

TOWN OF LEXINGTON

DEVELOPMENT CODE

Ordinance No. _____

Adopted _____

ARTICLE 1 – INTRODUCTORY PROVISIONS

1.10 Title

This ordinance together with the zoning map attached hereto as Appendix A, shall be known as the Development Code for the Town of Lexington, Oregon.

1.20 Purposes

This ordinance is enacted for the following purposes:

- To promote the public health, safety, and welfare of the Town.
- To guide the growth and development of the Town, in accordance with its adopted Comprehensive Plan.
- To encourage the most appropriate use of property within the Town and the orderly and beneficial development of all parts of the Town.
- To stabilize and protect the value of property by minimizing conflicts between land uses.
- To provide adequate light and air and to prevent overcrowding.
- To facilitate adequate and economical provisions for public improvements in order to lessen traffic congestion and make appropriate provisions for the provision of adequate and efficient transportation, water, sewerage, schools, parks, recreation, and other public requirements and services.
- To provide a method of administration and to prescribe penalties for violations of the provisions herein.

1.30 Scope

No structure or property shall hereinafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this ordinance.

1.40 Definitions

All words and phrases used in this code shall have the meanings set forth in this section or the meanings as commonly found in a standard dictionary.

Access – The place or means by which pedestrians, vehicles, or both, shall have safe, adequate, and usable ingress and egress to a property or use. A private access is an access not in public ownership.

Accessory use or structure – A use or structure that is incidental and subordinate to, and located on the same lot as, the primary use of a property.

Accessway – A walkway that provides the pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses.

Alley – A narrow public street through a block primarily for access to the back of a property that fronts another street.

Bicycle Facilities – A general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways.

Bikeways – Any road, path, or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other modes.

Billboard – A sign which has a surface space upon which advertising may be posted, painted, or affixed and which is primarily designed for the rental or lease of such sign space for advertising not related to the use of the property upon which the sign exists.

Block – A parcel of land bounded by streets, railroad rights-of-way, parks, unsubdivided acreage, or a combination thereof.

Building – Any structure having a roof intended for the support, shelter, or enclosure of any persons, animals, property, or business activity.

Building height – The vertical distance from the average elevation of the finished grade to the highest point of the structure.

Building permit – A permit issued by the State of Oregon to construct, extend, or remodel a building.

Comprehensive Plan – The Comprehensive Plan of the Town of Lexington, Oregon, a document intended to guide land development actions.

Conditional use – A use which may be authorized when the decision maker determines that certain criteria are satisfied.

Cottage Industry – A business or commercial activity conducted on a residentially designated lot, either within a dwelling unit or accessory building, by the permanent residents thereof, which is secondary to the use of the site for residential purposes.

Cul-de-sac – A short dead-end street with circular area serving as a space where vehicles may turn around at the point of termination.

Density – The number of dwelling units per unit of land, expressed as the number of square feet of land per dwelling unit. The net density is computed by dividing the gross square footage of a parcel, less any land dedicated for public purposes, by the number of dwelling units.

Development – Any man-made change to improved or unimproved real estate, including but not limited to construction, installation, or alteration of buildings or other structures; condominium conversion; land division; establishment or termination of a right of access; storage on real property; tree cutting; land clearing; mining, dredging, filling, grading, paving, excavation, or drilling operations.

Domestic well – A water well for the use of humans.

Dwelling unit – One or more rooms designed for occupancy by one family for living purposes and having only one cooking facility. Dwelling unit includes manufactured homes, mobile homes, and modular homes, but does not include recreational vehicles.

Dwelling, single family – A building containing one dwelling unit.

Dwelling, single family attached – A building containing more than one dwelling unit, where each dwelling unit is separately owned along with adjacent yards.

Dwelling, two-family or duplex – A building containing two dwelling units, whether in single or separate ownership.

Dwelling, multi-family – A building containing three or more dwelling units.

Employees – All persons, including proprietors, working on a premises during the largest shift of the peak season.

Family – One or more persons related by blood, marriage, legal adoption, or guardianship, or a group of not more than fifteen persons all or part of whom are not related by blood, marriage, legal adoption, or guardianship living together as a single housekeeping unit in a dwelling unit.

Farming and/or farm use – The use of land for raising and harvesting of crops, or for the feeding, breeding, and management of livestock, or for dairying, or for any other agricultural or horticultural use, or any combination thereof, including disposal of such products by marketing or otherwise. Farming also includes the use and construction of buildings customarily used in the above activities.

Federal Manufactured Housing Construction and Safety Standards Code – Title VI of the 1974 Housing and Community Development Act (42 USC 5401 et seq.) as amended, rules and regulations adopted there under, and regulations and interpretations of said code by the Oregon Department of Commerce, all of which became effective for mobile/manufactured home construction on June 15, 1976.

Flood or Flooding – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of run-off of surface waters from any source.

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

Flood Insurance Study – 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 – 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 (1) foot.

Floor area – The total area of all floors of a building as measured to the outside surfaces of exterior walls, including halls, stairways, elevator shafts, attached porches, and balconies, and excluding open court yards and vent shafts.

Garage – An accessory building or portion of a principal building used for the parking or storage of vehicles. A carport shall be considered a garage.

**Grade* – The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground elevation.

**Grade* – The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

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

Hard surfaced – Any pavement or other durable surfacing material, not including gravel or crushed rock, such as concrete, asphalt, cement, oil mat, or similar surface, which is resistant to dust and mud.

Home occupation – A business or commercial activity conducted within a dwelling unit by the permanent residents thereof, which is secondary to the use of the dwelling for living purposes, and which complies with the terms and conditions of the Development Code of the Town of Lexington.

Junk yard – The use of more than 200 square feet of the area of any lot, or the use of any portion of that half of any lot (but not exceeding a depth or width, as the case may be, of 100 feet) which adjoins any street, for the storage, keeping or abandonment of junk, including scrap metals or other scrap material, or the use of any area for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof; provided, however, that this definition shall not be deemed to include uses conducted entirely within an enclosed building.

Kennel – Any premises, building, or structure in or on which four or more dogs or cats over the age of three (3) months are kept.

Land division – The process of dividing land to create lots or parcels, including both subdivision and partitioning of land as defined in state law.

Lot – A unit of land created in accordance with the Town of Lexington land division regulations and any applicable state law. For purposes of this Development Code, the terms "lot" and "parcel" shall be considered interchangeable unless specifically referenced with relation to subdivision or partition regulations.

Lot area – The total area within the boundary lines of a lot.

Lot, corner – A lot with at least two adjacent sides abutting streets other than alleys, provided that the angle of intersection of the adjacent streets does not exceed 135 degrees.

Lot coverage – The total area of a lot occupied by buildings, expressed as a percentage of the total lot area.

Lot depth – The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot line – The boundary line of a lot.

Lot, interior – A lot other than a corner lot.

