unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official is required prior to placement.
  - (2) The manufactured dwelling shall be multi-sectional and enclose a space of not less than 1,000 square feet
  - (3) The manufactured dwelling shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located no more than 12 inches above grade.
  - (4) The manufactured dwelling shall have a pitched roof, except no standard shall require a slope of greater than a nominal three feet in height for each 12 feet in width.
  - (5) The manufactured dwelling shall have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City.
  - (6) The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under state building code as defined in ORS 455.010.
  - (7) The manufactured dwelling shall have a garage or carport constructed of like materials.
  - (8) Placement: Class "A" manufactured dwellings are permitted on all individual lots in all Residential Districts and in all approved manufactured dwelling parks. Class "A" manufactured dwellings are also permitted for approved temporary uses specified in **Section 9.714**
- (b) **Class "B":** A Class "B" manufactured dwelling is one that complies with the following standards:
- (1) A single-section unit ten (10) years old or newer bearing a U.S. Department of Housing and Urban Development, HUD, certification label in conformance with the

Federal Manufactured Dwelling Construction and Safety Standards in effect on the date of manufacture. The unit shall be in excellent condition and free of structural, electrical, mechanical, or plumbing defects. Inspection and verification by the Building Official required prior to placement.

- (2) Contains more than five hundred (500) square feet of occupied space in a single or expanded unit.
  - (3) Placed onto a permanent foundation system with piers, perimeter foundations or perimeter skirting. Wheels, axles, and hitch mechanisms shall be removed in accordance with approved state installation standards.
  - (4) Minimum roof pitch shall be 3 inch rise for each 12 inches of run with materials commonly used for site-built houses such as composition, wood or tile shingles.
  - (5) Exterior materials shall be similar to those used on site-built houses.
  - (6) Placement: Class "B" manufactured dwellings are permitted in all manufactured dwelling parks and approved temporary uses specified in **Section 9.714**. Class "B" manufactured dwellings may also be permitted by Conditional Use on individual lots as specified in **Section 9.713**.
- (c) Manufactured dwellings that do not meet the standards of either Class "A" or Class "B" are not permitted to be placed within the City of Lowell.

**SECTION 9.713 PLACEMENT ON INDIVIDUAL LOTS**

- (a) Class "A" Manufactured Dwellings are permitted on individual parcels outside of Manufactured Dwelling Parks in the City's Residential Districts, R-1 and R-3 in accordance with the standards of this Section and all other provisions of the Lowell Land Development Code for conventional built dwellings placed within a Residential District.
- (b) Conditional Use approval is required for placement of a Class "B" manufactured dwelling on an individual lot. In order to be approved, the unit must be found to have design compatibility with other dwellings within 500 feet of the subject lot or parcel. The criteria for determining acceptable compatibility shall be based upon a review of the following design elements:
  - (1) The placement of the manufactured dwelling and accessory structures upon the lot shall be consistent with other dwellings in the review area in terms of setback dimensions, angle to the street, location of garage or carport, and any other special features of the neighborhood or vicinity.
  - (3) The location and design of porches, patios, driveways, walkways, and landscaping shall be similar to and complementary to the features of other dwellings in the vicinity.

- (3) The manufactured dwelling shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located no more than 12 inches above grade.
- (4) The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under state building code as defined in ORS 455.010.
- (5) The manufactured dwelling shall have a garage or carport constructed of like materials.

#### SECTION 9.714                      TEMPORARY MANUFACTURED DWELLING USE

- (a) **Application:** Applicants for a temporary use permit shall make written application for a Site Plan Review on the City's Application Form. The 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 Planning Commission. The manufactured dwelling and all accessory elements shall be removed within 60 days of non occupancy by the designated family members.
  - (2) Temporary on-site residence for owners whose dwelling is under construction or a dwelling that has been destroyed.
  - (3) Caretaker residence for a commercial or industrial facility.
  - (4) Temporary offices accessible to the general public for use during construction or remodeling.
  - (5) Temporary building space for public and semi-public agencies.
  - (6) Other temporary uses may be considered by the Planning Commission under the Conditional Use procedures specified in **Section 9.251**.
- (c) **Conditions of Use:** The Temporary Use Permit may be limited to a specified time period and shall be a Class "A" or "B" Manufactured Dwelling for use on a single lot in accordance with the following provisions:
  - (1) Compliance with the State of Oregon Manufactured Dwelling Installation Standards.
  - (2) Manufactured dwellings shall not be included or sold as a part of any property on which it is located.
  - (3) Manufactured dwellings shall not be expanded or attached to a permanent structure.

