



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/28/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lowell Plan Amendment
DLCD File Number 001-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: Thursday, January 10, 2013

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Chuck Spies, City of Lowell
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

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FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	DEC 21 2012
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: **City of Lowell**

Local file number: **None**

Date of Adoption: **12/18/2012**

Date Mailed: **Dec 20, 2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: July 2012

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

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

Adopted Ordinance 283, to add Lowell Land Development Code Article 9.6, Sections 9.600-9.604 related to riparian area development and to amend LLDC Article 9.6, Sections 9.610-9.615 related to wetlands development standards.

Does the Adoption differ from proposal? Yes, Please explain below:

Minor modifications to the original draft associated primarily with terminology and definitions which did not significantly alter proposed standards were made following public hearing inputs.

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:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-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

DLCD file No. 001-12 (19438) [17290]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Oregon DSL, DEQ, DLCD
US Army Corps of Engineers
Lowell School District

Local Contact: **Don Driscoll**

Address: **P.O. Box 490**

City: **Lowell**

Phone: **(541) 484-5757** Extension:

Fax Number: **541-937-2936**

E-mail Address: **dond@archasso.com**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS [197.615](#) and [OAR Chapter 660, Division 18](#)

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information ([ORS 197.615](#)).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption ([ORS 197.830 to 197.845](#)).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. ([ORS 197.615](#)).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

CITY OF LOWELL, OREGON**ORDINANCE 283****AN ORDINANCE AMENDING ORDINANCE 252, ATTACHMENT D TO ADOPT LOWELL LAND DEVELOPMENT CODE ARTICLE 9.6, SECTIONS 9.600-9.604 RELATED TO RIPARIAN AREA DEVELOPMENT STANDARDS AND SECTIONS 9.610-9.615 RELATED TO WETLANDS DEVELOPMENT STANDARDS****THE CITY OF LOWELL ORDAINS AS FOLLOWS:**

Section 1. The following sections of Article 9.6 of the Lowell Land Development Code related to Special Development Standards, General and specifically to Riparian Area Development Standards and Wetlands Development Standards, originally adopted by Ordinance 252, Attachment D, dated September 5, 2006, are hereby amended.

ARTICLE 9.6 SPECIAL DEVELOPMENT STANDARDS

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

- (a) Riparian Area Development, Section 9.600
- (b) Wetlands Development, Section 9.610
- (c) Flood Hazard Development, Section 9.620
- (d) Hillside Development, Section 9.630

SECTION 9.600 RIPARIAN AREA DEVELOPMENT STANDARDS

The purposes of the Riparian Area Development Standards are to:

- (a) Satisfy the requirements of Statewide Planning Goal 5;
- (b) Protect and restore water bodies and their associated riparian areas;
- (c) Protect ecological and land conservation functions provided by riparian areas;
- (d) Protect habitat for fish and other aquatic life;
- (e) Control erosion and limit sedimentation; and
- (f) Reduce the effects of flooding.

SECTION 9.601 DEFINITIONS

- (a) "Impervious surface" means any material that reduces or prevents absorption of storm water into previously undeveloped land.
- (b) "Lawn" is grass or similar materials maintained as a ground cover of less than 6 inches in height, and generally managed to restrict the growth of shrubs and trees that inhibit the growth of grasses and forbs. For purposes of this ordinance, lawn is not considered native vegetation regardless of the species used.

- (c) "Mitigation" is a means of compensating for impacts to a significant riparian resource including: restoration, creation, or enhancement, for example, planting trees, removing nuisance plants, or restoring streamside vegetation where it has been disturbed or degraded due to past practices.
- (d) "Net Loss" means a permanent loss of riparian functions provided by riparian structure and vegetation that results from a development action despite the completion of mitigation measures.
- (e) "Riparian area" is the area adjacent to the river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.
- (f) "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, riparian areas, and wetlands within the riparian area boundary.
- (g) "Significant riparian corridor" is defined as the riparian corridor areas to be protected as required by OAR 660-023-0090 (5).
- (h) "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the top bank.
- (i) "Water Quality Protection Area" is defined as riparian corridor areas and streams to which Section 9.600 Riparian Area Development applies to protect water quality.
- (j) "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.
- (k) "Structure" is a building or other major improvement that is built, constructed or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through zoning ordinances.
- (l) "Top of Bank" means a distinct break in slope between the stream bottom and the surrounding terrain, which corresponds with the bankfull stage (the two-year recurrence interval flood elevation) of the stream. For Dexter Lake, top of bank shall be measured from the shore line as depicted on Lane County Assessor's Maps.
- (m) "Invasive species" are non-native vegetation that poses a threat to the riparian corridor of the presence or coverage density of vegetation native to the region.
- (n) "Water dependent" means a use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production or source of water.
- (o) "Water related" is defined as uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered. Except as necessary for water dependent or water related uses or facilities, residences, parking lots, spoil and dump sites, roads and highways, restaurants, businesses, factories, and trailer parks are not generally considered dependent on or related to water location needs.