Lot line, front – The line separating the lot from a street other than an alley or the lot line nearest to a public street. In the case of a corner lot, the shortest lot line along a street other than an alley is the front lot line.

Lot line, rear – The lot line which is opposite and most distance from the front lot line. A lot line abutting an alley is a rear lot line.

Lot line, side – Any lot line that is neither a front or rear lot line.

Lot width – The perpendicular distance measured between the midpoints of the two principal opposite side lot lines, approximately at a right angle to the lot depth.

Manufactured dwelling – The term "manufactured dwelling" means:

1. Manufactured home: a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction and constructed after June 15, 1976.
2. "Manufactured dwelling" does not include any building or structure subject to the structural Specialty Code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreational vehicle by the manufacturer.

Manufactured dwelling park – Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge

or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the Town of Lexington.

Mobile home – The term "mobile home" includes the following:

1. Residential trailer: a structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is used for residential purposes, and that was constructed before January 1, 1962.
2. Mobile home: a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

Motel – A building or group of buildings on the same lot, containing individual sleeping or living units, generally for the temporary use by automobile travelers or transients. The term includes auto courts, hostels, motor lodges, hotels, and any similar accommodations.

Non-conforming structure or use – A structure, use of land, or any other development or element of a development that lawfully existed at the time the Development Code of the Town of Lexington was adopted.

Parcel – A unit of land legally created in accordance with land division regulations of the Town of Lexington and any applicable state law. See also "lot"; for most purposes, the terms "lot" and "parcel" are interchangeable.

Parking space – The minimum area required for the parking of a standard American automobile.

Pedestrian Facilities – A general term denoting improvements made to accommodate or encourage walking, including sidewalks, accessways, crosswalks, ramps, paths, and trails.

Person – Every natural person, firm, partnership, association, or corporation, or any other group acting as a unit.

Property owner – The owner of record in the Morrow County Assessor's Office.

Plat – The map of a land division, including the map of a subdivision or partition.

Primary or principal use – The main use to which a premises is devoted and the primary purpose for which the premises exists.

Public use – A building or use such as a Town hall, fire station, Town shop, school, community center, park, or similar use.

Recreational vehicle – A boat, camper, motor vehicle, or portable vehicular structure capable of being towed on the highways or is self-propelled, designed and intended for casual or short-term human occupancy for travel, recreational, and vacation uses, not for long-term residential use.

Recreational vehicle park – A tract of land which is operated on a fee or other basis as a place for the temporary parking of occupied recreational vehicles.

Residential facility – The following facilities are included within the meaning of this term, as provided by state law.

1. Child caring facility. A facility that provides, for six or more children (unmarried persons under 18 ears of age), for day treatment for disturbed children; adoption placement services;

residential care, including but not limited to foster care of residential treatment for children; or other similar services for children.

2. Residential care facility. A facility that provides, for six or more physically disabled or socially dependent individuals, residential care in one or more building on contiguous properties.
3. Residential training facility. A facility that provides, for six or more mentally retarded or other developmentally disabled individuals, residential care and training in one or more buildings on contiguous properties.
4. Residential treatment facility. A facility that provides, for six or more mentally, emotionally, or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more buildings on contiguous properties.

Residential homes – The following facilities are included within the meaning of this term, as provided by state law.

1. Adult foster home. A family home or facility in which residential care is provided for five or fewer adults who are not related to the provider by blood or marriage.
2. Registered residential facility. A facility that provides residential care for five or fewer disabled (physical or mental impairment which for the individual constitutes or results in functional limitation to one or more life activities) or elderly (62 years of age or older) individuals.
3. Residential training home. A facility that provides, for five or fewer mentally retarded or other developmentally disabled individuals, residential care and training in one or ore buildings on contiguous properties.
4. Residential treatment home. A facility that provides for five or fewer mentally, emotionally, or behaviorally disturbed individuals or alcohol or drug dependent persons, residential care and treatment in one or more building on contiguous properties.

Right-of-way – The area between boundary lines of a street or other dedicated area.

Semi-public use – A building or use such as a church, hospital, sanitarium, rest home, nursing or convalescent home, utility structure, and similar uses.

Setback – The horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a building or structure. The point or line of reference shall be the lot line following any required dedication, future street widening, or special or reservation line if one is required by this Development Code. Minimum setback distances are specified for the various uses and districts.

Sign – An identification, description, or device which directs attention to a product, place, activity, person, institution, or business, and which is affixed to, or represented upon, a building, structure, or land. Each display surface or a sign structure shall be considered a separate sign.

Sight obscuring fence – A solid fence or a slat fence at least six (6) feet in height that completely obscures the view of a property or use.

Sight obscuring planting – A dense perennial evergreen planting with sufficient foliage to obscure the view of a property or use, which will reach an average height of at least six (6) feet within thirty (30) months after planting.

Site – The entire contiguous property under one ownership or ownerships, or intended for development as a unit, whether or not the entire property is proposed for development at the same time.

Story – The portion of a building between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion between the upper surface of the highest floor and the ceiling above. A basement or cellar shall be considered a story if the finished floor level directly above is more than six feet above grade for more than 50% of the total perimeter.

Street – A public right-of-way for the use of pedestrian or vehicular traffic. The street includes the entire width between its outer property lines as well as paving, curbs, sidewalks, or similar improvements.

Structure – Anything constructed or erected which requires location on the ground or attachment to something having location on the ground.

Town – The Town of Lexington, Oregon.

Town Council – The Town Council of the Town of Lexington, Oregon.

Urban Growth Area – The Urban Growth Area (UGA) is the land between the incorporated limits of the Town of Lexington and the Urban Growth Boundary (UGB).

Urban Growth Boundary – The boundary line designated in the Town of Lexington Comprehensive Plan that identifies, and separates, urbanizable land from rural land.

Use – The purpose for which land or a building thereon is designed, arranged, or intended, or for which it is, or may be, occupied or maintained.

Yard – An open space on a lot which is unobstructed from the ground upward. A "setback" required in any zone by this Development Code may include all or part of a "yard." The terms "front," "rear," and "side" refer to spaces on the lot and not necessarily to the orientation of a building on the lot, i.e. the "front" door of a building may not be oriented towards the "front" of the lot or a fronting street.

Yard, front – The yard this is between a building or structure and the lot line which adjoins the street.

Yard, rear – The yard this is between the rear lot line and the rear of a structure or use, usually at the opposite side of the property from the front yard.

Yard, side – The yard lying between a building and a side lot line which does not adjoin a street.

Yard, side street – For a corner lot, the lot line adjoining a street that is not the front.

Zone – An area where certain uses of land and buildings and structures are permitted and where certain other uses, buildings, and structures are not permitted. Restrictions and requirements for the various zones are identified in this Development Code.