- (4) Manufactured dwellings shall have an approved perimeter enclosure permitted by the State of Oregon.
  - (5) Manufactured dwellings shall have approved connections to utility systems and the owners shall be allowed to hook to an existing residential sewer service lateral.
  - (6) Use shall be limited to the function as set forth in the application for the temporary permit.
  - (9) The manufactured dwelling shall comply with residential setback requirements and shall be sited so as to have the least possible impact on adjacent properties or adjoining streets.
- (d) **Renewal:** The permit as issued shall not exceed the designated approval period. The City shall notify holders of a permit at least thirty (30) days prior to the date of expiration. Applicants for renewal of a temporary use permit shall reapply and submit the same information as required for the original permit.
- (e) **Right of Revocation:** The City shall have the right to revoke any Temporary Use Permit granted under this section with thirty (30) days notice, if upon inspection, the use is found to be in noncompliance with the application for which the permit is issued.
- (f) **Removal:** If the Manufactured Dwelling is required to be removed from the site, the owner of the property shall remove the foundation and all additions to the Manufactured Dwelling and permanently disconnect and secure all utilities. The City may perform the work and place a lien against the property for the cost, after 60 days from the date on which the Manufactured Dwelling is required to be moved from the site. This condition shall not apply in the event that another approved Manufactured Dwelling is placed on the original foundation within 60 days of the removal of the original unit.

#### SECTION 9.715 MANUFACTURED DWELLING PARKS

Oregon Revised Statutes (ORS), Chapter 446 and Oregon Administrative Rules (OAR), Chapter 918, and Chapter 10 of the OMDS specify the standards and regulations for Manufactured Dwelling Parks in the State of Oregon. This Section contains additional supporting standards for all Manufactured Dwelling Parks located within the City of Lowell as permitted in Chapter 10 of the OMDS. In cases of conflict, the state standards of Chapter 10 shall govern.

- (a) **Where Permitted:** Class "A" or "B" Manufactured Dwellings are permitted in all Manufactured Dwelling Parks. Manufactured dwelling parks are permitted in the City's R-3 Residential District, in accordance with the standards of **Section 9.716 and 9.717** and the provisions for Conditional Use approval, **Sections 9.251**.
- (b) **Minimum Site Area:** An area that provides space for four or more manufactured dwellings together with all conditions and standards required by Chapter 10 of the OMDS and the standards contained in this Section.
- (c) **Density:** Maximum density of the park shall not exceed 10 units per gross acre.
- (d) **Access:** Manufactured Dwelling Park access shall occur from a public Collector or Arterial street.

- (e) **Permitted Uses:** Manufactured Dwelling Parks may contain manufactured dwellings and accessory structures, community laundry and recreation facilities and other common buildings for use by park residents only, and one residence other than a manufactured dwelling for the use of a caretaker or a manager responsible for maintaining or operating the park.
- (f) **Conditions:** Upon granting site plan approval for a manufactured dwelling park, the Planning Commission may require conditions of approval including but not limited to any of the following where such are deemed necessary for the mitigation of adverse impacts on an adjacent area:
  - (1) Limit the type of units to be installed to Class "A" or Class "B" or both.
  - (2) Additional landscaping or screening on the park boundary.
  - (3) Increased setbacks from park boundaries.

#### SECTION 9.716 IMPROVEMENT STANDARDS

Park standards shall conform to The Oregon Manufactured Dwelling and Park Specialty Code (OMDS) within the Park boundary and shall conform to City Standards when abutting public streets.

- (a) **Streets:** Public streets located within the Park and the first 100 feet of Park streets connecting to a public street shall conform to City standards.
- (b) **Perimeter Setbacks:** Distance of a manufactured home or accessory structure from an exterior park boundary or public right of way shall be 20 feet.
- (c) **Landscaping:** All common areas within a manufactured dwelling park; exclusive of required buffer areas, buildings, and roadways; shall be landscaped and maintained in accordance with the following minimum standards per each 1,000 square feet of open area:
  - (1) One tree at least six feet in height.
  - (2) Five shrubs or accent plants.
  - (3) The remaining area containing walkways and attractive ground cover at least 50% of which must be living ground cover within one year of planting.
  - (4) All manufactured dwelling spaces shall be similarly landscaped within six months of manufactured dwelling placement. Such landscaping shall be the responsibility of the park owner.