SECTION 9.602 APPLICABILITY

- (a) Water Quality Protection Area. The Water Quality Protection Area is established to meet the requirements of Goal 5 for locally significant riparian corridors and to provide water quality protections for seasonal non-fish bearing streams within the City. Section 9.600 Riparian Development applies to the Water Quality Protection Area which is identified as follows: following:

(1) Dexter Lake was identified as a significant riparian corridor using a Goal 5 riparian inventory. The Water Quality Protection Area includes Dexter Lake and the area within 50 feet from the top of bank of Dexter Lake.

(2) Where a significant wetland is located fully or partially within the riparian corridor identified above, the Water Quality Protection Area shall extend 50 feet from the upland edge of the wetland.

(3) Streams identified on the Lowell Local Wetland Inventory Map and an area 25 feet from the top of the bank of these streams or from the stream centerline where the top of bank is not clearly apparent. Note: Standards adopted herein do not apply to areas on the Local Wetland Inventory Map which are outside the Lowell Urban Growth Boundary.

(b) Lowell Local Wetland Inventory Map adopted by reference into the Lowell Comprehensive Plan and on file with the City shall be used as a visual reference for the boundaries of streams, rivers, and ponds, and wetland areas, but shall not be relied upon as authority for the delineation of riparian areas. Section 9.610 Wetlands Development shall apply to the wetland areas.

SECTION 9.603 LIMITATIONS ON USE

(a) Permitted Uses. The following uses are permitted in the Water Quality Protection Area provided that they are designed to minimize intrusion into the riparian corridor:

- (1) Trails.
- (2) Passive recreation uses and activities.
- (3) Maintenance of existing lawns, gardens, and structures.
- (4) Normal maintenance of existing public facilities.
- (5) Restoration and enhancement of native vegetation, including canopy trees.
- (6) Approved water-related and water-dependent uses.
- (7) Replacement of existing structures in the same location that do not disturb additional surface area.

(8) Non-conforming uses existing fully or partially within the Water Quality Protection Area may be expanded, provided the expansion does not occur within the Water Quality Protection Area. Substantial improvement of a non-conforming structure in the Water Quality Protection Area shall comply with the standards of Section 9.600.

(9) Shoreline stabilization and flood control structures that legally existed on the effective date of this ordinance may be maintained.

(10) Removal of non-native vegetation and replacement of native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall maintain or exceed the density of the removed vegetation.

(11) Trees, in danger of falling as determined by a certified arborist and thereby posing a threat to life or property.

(12) Control of Noxious Vegetation in accordance with LRC Section 5.120.

(13) Agricultural uses authorized by Section 9.722, Agricultural Standards, except as specifically prohibited in paragraph (c) below.

(b) Conditional Uses. The following uses may be conditionally permitted in the Water Quality Protection Area provided that they are designed to minimize intrusion into the riparian corridor

and a Conditional Use application is approved in accordance with LDC Section 9.251, Conditional Uses:

- (1) Expansion of existing public facilities.
- (2) Streets, roads, and paths.
- (3) Drainage facilities, utilities, and irrigation pumps.
- (4) Any expansion of shoreline stabilization and flood control existing structures or development of new structures shall be approved by the City and the appropriate state natural resource agency staff. Such alteration of the significant riparian corridor shall be approved only if less-invasive or non-structural methods will not adequately meet the stabilization or flood control needs.
- (5) Removal of vegetation necessary for the development of approved water-related or water dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent or water-related use.