Zoning Permit – A permit, signed by the Mayor of Lexington, approving an application for a proposed use. A zoning permit may include conditions of approval for such use, building, or structure to guarantee that the requirements of the Development Code are satisfied.

ARTICLE 2 – ESTABLISHMENT OF ZONES

2.10 Classification of Zones

For the purpose of this ordinance, the following zones are hereby established:

Table 2.1
Zoning Designations

Zone	Zone Designation
General Residential	R
Farm Residential	FR
Commercial	C
Light Industrial	M

2.20 Zone Boundaries

Unless otherwise provided in this ordinance, zone boundaries shall follow readily identifiable boundary lines, such as section lines, subdivision lines, lot lines, centerline of streets, railroad rights-of-way, extension of such lines, or similar lines. Any line on the Official Zoning Map shall be assumed to follow a readily identifiable boundary line unless otherwise specified in the Comprehensive Plan or the ordinance adopting the zone designation or any amending ordinance.

2.30 Location of Zones

An Official Zoning map that shows the boundaries of all zones as hereby established shall be adopted as a part of this ordinance. The Official Zoning Map is attached to this ordinance as Appendix A. The Official Zoning Map and a record of notations, references, and amendments shall be maintained by the Town Clerk and shall be kept on file at Town Hall.

2.40 Zones of Areas to be Annexed

As part of the proceedings to annex any land to the Town of Lexington, the Town Council shall determine the appropriate zoning for the property to be annexed. The zoning of the property to be annexed shall be in accordance with the Comprehensive Plan and with the table of corresponding designations in this section, or the application for annexation shall include a request for change of zoning.

Table 2.2

Corresponding Comprehensive Plan and Zoning Designations for Annexation

Comprehensive Plan Designation	Zoning Designation
Residential	General Residential (R) Farm Residential (FR)
Commercial	Commercial (C)
Industrial	Light Industrial (M)

ARTICLE 3 – ZONING DESIGNATIONS

3.10 Residential Zone (R)

The Residential Zone identifies land suitable for residential uses. Generally, R land is located close to, but not necessarily fronting on, Main Street. The density is limited to one dwelling per 7,500 square feet for single family dwellings, one dwelling per 5,000 square feet for two family dwellings, and one dwelling per 3,500 square feet for multi-family dwellings. Higher density residential uses would be appropriate along arterial and collector streets when public sewer becomes available.

1. *Permitted Uses.* The following uses and accessory uses are permitted in the R Zone:
 - a. Single family dwelling, including manufactured home subject to standards of Section 11.
 - b. Crop cultivation, truck gardening, plant nursery, with produce intended for use by the property resident and no on-site sales.
 - c. Residential Home.
2. *Conditional Uses.* The following uses are permitted in the R Zone, subject to review and approval by the City Council according to the standards in Article 5:
 - a. Two-family or multi-family dwellings
 - b. Residential facility
 - c. Manufactured home park
 - d. Public or semi-public use
 - e. Temporary residence
 - f. Cottage industry

3.11 Dimensional Standards

The following dimensional standards shall apply in the R Zone:

1. *Minimum lot dimensions:*

Minimum area - 7,500 square feet for a single family dwelling; 10,000 square feet for a two-family dwelling; 12,000 square feet for a multi-family dwelling (density no greater than one dwelling per 3,500 square feet of lot area)

Minimum width - 62 feet

Minimum depth - 100 feet

Minimum yard setbacks:

Front yard - 20 feet

Side yard: 10 feet

Corner side yard (second street frontage for a corner lot): 10 feet

Rear yard: 10 feet

2. *Maximum building height:* 25 feet
3. *Maximum lot coverage:* 30%
4. *Minimum street frontage:* 62 feet, except on a cul-de-sac, 30 feet

3.20 Farm Residential Zone (FR)

The Farm Residential Zone permits a variety of residential uses and farm uses, including raising of livestock for personal use. Land designated FR is generally located further from Main Street and is intended for lower density uses.

1. *Permitted Uses.* The following uses and accessory uses are permitted in the FR Zone:

- a. Single family dwelling, including manufactured home subject to standards of Article 11.
 - b. Crop cultivation, truck gardening, plant nursery, and farming, not including intensive livestock or poultry operations such as a commercial feed lot or poultry plant, subject to limitations of Section 3.22.
 - c. Residential Home.
2. *Conditional Uses.* The following uses are permitted in the R Zone, subject to review and approval by the City Council according to the standards in Article 5:
- a. Public or semi-public use.
 - b. Residential facility.
 - c. Manufactured home park
 - d. Temporary residence
 - e. Cottage industry

3.21 Dimensional Standards

The following dimensional standards shall apply in the FR Zone:

- 1. Minimum lot dimensions:
 - Minimum area - One acre for a single family dwelling
 - Minimum width - 62 feet
 - Minimum depth - 100 feet
- 2. Minimum yard setbacks:
 - Front yard - 20 feet
 - Side yard: 10 feet
 - Corner side yard (second street frontage for a corner lot): 20 feet
 - Rear yard: 10 feet
- 3. Maximum building height: 25 feet
- 4. Maximum lot coverage: 10%
- 5. Minimum street frontage: 50 feet

3.22 Limitations on Use

In the FR Zone, the following limitations and conditions shall apply:

- 1. Animal densities shall be limited as follows: The total number of animals permitted on a lot is cumulative, i.e. the total area required for each type of animal shall not exceed the area of the lot.
 - a. The number of cows, horses, or similar livestock over the age of six months shall not exceed one for each 10,000 square feet of lot area.
 - b. The number of sheep, goats, or similar livestock over the age of six months shall not exceed one for each 5,000 square feet of lot area.
 - c. The number of fowl or rabbits over the age of six months shall not exceed one for each 250 square feet of lot area.

- d. Any hog pen must be no less than 200 feet from a residence not owned by the owner of the hog pen. No more than three hogs over the age of three months may be kept on one property inside the city limits.
2. Animals and fowl shall be properly restrained and not permitted to run at large.
3. Structures housing livestock shall be set back at least 40 feet from any developed street.
4. Animals and fowl shall be housed and maintained so that a nuisance is not created or allowed to continue.
5. Sale of products of the farm on the premises upon which such products are produced, including signs advertising the sale of such products, is permitted. Two signs, having an area of not more than six square feet each, are allowed.

3.30 Commercial Zone (C)

The Commercial Zone permits a variety of commercial and residential uses. Land designated C is generally located along Main Street and State Highways 74 and 207 where access and visibility is greatest. Uses should be concentrated to the extent possible, to encourage pedestrian access to businesses. Residential uses are intended to be secondary to commercial uses, particularly when public sewer becomes available.