- (d) **Perimeter Property Screening:** The entire perimeter of the manufactured dwelling park shall be screened except for driveways and the Clear Vision Area. The following minimum standards shall apply:
- (1) At least one staggered row of trees:
    - A. Deciduous trees - 10 feet high, spaced 30 feet apart
    - B. Evergreen trees - 5 feet high, spaced 15 feet apart.
  - (2) At least five 5-gallon shrubs or ten 1-gallon shrubs per 1,000 square feet of area.
  - (3) One row of evergreen hedge at least four feet in height within two years of planting, or;  
A six-foot high fence or masonry wall providing a uniform sight-obscuring screen, or;  
An earth berm combined with a fence or evergreen hedge which forms a sight obscuring screen at least six feet in height. Plantings shall obtain the required height within two years of installation.
  - (4) The remaining area shall contain an attractive ground cover.
- (e) **Utilities:** All manufactured dwelling parks must provide each lot or space with storm drainage, municipal sanitary sewer, municipal water, electric and communication cables, including telephone and television cables. All utilities shall be located underground and there shall be no exposed radio or TV antenna. Easements shall be dedicated where necessary to provide service to all utilities. Utilities shall be connected in accordance with state requirements and the manufacturer's specifications.

#### SECTION 9.717 DESIGN AND SUBMISSION REQUIREMENTS

- (a) **Professional Design Team:** The applicant for a proposed Manufactured Dwelling Park shall certify in writing that the services of a registered architect, landscape architect or registered engineer licensed by the State of Oregon have been utilized in the design and development of the project.
- (b) **Site Plans Required:** The Conditional Use Application for a new or expansion of an existing Manufactured Dwelling Park shall be accompanied by 10 copies of the site plan of the proposed park containing the following information in addition to that required in **Section 9.204** for Application Site Plans. The plot plan shall show the general layout of the entire Park and shall be drawn to a scale not smaller than one inch representing 40 feet. The drawing shall include all of the following information:
- (1) Name and type of Park, address, owner, Design Team members, scale, date and north point of plan.
  - (2) A vicinity plan showing streets and properties within 500 feet of the development site.

- (3) Plot plan of park boundaries and the location, dimensions and number of Manufactured Dwelling spaces. Number each space and demonstrate that planned spaces can reasonably accommodate the proposed Manufactured Dwelling types.
- (4) Location and dimensions of existing and proposed structures, together with the usage and approximate location of all entrances, heights, and gross floor areas. Heights shall not exceed the maximums specified for the zoning District.
- (5) Location and dimensions of roads, accessways, parking, loading facilities, garbage receptacles and walkways.
- (6) Extent, location, arrangement, and proposed improvements of all open space, landscaping, fences and walls.
- (7) Location of lighting fixtures for park spaces and grounds.
- (8) Location and area of recreation spaces and buildings in square feet.
- (9) Locations where park water, sewer, drainage and utility systems connect to City systems including easement locations.
- (10) Location of existing and proposed fire and irrigation hydrants.
- (11) Enlarged plot plan of a typical Manufactured Dwelling space, showing location of the stand, patio, storage space, accessory structures, parking, sidewalk, utility connections, and landscaping.
- (12) Architectural drawings and sketches demonstrating the planning and character of the proposed development.
- (13) A construction time schedule and development phasing plan.
- (14) Detailed plans required. Prior to application for a building permit to construct an approved Park or to expand an existing Park, the applicant shall submit five copies of the following detailed plans:
  - A. A legal survey.
  - B. Plans of new structures.
  - C. Water, sewer and utility systems.
  - D. Utility easements.
  - E. Road, sidewalk, and patio construction.
  - F. Drainage system, including existing and proposed finished grades.
  - G. Recreational improvements including swimming pool plans approved by the Oregon State Board of Health.
  - H. Landscaping and irrigation plans.