(c) Prohibited Uses. Except as allowed in Sections 9.603 (a) and (b) above, the following uses are prohibited in the Water Quality Protection Area:

- (1) Permanent alteration of the Water Quality Protection Area by grading or by the placement of structures or impervious surfaces.
- (2) Removal of vegetation, except as allowed in paragraph (a) above.
- (3) Application of pesticides, herbicides and fertilizer unless specifically approved for use in water quality protection areas.
- (4) Accumulation of manure and pet feces.
- (5) Expansion of lawns, gardens and ornamental landscaping.

SECTION 9.604 VARIANCES

In cases where the limitations on activities within the Water Quality Protection Area unduly restricts the development of a lot or parcel legally created before the adoption of this code section, a property owner may request a variance in accordance with Section 9.252, and requiring findings that the following alternate decision criteria have been met:

- (a) The proposed development represents a reasonable and legal use of the lot or parcel, considering the zoning.
- (b) Strict adherence to the applicable standards of Section 9.600 Riparian Area Development would effectively preclude a use of the parcel that could be reasonably expected to occur in similarly zoned parcels.
- (c) The variance is the minimum necessary to retain a use of the property.
- (d) Granting the variance will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.
- (e) The variance will be in general harmony with the intent and purpose of this LRC 9.600, and will not adversely affect any officially adopted comprehensive plan provision.

Sections 9.605-9.609 reserved for expansion.

SECTION 9.610 WETLANDS DEVELOPMENT STANDARDS

The purposes of the Wetlands Development Standards are to:

- (a) Protect and enhance water quality;
- (b) Satisfy the requirements of Statewide Planning Goal 5;
- (c) Achieve and maintain compliance with Federal laws and water quality standards; and
- (d) Restrict development activity in designated locally significant wetlands.

SECTION 9.611 DEFINITIONS

- (a) "Local Wetlands Inventory (LWI)" are maps and report entitled Lowell Local Wetland Inventory Map and any subsequent revisions as approved by the Oregon Department of State Lands.
- (b) "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. Wetlands functions include wildlife habitat, fish habitat, water quality, and hydrological control.
- (c) "Locally significant wetlands (LSW)" are identified on the Lowell Local Wetland Inventory Map and determined "significant wetlands" using the criteria adopted the Oregon Department of State Lands (DSL) pursuant to ORS 197.279(3)(b).
- (d) "Locally non-significant wetlands" are identified on the Lowell Local Wetland Inventory map and do not meet the criteria adopted by DSL for locally significant wetlands.
- (e) "Probable wetlands" includes all areas designated as such on the Lowell Wetland Inventory Map.
- (f) "ESEE consequences" are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.
- (g) "Wetlands not subject to Goal 5 protection." All state jurisdictional wetlands mapped or not, are subject to the state Removal-Fill Law administered by DSL. All wetlands are "potentially jurisdictional wetlands". Wetlands on the Local Wetland Inventory map which are not identified as Locally Significant are considered "Other Potentially Jurisdictional Wetlands". These wetlands are not subject to City of Lowell wetland protection area standards, but like all wetland areas, are subject to DSL notice/review and potentially subject to DSL and US Army Corps of Engineers permitting.

SECTION 9.612 WETLANDS DESIGNATIONS

- (a) Locally Significant Wetlands (LSW). Section 9.613 Limitations on Use and 9.614 Procedures shall apply to wetland areas identified as locally significant on the DSL approved Lowell Local Wetland Inventory Map, adopted by reference into the Lowell Comprehensive Plan and on file with the City.
- (b) Wetlands, General. Section 9.614 Procedures shall apply to probable wetlands and wetlands not designated as locally significant identified in the Lowell Local Wetland Inventory Map.

(c) The Lowell Local Wetland Inventory Map shall be used to provide a visual reference for locating known wetland areas, but shall not be relied upon as the final authority for locating the actual boundaries of these areas.

(d) Standards adopted herein do not apply to areas on the Local Wetland Inventory Map which are outside the Lowell Urban Growth Boundary.

SECTION 9.613 LOCAL SIGNIFICANT WETLANDS LIMITATIONS ON USE

The purpose of Section 9.613 "Limitations on Use" is to restrict grading, excavation, placement of fill, and vegetation removal in locally significant wetlands.

(a) Permitted activities. The following activities are permitted.

(1) Any use, sign or structure, and maintenance thereof that existed prior to the date of adoption of this ordinance, is allowed to continue. Such a use, sign or structure may continue at a similar level or manner that existed at the time of adoption of this ordinance.