1. *Permitted Uses.* The following uses and accessory uses are permitted in the C Zone:
 - a. Any commercial use, including but not limited to retail sales, repair and maintenance, eating and drinking establishments, offices, financial institutions, amusement establishments, and hotels or motels.
2. *Conditional Uses.* The following uses are permitted in the C Zone, subject to review and approval by the City Council according to the standards in Article 5:
 - a. Public or semi-public use.
 - b. Residential facility.
 - c. Manufactured home park.
 - d. Recreational vehicle park.
 - e. Any residential use, subject to the dimensional requirements of the R Zone (Section 3.11).
 - f. Veterinary clinic.

3.31 Dimensional Standards

The following dimensional standards shall apply in the C Zone:

1. *Minimum lot dimensions:*

Minimum area - No minimum lot area; the lot must be adequate for the use, building, and required parking.
2. *Yard setbacks:*

Maximum front yard - 10 feet

Yard setbacks for the side and rear shall be sufficient to satisfy requirements of the Building Code and Fire Code.
3. *Maximum building height:* 25 feet
4. *Minimum street frontage:* 50 feet

3.32 Limitations on Use

In the C Zone, the following limitations and conditions shall apply:

1. New commercial uses shall be designed to accommodate pedestrians and bicyclists, with sidewalks, direct connections from the primary entrance to the fronting street, and parking facilities for bicycles.
2. Storage of equipment or materials shall be screened from view from the fronting public right-of-way and shall be located behind or beside the primary building or structure.
3. Drive through uses and windows shall be located to the side of a primary building and arranged to minimize conflicts with pedestrians.
4. New points of access to the state highways shall be minimized, utilizing streets to the side or rear of a site or an alley whenever possible.

3.40 Light Industrial Zone (M)

The Light Industrial Zone permits a variety of industrial and commercial uses. Land designated M is generally located along major streets or near the railroad right-of-way, where access is good. Uses should be concentrated to the extent possible, to minimize impacts on other uses. Commercial uses are limited to wholesale uses and are intended to be secondary to industrial uses.

1. *Permitted Uses.* The following uses and accessory uses are permitted in the M Zone:
 - a. Any industrial use, including but not limited to manufacturing, repairing, compounding, processing, storage, warehousing, and wholesale distributing.
 - b. Farming, not including intensive livestock or poultry operations such as a commercial feed lot or poultry plant.
2. *Conditional Uses.* The following uses are permitted in the M Zone, subject to review and approval by the City Council according to the standards in Article 5:
 - a. Public or semi-public use
 - b. Commercial livestock sales yard
 - c. Commercial grain elevator
 - d. Wrecking or junk yard
 - e. Veterinary clinic
 - f. Dwelling for use by a caretaker or watchman
 - g. Any use of property within 100 feet of a lot in a residential zone, and the town Council may impose such limitations as may be required to reduce conflicts between uses.
3. *Prohibited Uses.* The following uses are prohibited in the M Zone:
 - a. Surface mining, rock crushing, asphalt plant

3.41 Dimensional Standards

The following dimensional standards shall apply in the M Zone:

1. *Minimum lot dimensions:*

Minimum area - No minimum lot area; the lot must be adequate for the use, building, and required parking.
2. *Yard setbacks:*

Yard setbacks shall be sufficient to satisfy requirements of the Building Code and Fire Code.

3. *Maximum building height:* No maximum height limitation.
4. *Minimum street frontage:* 50 feet

3.42 Limitations on Use

In the M Zone, the following limitations and conditions shall apply:

1. Any use which creates a nuisance because of noise, smoke, odor, dust, gas, or neglect is prohibited.
2. Storage of equipment or materials shall be screened from view from the fronting public right-of-way.
3. Any use of property within 100 feet of a lot in a residential zone shall be subject to the review and approval of the City Council. The City Council may impose such limitations as may be required to reduce conflicts between uses.
4. New points of access to the state highways shall be minimized, utilizing streets to the side or rear of a site or an alley whenever possible.

3.50 Permanent Open Space Zone (O)

The Permanent Open Space Zone is intended to be combined with any other zone where the Comprehensive Plan identifies a flood plain or other area of physical hazard, or natural area.

1. *Permitted Uses.* The following uses are permitted in the O Zone:
 - a. Farming.
 - b. Natural areas, including wildlife refuges.
 - c. Outdoor recreational facilities.

3.51 Dimensional Standards

Dimensional requirements of the underlying zone shall apply to any use in the O Zone.

3.52 Limitations on Use

In the O Zone, the following limitations and conditions shall apply:

1. Permanent structures are prohibited.
2. Storage of hazardous materials or equipment is prohibited.
3. No use shall be allowed which would create a hazard to public health, life, or property at the site or in a floodplain area, either upstream or downstream from the site, and in addition, all uses must be in accordance with the US Department of Housing and Urban Development's Federal Insurance Administration's flood plain regulations.

ARTICLE 4 – NON-CONFORMING USES.

4.10 Lawfully Existing Development

Lawfully existing development shall include any use or structure for which a permit for development, including a building permit, or any land division lawfully approved prior to the adoption of this Development Code, but which would not conform to provisions of this Development Code.

4.20 Continuation

A non-conforming use or structure may continue until removed, but is not encouraged to be perpetuated. Normal maintenance and repairs of a structure are permitted and nothing in this Code shall be deemed to prevent the restoring to a safe condition any structure or part of a structure.

4.30 Changes and Alterations

A non-conforming use may not be extended or expanded on the same site or within the same structure and a non-conforming structure may not be replaced, changed, or altered, unless the change to use or structure is to a conforming use or a conforming structure.

4.40 Discontinuation of a Non-conforming Use

A non-conforming use is considered to be discontinued if it ceases for a period of one year and it may not be re-started. A non-conforming structure, which was occupied by a non-conforming use, may be reoccupied with any use conforming to requirements of the Development Code.

4.50 Destruction of a Non-conforming Structure

A non-conforming structure or structure containing a non-conforming use shall not be re-established if it has been destroyed by any cause to an extent exceeding 80% of the valuation as determined from records of the County Assessor. Any future structure or use on the site shall conform to the Development Code.

4.60 Pre-existing Permits

No change shall be required to any plans, construction, or designated use of a structure for which a permit was issued and approved by the Town of Lexington prior to the adoption of this Development Code.

ARTICLE 5 – CONDITIONAL USES

5.10 Authorization to Grant or Deny Conditional Uses

The Town Council may approve, approve with conditions, or deny any application for a conditional use listed in this Development Code, if the Town Council finds the application satisfies the criteria and standards of this Article. A conditional use existing prior to the effective date of this Development Code and classified in this Code as a conditional use may only be changed or altered according to requirements of this Code.

5.11 Approval Criteria

Any application for conditional use permit must demonstrate that the proposed use can satisfy the following general criteria, in addition to any specific standards in this Article.