**SECTIONS 9.718 through 9.719 reserved for expansion.**

**SECTION 9.720 RESIDENTIAL STRUCTURES IN COMMERCIAL DISTRICTS**

- (a) **Existing Houses:** In commercial districts pre-existing residential structures may be occupied by commercial uses permitted in the commercial district provided the structure meets minimum building and safety standards as provided in the Building Code and provided further that the City approves a development plan for vehicular access and parking, signing, and exterior lighting in accordance with the Site Plan Review provisions of **Section 9.250**.
- (b) **Second Story Residences:** Single-family or Multi-family housing may be permitted above or behind a commercial business in the C-1 and C-2 Districts in accordance with the Conditional Use provisions of **Section 9.251** and the standards contained herein. Setback and siting standards of the single-family or multi-family District shall apply when located behind the commercial business.
  - (1) On-site Parking shall be provided for both the commercial and residential uses in accordance with **Section 9.514**.
  - (2) There are no yard setbacks or open space required for second story residences.

**SECTION 9.721 PUBLIC & SEMI-PUBLIC STANDARDS**

Public and Semi-public uses represent a wide range of "Civic" use types that include utilities, public safety, maintenance, governmental, recreational, educational, cultural, religious, and civic assembly uses or facilities. Public and semi-public uses shall comply with the following additional standards in addition to the standards of the land use district in which the public use is located:

- (a) Public and Semi-public uses in residential districts may be permitted in accordance with the Conditional Use provisions of **Section 9.251** and the standards contained herein.
- (b) Public and Semi-public uses in commercial or industrial districts may be permitted in accordance with the Site Plan Review provisions of **Section 9.250** and the standards contained herein.
- (c) Requirements for front, rear, side and street side yards, for public uses shall not be less than that specified for the Primary or Overlay District unless specifically approved as part of the conditional use or site plan review procedures. Yard setbacks may be increased by one (1) foot for each foot by which the structure height exceeds that specified for the district.
- (d) Additional landscaping, fencing, buffers or other screening devices may be required to screen or protect adjacent properties or the street.
- (e) Off-street parking for the specified use shall comply with **Section 9.514**.

- (f) In a residential district, all equipment and material storage shall be within an enclosed building unless it is deemed necessary and approvable in accordance with the Conditional Use provisions of **Section 9.251**.
- (g) Exterior lighting shall be directed away from abutting residential properties in conformance with **Section 9.529**.
- (h) Offices and workshops should be located in the commercial or industrial districts whenever possible and should not be permitted in a residential district unless it is deemed necessary and approvable in accordance with the Conditional Use provisions of **Section 9.251**.
- (i) Public utility facilities including treatment, maintenance and storage areas should not be permitted in a residential or commercial district unless it is deemed necessary and approvable in accordance with the Conditional Use or Site Plan Review provisions of **Section 9.251 or Section 9.250**.
- (j) The minimum lot size requirement may be waived on finding that the waiver will not result in noise or other detrimental impacts to adjacent or nearby property.

#### **SECTION 9.722 AGRICULTURAL USE STANDARDS**

Limited agricultural use of property in the City is allowed under the following conditions and standards:

- (a) The raising of crops in the general field of horticulture including berry, brush, tree, flower and vegetables for on-site home consumption is allowed on any lot within the city, as long as such crops are controlled and don't become a nuisance to neighboring properties.
- (b) The raising of crops in the general field of horticulture including berry, brush, tree, flower and vegetables for sale is a Home Occupation Conditional Use in all residential districts.
- (c) The raising of pigs and roosters is not permitted within Lowell. The raising of other farm animals in the general field of animal is permitted within the Residential or Industrial Districts under the following conditions:
  - (1) Fencing must be designed and constructed to confine all animals within the property line.
  - (2) A Setback of 100 feet from any off-site residence is required for all farm animal housing, feeding and watering facilities. Exception: fowl, rabbits and similarly sized animal require no additional setbacks.
  - (3) Proper sanitation shall be maintained in conformance with applicable health standards for all farm animals. Proper sanitation includes:
    - A. Not allowing animal waste to accumulate.
    - B. Not allowing animal waste to contaminate groundwater or drainageways.