(2) The maintenance of ornamental landscaping that existed on the date of the adoption of this ordinance provided that no additional native vegetation is disturbed. These permitted activities shall not be affected by any change in ownership of the properties within the wetlands area.

(3) Installation of interpretive/educational displays and/or public pedestrian paths, as long as these do not present an obstruction that would increase flood velocity or intensity.

(4) New fencing may be permitted by the City Administrator where the applicant demonstrates that the following criteria are satisfied:

- A. The fencing does not affect the hydrology of the site.
- B. The fencing does not present an obstruction that would increase flood velocity or intensity.
- C. Fish habitat is not adversely affected by the fencing
- D. Applications for new fencing within a wetland protection area shall contain a scale drawing that clearly depicts the wetland area boundary.

(b) The following activities and maintenance thereof are allowed, provided that any applicable state or federal permits are secured if required.

(1) Wetlands restoration and rehabilitation activities.

(2) Restoration and enhancement of native vegetation.

(3) Removal of non-native vegetation, if replaced with native plant species at similar coverage or density, so that native plant species are dominant.

(4) Trees, in danger of falling as determined by a certified arborist and thereby posing a threat to life or property.

(5) Agricultural uses authorized by Section 9.722, Agricultural Standards, except as specifically prohibited in paragraph (c) below that meet the following criteria.

A. The farm practices were in existence or occurring on the property on the date of the adoption of this ordinance.

B. Do not include new or expanded structures, roads, or other facilities involving placement of fill material, excavation, or new drainage measures.

(6) Maintenance of existing drainage ways, ditches, or other structures, to maintain the flow at original design capacity and mitigate upstream flooding, provided that management

practices avoid sedimentation and impact to native vegetation, and any spoils are placed in uplands.

(7) Replacement of a permanent legal, nonconforming, structure in existence at the date of adoption of this ordinance with a structure on the same building footprint, or expansion of the original building footprint, if it does not disturb additional wetlands areas, and in accordance with the provisions of Section 9.613 (c) Prohibited Uses.

(8) Expansion of a permanent, legal, nonconforming structure in existence at the date of adoption of this ordinance, if the expansion area is not within and does not disturb a locally significant wetland area, and in accordance with the provisions of Section 9.613 (c) Prohibited Uses.

(c) Prohibited Activities. The following activities are prohibited:

- (1) Placement of new structures or impervious surfaces.
- (2) Excavation, grading, filling, or removal of vegetation except for perimeter mowing for fire protection purposes.
- (3) Expansion of areas of pre-existing non-native ornamental landscaping such as lawn, gardens, etc.

(4) Dumping, piling, or disposal of refuse, yard debris, or other material.

(d) ESEE Analysis. Property owners may propose alternative measures to protect or propose lesser protection measures for locally significant wetlands on their property. The property owner must submit an application to the City for an amendment to the City's comprehensive plan and land development ordinance. The application for a comprehensive plan amendment shall include an analysis of the economic, social, environmental, and energy consequences (ESEE). The ESEE analysis shall meet the requirements of OAR 660-023-040. The ESEE analysis will need to demonstrate that the proposed decision to allow, limit, or prohibit conflicting uses in a locally significant wetland area is justified. The City shall ultimately determine the program and applicable regulations that apply to the impact area based on the results of the ESEE analysis. An ESEE analysis must be adopted into the Comprehensive Plan in order to develop in any locally significant wetlands.

(e) Hardship Variances. The Planning Commission may grant a variance to the provisions of this Section in accordance LDC Section 9.252 only when applicant has shown that all of the following additional decision criteria have been met:

- (1) Through application of this Section, the property has been rendered not buildable;
- (2) The applicant has exhausted all other options available under this chapter to relieve the hardship;
- (3) The variance is the minimum necessary to afford relief;
- (4) All state and federal permits required for authorization of wetland impacts are obtained.

(5) No permitted type of land use for the property with less impact on the wetland is feasible and reasonable;

(6) There is no feasible on-site alternative to the proposed activities, including reduction in size, density or intensity, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations that would allow a reasonable economic use with less adverse impacts

(7) The proposal utilizes to the maximum extent possible innovative construction, design, and development techniques, including pervious surfaces, which minimize to the greatest extent possible net loss of wetland functions and values;

(8) The area of disturbance is limited to the area that has the least practical impact on the wetland functions and values

(f) Hardship Exemptions. The following scenarios provide an exemption from the standards outlined in this Section:

(1) The subject property contains 6,000 square feet of area or less, and no more than 50 percent of the site will be disturbed.