1. The proposed use will be consistent with the Comprehensive Plan, the Development Code, and any other applicable policies and requirements of the Town.
2. Impacts of the proposed use on existing and permitted uses in the Zone and the vicinity shall be identified and mitigated to the extent determined by the Town Council to be reasonable, necessary, and adequate to limit the impacts upon adjacent properties and uses, the neighborhood, and the community. Mitigating measures might include, but are not limited to, increased setbacks, landscaped screening, orientation or location of the use on the site, limiting points of access to public streets, or similar measures.
3. The proposed use shall be suitable for the site, considering location, size, design, operating characteristics, access, condition of adjacent streets, on and off site parking, topography, adjacent uses, and any similar, physical conditions that affect or are affected by the proposed use.
4. The proposed use shall not have a significant adverse impact on public facilities, including street capacity, the public water system, storm drainage, or public or private sewer disposal systems.
5. The proposed use shall incorporate into the design of the use and the site any trees and other natural or man-made features which provide recreational assets, shade, or windbreaks; special lighting or fencing; features of historical or cultural interest; and similar features when existing on a site and as determined by the Town Council to be feasible and reasonable. The Town Council may determine that replacement of existing trees with new trees and landscaping may be sufficient to mitigate for the removal of existing mature trees.

5.20 Conditions for a Permit

The Town Council may impose conditions to mitigate identified impacts of a proposed conditional use, when it finds that such conditions are necessary and reasonable to minimize conflicts between the proposed use and existing or permitted uses in the Zone and vicinity of the proposed use. Conditions may include, but are not limited to, the following:

1. Limiting the manner in which the use is conducted, including limiting the hours of operation or minimizing environmental effects such as noise, vibration, air pollution, glare, and odor.
2. Requiring additional or special yards or open space between the proposed use and adjacent uses or properties.
3. Limiting the height, size, or location of a structure or use.
4. Designating the size, number, location, and nature of vehicle access points and off-street parking spaces.
5. Increasing the street dedication, street width, or requiring improvements within the street right-of-way.

6. Designating the size, location, screening, drainage, surfacing, or other improvement of a parking area or truck loading area.
7. Limiting or otherwise designating the number, size, location, height, and lighting of signs.
8. Limiting the location and intensity of outdoor lighting and requiring appropriate shielding to limit glare onto adjacent properties.
9. Requiring diking, screening, landscaping, or another facility to protect adjacent or nearby property and designating standards for its installation and maintenance.
10. Designating the size, height, location, and materials for a fence or other screening, including landscape screening.
11. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.
12. The Town Council may require an applicant to post a bond or other guarantee of performance to assure that conditions and standards specified by the Development Code and the Town Council shall be satisfied. .

5.30 Application for Conditional Use

An application for a conditional use permit or modification of an existing conditional use shall be filed in accordance with requirements and procedures of Article 12.

5.40 Standards and Requirements for Specific Conditional Uses

The following specific requirements apply to certain conditional uses in addition to the general approval criteria of Section 5.11:

1. *Two-family and multi-family dwellings in the R Zone.*
 - a. The site shall front on an arterial or collector street or be located at the intersection of a local street with an arterial or collector street.
 - b. Parking, including garages, shall be provided to the side or rear of a structure so that the primary entrance from the fronting street is not blocked by pavement or parking area.
 - c. Buildings shall be oriented so that the front of the dwelling(s) is oriented to the fronting street, unless there is no feasible alternative.
 - d. Trash facilities shall enclosed within a fence or landscape screen unless no other alternative is feasible.
2. *Temporary dwelling in an R or FR Zone.*
 - a. A temporary residence may be placed on any site in an R or FR Zone to facilitate the care of a family member when there is a “hardship” situation.
 - b. A “hardship” shall be found when there is any condition that requires an individual to need assistance from another, including financial aid or assistance in two or more activities such as bathing, meal preparation, eating, dressing, grooming, medication management, monitoring of conditions, and similar requirements.
 - c. The temporary residence may be a mobile or manufactured home, residential trailer, or recreational vehicle.
 - d. The temporary residence shall meet yard setbacks required in the zone but may be exempted from any other placement requirements, except building code and DEQ requirements, at the discretion of the Town Council.

- e. The temporary residence shall be removed from the site when the hardship situation no longer exists. The Town Council may require a financial guarantee to assure that the temporary residence is removed.
3. *Residential Use in the C Zone.*
- a. Any residential use other than a single family dwelling shall not be permitted without adequate DEQ approved sewer and water.
 - b. If on the same site as a commercial use, parking shall be provided for both uses.
4. *Public and Semi-public Uses.*
- a. Public and semi-public uses shall be located on arterial or collector streets to minimize impacts on lower density neighborhoods and adjacent uses. The town Council may make exemptions to the location requirements when justified by circumstances of the use or site.
 - b. Public and semi-public uses shall be provided with adequate access, including sidewalks or pathways to provide safe and direct access for pedestrians and bicycles when appropriate.
5. *Recreational Vehicle Park.* A recreational vehicle park shall be constructed, maintained, and operated in accordance with applicable State standards and regulations, and shall also comply with the following requirements:
- a. Water supply service to each camping space is not required, but at least one water supply service on site shall be provided.
 - b. An adequate DEQ approved sewer shall be available to the site. In lieu of individual sewer connections for each camping space, at least one sewage disposal station shall be provided on site for the park.
 - c. All solid waste shall be stored in individual garbage containers, storage bins, or storage vehicles. All such containers shall have tight-fitting lids, covers, or closeable tops, and shall be durable, rust resistant, watertight, rodent-proof, and be readily washable. All solid waste shall be collected for disposal at regular intervals not to exceed seven (7) days.
 - d. Liquefied petroleum gas storage tanks on site shall be approved by the Town Fire Chief and the State fire Marshall, as applicable.
 - e. Toilet, hand washing, and bathing facilities shall be maintained to meet requirements set forth by the building Official and the State health Division.
 - f. Eating and drinking establishments, commissaries, mobile units, and vending machines operated in conjunction with the park may be permitted in accordance with an approved development plan and in accordance with applicable regulations administered by the State Health Division.
 - g. All swimming pools, spa pools, and wading pools located at or operated in a recreation park shall comply with the applicable rules of the State Health Division.
 - h. The owner and/or management of a recreational vehicle park shall maintain all buildings, grounds, rental units, spaces, and furnishings in good repair and appearance, and in clean conditions at all times.
 - i. Either the owner, an operator, resident manager, or other such supervisor shall be available on the premises of a recreation park at all times while it is open for use, except as otherwise approved by the Town.