- C. Taking the necessary steps to insure odors resulting from farm animals is not detectable beyond the property line.
  - D. Storing all farm animal food in metal or other rodent proof containers.
- (4) Minimum area requirements include:
- A. Minimum property area of 3 acres. Exception: fowl, rabbits and similarly sized animal require no additional lot area.
  - B. Minimum area per large size animal (Similar to cows or horses) over six months of age – one per every two acres.
  - C. Minimum area per medium size animal (Similar to sheep, goats or llamas) over six months of age – one per every one half acre.
  - D. No more than 10 fowl, rabbits or similarly sized animals may be maintained on each 20,000 sf of property or portion thereof.
- (5) It is the responsibility of the applicant for a Conditional Use Permit to clearly demonstrate that proper health and sanitation standards will be maintained and that potential nuisance factors such as noise, smell and unsightly conditions are mitigated.
- (6) Property owners wishing to maintain animals on smaller lots or exceed the maximum number of animals permitted may have those standards modified as a Conditional Use in accordance with **Section 9.251.**”
- (d) It is the continuing responsibility of the owner to properly contain or restrain all animals or fowl and to maintain proper sanitation at all times, and further provided that such raising activities are not part of nor conducted in conjunction with any live stock sales yard, slaughter house, or animal by-product business.
- (e) The above standards are the minimum standards applicable to property located within the City of Lowell, additional site area or other standards may be required to comply with Health and Sanitation Standards.

**SECTIONS 9.723 through 9.799 reserved for expansion.**

**ARTICLE 9.8 IMPROVEMENT REQUIREMENTS AND STANDARDS****SECTION 9.801 IMPROVEMENT PROCEDURES**

In addition to other requirements, public improvements and connections to public facilities installed by a developer or land divider shall conform to the requirements of this Code and all design standards and construction specifications of the City, and shall be installed in accordance with the following procedure. As used in this section, the terms developer and land divider includes the property owner. In the event that the persons making application for a land division or development are not the owner of record, a signed and notarized authorization must be provided by the owner, authorizing the applicant to act in his behalf.

- (a) Improvement work shall not be commenced until plans and specifications have been reviewed and approved by the City. To the extent necessary for evaluation of an Application, the plans may be required before approval of a Site Plan or land division Tentative Plan.
- (b) Improvement work shall not commence until after the City is notified, and if work is discontinued for more than 72 hours, for any reason other than inclement weather, it shall not be resumed until after the City is notified.
- (c) Improvements shall be constructed under the inspection of the City. The City may require changes in the design and construction in the public interest, or if unusual conditions arise during construction to warrant the change.
- (d) Underground utilities, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing, or resurfacing, of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be located to prevent the necessity for disturbing the street improvements when service connections are made.
- (e) "As-built" drawings and specifications of the installed public improvements shall be filed with the City upon completion of the improvements.
- (f) The City, by Resolution, shall establish a fee, as a percentage of construction costs for all off-site and on-site public improvements, for costs to the City associated with the design review, inspection and administration for construction of public improvements required under this Code. If after City design approval, design changes are made which require significant staff time for additional review, the City may require reimbursement of such costs.

**SECTION 9.802 SPECIFICATIONS FOR IMPROVEMENTS**

Design and construction standards have been adopted by the City of Lowell although they may not address each situation. The developer or land divider shall prepare and submit to the City for review and approval, plans and specifications in compliance with this Code and other applicable City ordinances. Where specific City standards are lacking, the plans and specifications shall comply with the intent of this Code based upon engineering standards appropriate for the

improvements proposed. Specifications shall be prepared for the design and construction of all required public improvements and such other public facilities the developer installs.

#### **SECTION 9.803           REQUIRED PUBLIC IMPROVEMENTS**

Those standards and requirements for public improvements contained in Article 9.5, which are determined by the City to be applicable are required to be constructed unless specifically exempted or deferred as a part of the application approval and identified as such in the City's Notice of Decision. The City will not issue a building permit until all required improvements have been constructed and accepted by the City or appropriate security for construction is provided in accordance with **Section 9.806**.

#### **SECTION 9.804           PUBLIC USE DEDICATIONS**

- (a) Within or adjacent to a residential development, a parcel of land may be required to be set aside and dedicated to the public by the developer for park use in conformance with the Lowell Park Master Plan. If land is dedicated for park space, a Park SDC credit and/or reimbursement will be provided to the development if the dedication qualifies as meeting Park Capital Improvement Plan needs.
- (b) If the City or other public agency indicates it desires to acquire a portion of a proposed land division for a public purpose not already dedicated as a condition of approval, or if the City has been advised of such interest by a school district or other public agency, and there is reasonable assurance that steps will be taken to acquire the land, then the City may require that those portions of a land division be reserved for public acquisition

#### **SECTION 9.805           IMPROVEMENTS AGREEMENT**

Before City final approval of a development, site plan or land division, the developer or land divider shall file with the City an agreement between developer or land divider and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the developer or land divider. The agreement shall also provide for reimbursement of the City's cost of inspection in accordance with **Section 9.801 (f)**.