(2) The subject property contains more than 6,000 square feet but less than 30,000 square feet, and no more than 3,000 square feet will be disturbed.

(3) The subject property contains 30,000 square feet or more, and site disturbance is no more than 10 percent of the total lot area

(4) The amount of allowable disturbance shall be that which will have the least practicable impact on the wetland area given the characteristics and context of the subject property and wetland area.

SECTION 9.614 PROCEDURES

(a) Regulation. Development within locally non-significant wetlands if permitted by state and federal regulatory agencies described below. Disturbance to wetlands associated with activities allowed in Section 9.613, LSW Limitations must also acquire such permits if required. The Oregon Division of State Lands (DSL) is the state coordinating agency for wetland permits. The US Army Corp of Engineers (USACE) is the federal regulatory agency administering Section 404 of the National Clean Waters Act. Copies of application materials submitted to DSL and USACE and any other state or federal permitting agency must be included in any land use application to the City in order for the application to be deemed complete.

(b) The City shall abide by the following policies:

(1) Notice. The City of Lowell shall notify DSL in writing of all applications to the City for development activities, including development applications, building permits, and other development proposals that may affect any wetland identified in the LWI within 5 business days. This applies to any significant or non-significant wetland area.

(2) 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.

(3) The City may issue local approval for development parcels identified as having potential wetlands on the State 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 shall provide DSL with a copy of the notification together with a map showing the property location. Failure by the City to provide notice as required in this section will not invalidate City approval.

(c) The provisions of Section 9.614 (b) do not apply if a permit from DSL has been issued for the proposed activity.

(d) Approval of any activity described in Section 9.614(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.

(3) Notice from DSL that no permit is required until specific proposals to remove, fill or alter the wetlands are submitted.

(e) 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.

(f) The City shall not provide water and sewer service to any new structures or development, which would encroach upon or adversely affect any wetlands within the Lowell City Limits or Urban Growth Boundary until the requirements of state and federal removal fill permits are met. In the event that that water and sewer service are necessary before permit conditions such as mitigation, are accepted by the permitting agency, such service may be provided on the condition that if permit conditions are not met, service will be terminated.

SECTION 9.615 LOCAL WETLAND INVENTORY CORRECTIONS

(a) The City may authorize a correction to a wetland on the Lowell Local Wetland Inventory Map when the applicant has shown that a mapping error has occurred and the error has been verified by the Oregon Department of State Lands (DSL). Map errors must be verified using the City of Lowell LWI Report, and assessing the data in the report on wetlands location and significance.

(b) LWI Refinements. A refinement to a boundary on the LWI can be made based on delineations or DSL/ACOE permitted fill.

Adopted by the City Council of the City of Lowell this 18th day of December, 2012.

Yeas: 3

Nays: 1

Approved: Bill George
Bill George, Mayor

First Reading: December 4, 2012

Second Reading: December 18, 2012

Adopted: December 18, 2012

Signed: December 18, 2012

Effective Date: January 17, 2013

Attest: Charles F. Spies
Charles F. Spies, City Administrator



PO Box 490 Lowell, OR 97452
Phone: 541-937-2157 Fax: 541-937-2936
Email: city@lowell-or.gov

Dec 20, 2012

Department of Land Conservation and Development
Attn: Plan Amendment Specialist
635 Capital Street NE, Suite 150
Salem, OR 97301-2540

Transmittal Letter: Notice of Adoption, City of Lowell Ordinances 283 and 284

Dear Plan Amendment Specialist

Enclosed on Notices of Adoption for City of Lowell Ordinance 283, amending the Lowell Land Development Code and Ordinance 284, amending the Lowell Comprehensive Plan 2005.

A handwritten signature in black ink, appearing to read "CFS", is positioned above the printed name of the City Administrator.

Charles F. Spies
City Administrator



PO Box 490
Lowell, OR 97452



DEPT OF
DEC 21 2012
LAND CONSERVATION
AND DEVELOPMENT

Department of Land Conservation
Attn: Plan Amendment Specialist
635 Capital Street NE, Suite 150
Salem, OR 97301-2540