- j. Each camping space shall be identified by number, letter, or name.
- k. Each camping space shall be large enough to accommodate the parked camping vehicle, tent vehicle, or tent, as the case may be, and for which the space was intended or designed, and to maintain at least 10 feet separation from any other camping vehicle or tent, 10 feet from any building, 20 feet from a boundary line abutting a public street or highway, and 10 feet from any other boundary line. Only one camping vehicle, tent vehicle, or tent is permitted per space, unless designed and designated as a group use space.
- l. Each recreation park shall have direct access to either an arterial or collector street. Each access road intersecting a public street or highway shall have a surface width of not less than 30 feet, and driveways within the park shall be at least 20 feet in width, or if parking is permitted on the driveways, they shall be 30 feet in width. All roads and driveways shall be well-drained and hard-surfaced as approved by the Town and the Town Superintendent of Public Works.
- m. Each space in the park shall have direct access to a park driveway or road.
- n. Toilet facilities shall be provided in all recreational vehicle parks in the following ratios:

Number of Spaces	Number of toilets
1-15	2
16-30	3
31-60	5
61-100	7

- o. The density of RV parks shall not exceed 15 campsites per acre; the Town may adjust the density downward in the case of limitations necessary by steep slopes, geologic or natural features, or impacts on adjacent areas.
 - p. Each recreation vehicle space shall be a minimum of 1,200 square feet.
 - q. Each RV space shall contain no more than thirty-three (33) percent paving or concrete.
 - r. Landscaped or open space areas shall be a minimum of twenty (20) percent of the project site, and may include nature trails, buffers, landscaping, common picnic or recreation areas, wetlands, or streams.
 - s. Accessory uses may include an owners/managers office/residence, restroom and bathing facilities, laundry, mini-market with limited gasoline and propane gas services, swimming pool, and other small scale recreational facilities such as tennis courts, miniature golf, and playgrounds for the use of park customers only.
 - t. One additional parking space for each four campsites shall be provided in clusters of 4-6 at convenient locations throughout the park.
6. Cottage Industry Standards.
- a. Materials, vehicles, or parts shall be stored in an enclosed structure.
 - b. Noise, odor, smoke, gases, fallout, vibration, heat, or glare resulting from operation of a business shall not be detectable beyond the limits of the property.
 - c. Sight obscuring landscaping of at least six feet in height may be required between the use and adjacent properties or along a public street.
 - d. The use shall be a low traffic generator.

- e. Other than family members residing on the premises, no more than one employee may work on the premises.
- f. Off-street parking and access shall be designed to provide for customers without creating a commercial parking lot appearance.
- g. Uses involving non-resident employees and delivery of materials or visits by customers shall limit hours of operation to between 8:00 AM and 6:00 PM, unless otherwise authorized by the town Council.
- h. The cottage industry shall only be operated by residents of the property and shall not be leased, sold, conveyed, or transferred separately from the residence.
- i. The Town Council shall review the permit for a cottage industry upon the receipt of two or more written complaints of violations of these or applicable state standards or regulations from two or more households within 250 feet of the boundaries of the site. A public hearing shall be held to review the complaints and the permit. The Town Council may (1) approve the continuance of the use as it exists, or (2) require that it be terminated, or 3) impose new and additional restrictions or conditions upon continuance of the business. New complaints which are substantially the same as those previously reviewed and acted upon will only be heard by the town Council after a period of six months has elapsed from the date of the earlier decision, unless the Town Council believes or finds that any restricts or conditions imposed on the use have not been followed.

ARTICLE 6 – VARIANCES

6.00 Purpose

This Article provides a means for modifying the strict application of the provisions and requirements of this Code, to accommodate special or unusual circumstances relating to a particular use or site.

6.10 Authorization to Grant or Deny Variances

The Town Council may approve, approve with conditions, or deny any application for a variance or the Mayor may approve, approve with conditions, or deny any application for a minor variance in accordance with provisions of this Article and the procedures of Article 12. No Variance or Minor Variance shall be granted that would allow the use of property not authorized within the zone in which the proposed use or development is located. In granting a Variance or Minor Variance, conditions may be attached that are found necessary to mitigate identified impacts, protect the best interests of adjoining or surrounding properties or the vicinity, and to otherwise achieve the purposes of this Code and the objectives and policies of the Town's Comprehensive Plan.

6.20 Approval Criteria

A Variance may be granted if the following Findings are evident:

1. That the literal application of specific provisions of the Document would create practical difficulties however, a Variance is not to be granted simply because it would afford the owner a higher profit or prevent a mere inconvenience; and
2. That the condition creating the difficulty is not general throughout the surrounding area, but is unique to the applicant's site or property, so that the granting of the Variance will not set a precedent for future applications; and
3. That the condition was not created by the applicant. A self-created difficulty will be found if the applicant knew or should have known of the specific restriction or provision at the time the site was purchased. Self-created hardship also results when an owner and/or developer negligently or knowingly violates a provision of this Document. A substandard lot, deliberately made so by the owner's conveyance, is considered a self-created hardship. Violations made in good faith, or circumstances arising from pre-existing conditions or circumstances are treated more leniently, as is the condition of an area deficiency created by the expansion of a public right-of-way, public utility easement, or other public use in the public interest; and
4. That the literal application of specific provisions of the Document would result in an unnecessary hardship to the applicant and/or property owner. An unnecessary hardship will be found when there is no reasonable use of or return from the property as it may lawfully be used under the applicable provisions of this Document. ~~Approval Criteria:~~
5. That the Variance would not permit a use otherwise not allowed in the Zone.

6.30 Minor Variance

For the purposes of this Document, a "Minor Variance" is an "Area or Dimensional" Variance that meets one of the following conditions.

1. A request involving a deviation from a minimum lot size requirement of not more than 10%;
or
2. A request involving a deviation from a yard or setback requirement of not more than 25%;
or
3. A request for the expansion of a nonconforming use by not more than 10%.

6.31 Circumstances for Granting a Minor Variance

A minor variance may be granted when the Mayor or, when referred by the Mayor, the Town Council determines the following:

1. Granting the minor variance will equally or better meet the purpose of the regulation to be modified, and
2. If in a residential zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in a commercial or industrial zone, that the proposal will be consistent with the desired character of the area, and
3. Any identified impacts resulting from the minor variance are mitigated to the extent practical, and
4. Granting the minor variance is the minimum necessary deviation from the requirement to satisfy the identified problem, and
5. If more than one minor variance is requested, the application shall be referred to the Town Council for determination.
6. The Mayor may refer any application for minor variance to the Town Council for determination.

6.40 Application for a Variance.

A property owner or his authorized agent may initiate a request for a Variance or Minor Variance by filing an application using forms prescribed by the Town. The application shall be accompanied by the required filing fee and by any required accompanying documents or information as specified in Article 12.

6.50 Procedure for Taking Action on a Variance

The Town Council shall consider an application for Minor Variance, when referred by the Mayor or when more than one Minor Variance is requested, or Variance at a public hearing in accordance with provisions in Article 12. The Town Council may approve, approve with conditions, modify, or deny any application for Minor Variance or Variance. The Mayor shall consider an application for a Minor Variance and issue a decision, unless more than one Minor Variance is requested. The decision shall be issued in written form, with findings as required by this Article to demonstrate that all applicable approval criteria have been satisfied.