#### **SECTION 9.806           SECURITY**

- (a) The developer or land divider shall file with the agreement, to assure full and faithful performance thereof, one of the following:
  - (1) A surety or performance bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the City Attorney; or
  - (2) A personal bond co-signed by at least one additional person together with evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement to the satisfaction of the City Council; or
  - (3) A cash or negotiable security deposit.

- (b) Such assurance of full and faithful performance shall be for a sum approved by the City as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspections and other costs.
- (c) Prior to acceptance of required public improvements, the developer or land divider shall file one of the above listed assurances with the City, in an amount equal to 20% of actual construction costs, as a warranty towards defects in materials and workmanship identified for a period of no less than one year after City acceptance of the public improvements. The City may agree to a longer warranty period in lieu of the above required assurances.

#### **SECTION 9.807 NONCOMPLIANCE PROVISIONS**

- (a) If the developer or land divider fails to carry out provisions of the agreement, the City shall provide written notice to the developer or land divider and the surety specifying the details of noncompliance. Unless the City allows more time for compliance because of circumstances beyond the developer or land divider's control, within 30 days after receiving the notice, the developer or land divider or the surety shall commence compliance and proceed diligently to comply with the agreement.
- (b) If the developer or land divider or the surety does not begin compliance within the 30 days or the additional time allowed by the City, or compliance is not completed within the time specified in granting the land division approval, the City may take the following action:
  - (1) Notify the developer or land divider and the surety of the developer or land divider's failure to perform as required by this Code and the agreement.
  - (2) Demand payment from the developer or land divider or the developer or land divider's surety for the unfulfilled obligation.
  - (3) Enter upon the site and carry out the obligation in accordance with the provisions of the approval and agreement.
  - (4) If the security for the obligation is a performance bond, notify the surety that reimbursement for City expenses for fulfillment of the obligation is due and payable to the City. If the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup City expenses.
  - (5) Void all approvals granted in reliance on the agreement.
- (c) If the bond or other required security is not sufficient to compensate the City for expenses incurred to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City upon the entire contiguous real property of the owner of the land subject to the obligation.
- (d) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer or land divider's failure to fulfill the required obligation.



- (e) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
- (f) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the City to pursue any civil remedy permitted by law.

#### **SECTION 9.808 DESIGN AND CONSTRUCTION STANDARDS**

The City of Lowell has adopted the public improvement design and construction standards for public improvements contained in the current editions of the following:

- (a) City of Lowell Standards for Public Improvements.
- (b) City of Lowell Public Works Construction Standards, consisting of:
  - (1) Vol. I, Technical Specifications for Public Works Construction, and
  - (2) Vol. II, Standard Details.

#### **SECTION 9.809 MODIFICATIONS PERMITTED**

The City Administrator is authorized to approve modifications to the adopted design and construction standards of the City of Lowell. Any modification that is made under this authorization must be upon the recommendation or in consultation with the City Engineer. Such modifications may be initiated by the City Engineer or be made upon written request from a developer or contractor designing and/or constructing public improvements within the City of Lowell. Such modifications may be improved on a one-time basis only. Permanent modifications require the further approval of the City Council.

- (a) **One-time Modifications:** The City Administrator may approve one-time modifications for a particular public improvement upon written request if, after consultation with the City Engineer, it is determined that the requested modification would not adversely impact safety, life span and/or maintenance and repair requirements of the improvement.
- (b) **Permanent Modifications:** If a particular construction standard or specification requirement is no longer appropriate as established in the adopted construction standards, the City Engineer and/or the City Administrator may recommend a permanent modification to the standard. Permanent modifications will be adopted by Resolution by the City Council and become a part of the City's adopted design and construction standards.

#### **SECTION 9.810 APPLICABILITY OF LANE COUNTY STANDARDS**

For public improvements that are constructed within the public rights-of-way owned and controlled by Lane County, coordination is required with Lane County Public Works Department and the required Lane County permits must be obtained. In the event of a conflict between the City of Lowell's adopted design and construction standards with those of Lane County, Lane County standards will take precedence unless jointly agreed upon otherwise by the Lane County Public Works Department and the City Engineer for the City of Lowell.