ARTICLE 7 – MANUFACTURED HOME REGULATIONS

7.10 General Requirements for Siting a Manufactured Home on a Lot

A manufactured Home may be placed on an individual lot when all the following standards are satisfied:

1. The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
2. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade, unless required otherwise because of the flood plain.
3. The manufactured home shall have a pitched roof. The roof slope is not required to be greater than a nominal three feet in height for each 12 feet in width.
4. The manufactured home 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.
5. The manufactured home 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 the state building code.
6. Any development standard that would be applied to a conventional single-family residential dwelling on the same lot shall be applied to the siting of a manufactured home.

7.11 Manufactured or Mobile Home Park

An application for manufactured or mobile home park shall comply with the following standards, in addition to standards and criteria of Article 5 and with applicable State requirements.

1. No manufactured or mobile home park shall be approved without adequate DEQ approved sewer. Each space within the park shall have public water, adequate sewer, electrical power, and any other necessary utility connections such as cable television, etc.
2. The park shall have an internal street system, with no individual site having a direct connection to a public street. Internal streets shall be hard surfaced and well drained. Internal streets connecting to the public street shall be at least 30 feet wide. Internal streets shall be at least 20 feet wide, or if parking is permitted, at least 30 feet wide.
3. Walkways with a width of no less than four feet shall be provided adjacent to internal streets. Walkways, bicycle paths, or other pedestrian ways may be required to provide direct and convenient connections to destinations within the park at mid-block or other locations where street access is not available.
4. Fire hydrants shall be provided as required by the Fire District.
5. Each dwelling unit space shall be provided with a deck or patio no less than 120 square feet in area, and a storage building of no less than 120 square feet in area.
6. Each individual unit space shall be sufficient to accommodate a manufactured or mobile home and provide setbacks between structures of no less than 15 feet.
7. Perimeter setbacks for the park are required as follows: along a street frontage, 20 feet; along interior property lines, 10 feet. Perimeter setbacks are required in addition to any yards required on an individual space. A sight-obscuring fence or hedge of not less than six (6) feet in height shall be placed along the site and rear property lines and at the street frontage setback.

8. A park site shall be no less than one acre in area and comply with the density of the zoning district. The Town Council may approve an increase in density of up to 12 dwellings per acre if it determines that dedicated open space equals at least 30% of the site, a recreation or community use building is provided, and other community facilities such as playground equipment, picnic tables, walking paths, tennis courts, or other amenities, are provided.
9. A park that accommodates children under 14 years of age shall provide a play area equivalent to 100 square feet of area per space, with a minimum area of 2,500 square feet.
10. A dwelling placed within a park shall be provided with continuous skirting within 30 days.

ARTICLE 8 – AMENDMENTS

8.1 Purpose

The purpose of this chapter is to provide standards and criteria for making decisions on legislative and quasi-judicial amendments to this Code and the zoning map. Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

8.2 Legislative Amendments

Legislative amendments are policy decisions made by City Council that affect larger areas or classes of properties rather than specific sites. Legislative amendments shall be considered by the Town Council, according to public hearing procedures in Article 12. The Town Council may approve or deny a legislative amendment.

8.3 Quasi-Judicial Amendments

Quasi-judicial amendments involve the application of adopted policy to a specific development application, specific site map amendment, or Code revision. Quasi-judicial amendments shall be considered by the Town Council, according to the public hearing procedures in Article 12. The Town Council shall determine that the following criteria are satisfied or not satisfied in reaching a decision:

1. The request is consistent with the Statewide Planning Goals.
2. The request is consistent with the Town Comprehensive Plan, including the Transportation System Plan and Transportation Planning Rule requirements in Sections 8.5 and 8.6.
3. The site has adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.
4. The application demonstrates evidence of change in the neighborhood or community, or a mistake or inconsistency in the comprehensive plan or land use district map.
5. The Town Council may approve, approve with conditions or deny an application for a quasi-judicial amendment.

8.4 Record of Amendments

The Town shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

8.5 Transportation Planning Rule Compliance

In addition to the findings required in Section 8.3, the Town Council shall also review a proposed comprehensive plan amendment or land use district change to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. “Significant “ in this context means that the proposal would:

1. Change the functional classification of an existing or planned transportation facility.
2. Change the standards implementing a functional classification system; or
3. Allow types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
4. Reduce the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan.

8.6 Amendments with Significant Transportation Impacts

Amendments to the Comprehensive Plan and land use standards that significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and performance standards of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility; or
2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

ARTICLE 9 – OFF STREET PARKING AND LOADING

9.10 General Provisions.

9.11 Provision of Facilities

At the time of erection, remodeling, or enlargement of a new structure or change to an existing use within a structure, parking and loading shall be provided as specified in this section, unless greater requirements are established in this code.

9.12 Parking Space maintenance

The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented to the Town that show an area on the site that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of the property shall be conditional upon the continuing availability of the amount of parking and loading space required by this ordinance.

9.13 Total Requirements

If several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

9.14 Parking Space Location

Required parking spaces shall be located not more than 500 feet from the building or use they serve.

9.15 Parking Space Use

Required parking spaces shall be available for the parking of passenger automobiles of customers and employees only and shall not be used for storage of materials or the parking of trucks used in conducting the business or use or the parking of inoperable vehicles.

9.20 Off Street Parking Specifications

Where floor area is specified, that area shall be gross floor area of the structure exclusive of any area devoted to off-street parking or loading. Where the number of employees is used to determine parking requirements, persons counted shall be those intended to be working on the premises, including proprietors, during the largest shift in peak season. Fractional requirements shall be counted as a whole space.

Use	Vehicle Parking Spaces	Bicycle Parking Spaces
Residential Uses		
One or two family dwelling	2 spaces per dwelling unit	No requirement
Multi-family dwellings	2 spaces per dwelling unit	1 per dwelling unit
Hotel or Motel	1 per room or unit	No requirement
Institutional		
Hospital, Nursing Home	1 space per two beds	
Preschool, Kindergarten	2 spaces per teacher	
Elementary, Jr. High School	1 space per classroom plus one space per administrative employee	1 space per four students
High School, Private School	6 spaces per classroom plus 1 space per employee	1 space per four students
Assembly use (auditorium, theater, church, meeting hall, etc.)	1 space per four seats or one space per 100 square feet of floor area of the primary meeting room	1 space per 10 seats or 1,000 square feet
Commercial Uses		All uses: 10% of the vehicle space requirement, but no less than one space

Retail uses	1 space per 200 square feet	
Office uses (professional or medical)	1 space per 300 square feet	
Bowling alley	3 spaces per lane plus one space per employee	
Service or repair shop	1 space per 600 square feet	
Industrial uses		All uses: 10% of the vehicle space requirement, but no less than one space
Storage, warehouse, freight terminal	1 space per 1,000 square feet	
Manufacturing, processing	1 space per 300 square feet	
Wholesale establishment	1 space per 500 square feet of patron serving area	
All uses		
Trucks, machinery	An area separate from required parking spaces shall be provided on the site for any vehicles other than passenger vehicles.	

9.22 School Bus Loading Areas

Each school having a capacity of over twenty-five students shall have a driveway designed for a continuous forward flow of passenger vehicles for the purpose of loading and unloading children. If the driveway is a single lane in width, a separate driveway may be provided for buses.

9.23 Residential Parking

In a residential area, no parking shall be allowed in the front yards of the dwelling units other than on a driveway. Parking spaces provided for dwellings must be on the same lot as the dwelling unit.

9.24 Bicycle Racks in Commercial and Industrial Zones

When more than four bicycle spaces are required, bicycle parking shall be provided in racks anchored so that they cannot be easily removed. Racks shall be designed so that at least one wheel and the frame of a bicycle can be locked securely to it with a heavy chain, cable, or padlock. Bicycle racks shall be clearly labeled as available for bicycles and shall be located to be at least as convenient as the most convenient car parking, and as close to the desired entrances as possible without interfering with pedestrian traffic. Bicycle and auto parking areas shall be separated by some form of barrier to eliminate the possibility of a bicycle being hit by a car.

9.30 Joint Parking

Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, providing that the owners present to the town council legal evidence of such arrangement in the form of a lease, deed, or contract.

9.40 Off-Street Loading

Any off-street loading, other than for schools, shall be located such that there is no interference with traffic on any street or within the parking area serving the building or use.

9.50 Non-listed Uses

Requirements for types of buildings and uses not specifically listed herein shall be determined by the town Council, based upon the requirements of comparable uses.

9.51 Modification of Requirements

The Town Council may consider request for modification of parking requirements, when a request is submitted with an application for a building or use and when the request is justified by a report from a transportation engineer. A modification of parking requirements is not a "Variance" but shall be considered on the basis of an analysis of the need for parking for the particular use.

9.60 Development Requirements.

1. *Surfacing.* All off-street parking spaces and driveways, except those for single family residences, shall be hard surfaced with concrete, asphalt, cement, oil mat, or similar surface which is resistant to dust and mud. Type and thickness of the proposed surface shall be approved by the Town Council, based on standard engineering practices. The Town Council may approve the use of gravel for temporary or permanent use.
2. *Setbacks.* All parking areas for more than four vehicles shall be set back from any property line at last five feet. The edge of the parking area shall be marked with a curb or other permanent barrier.
3. *Landscaping.* The setback area around a parking area shall be landscaped to provide a screen between the parking area and an adjoining street or use. The screening fence or planting shall be at least three feet high along an adjoining street and at least six feet high adjacent to a different use. Trees shall be included in landscaping when possible, especially along street frontages.
4. *Access.* Groups of more than four off-street parking spaces shall be served by a driveway or aisle so that no backing movements or other maneuvering within a street other than an alley will be required. Driveways or aisles shall be clearly and permanently marked. A driveway or aisle shall have sufficient width for the angle of parking proposed.
5. *Marking Spaces.* A parking lot for more than four off-street parking spaces shall have spaces permanently marked.

ARTICLE 10 – SIGNS

10.10 Sign Requirements

The following requirements apply to signs installed on private property.

10.11 Residential Zone Requirements

In a residential zone, the following regulations shall apply:

1. No sign shall be illuminated in any manner.
2. One nameplate or home occupation sign not exceeding four square feet in area shall be allowed.
3. One sign shall be allowed per lot to advertise the property for sale, lease, or rent, and the sign shall not exceed six square feet in area. A “for sale” sign shall not be permitted to remain on a property after that property is sold.
4. One sign shall be allowed per subdivision to advertise that lots or homes are for sale. Such a sign shall not exceed fifty square feet in area and shall be set back at least twenty feet from the nearest street.

10.12 Commercial Zone Requirements

In a commercial zone, the following regulations shall apply:

1. Signs shall be set back at least ten feet from any residentially zoned property.
2. Moving or flashing signs are prohibited.
3. Total area of all signs shall not exceed one square foot per 100 square feet of the building’s ground floor area, with a maximum area of 100 square feet.
4. No sign shall project above the roof edge of the building containing the business which the sign identifies.
5. Lighting for signs shall be shielded or directed so that lighting does not constitute a nuisance due to glare or reflections for residential property owners and shall not be located or arranged so as to interfere with, confuse, or mislead a vehicle operator.

10.13 Industrial Zone Requirements

In an industrial zone, the following regulations shall apply:

1. Signs shall be set back at least ten feet from any residentially zoned property.
2. Moving or flashing signs are prohibited.
3. Total area of all signs shall not exceed one square foot per 100 square feet of the building’s ground floor area, with a maximum area of 200 square feet.
4. Lighting for signs shall be shielded or directed so that lighting does not constitute a nuisance due to glare or reflections for residential property owners and shall not be located or arranged so as to interfere with, confuse, or mislead a vehicle operator.

10.20 General Requirements.

1. On-site directional signs shall be exempt from permit requirements when such a sign is no greater than four square feet in area and no higher from grade than four feet.
2. No sign shall be installed without a building permit and electrical permit as required by the state building code.

ARTICLE 11 – SUPPLEMENTARY PROVISIONS

11.10 Exceptions.

11.11 Projections from Buildings

Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, and other architectural features may project not more than two feet into a required yard (or setback) as established by this ordinance.

11.12 Height Exceptions

Chimneys, church spires, belfries, radio, television, and communications antennas, flagpoles, smoke stacks, and other similar projections that are not intended for habitation may be permitted to exceed the building height limitations specified in this ordinance.

11.20 Accessory Uses and Facilities

Accessory uses and facilities shall be permitted in any district when such use or facility is incidental to and associated with a permitted use or facility, or when incidental to and associated with an allowable and authorized conditional use, subject to the provisions of this section. Accessory uses and facilities:

1. Shall be subordinate to the primary activity of the principal use or facility.
2. Shall contribute to the comfort, convenience, efficiency, or necessity of the occupants or the activities of a principal use or function of a principal structure.
3. Shall be located on the same site as the principal use or structure served.
4. Shall comply with applicable setback requirements and lot coverage standards for the Zone as set forth in Article 3.

11.22 Accessory uses and facilities

Include, but are not limited to:

1. A home occupation in a residence.
2. A residence may be an accessory use in a business.

11.23 Continuation of an Allowable Accessory Use

No use or facility permitted as an accessory use or facility shall be constructed as a principal use or facility unless specifically authorized as a permitted or conditional use in the district in which it is located. Operation, occupancy, and continuance of an allowable accessory use and facility shall be conditional upon the continued occupancy or use of the principal use or facility being served.

11.30 Pets

The following requirements apply to keeping of pets:

1. In connection with each permitted dwelling, no more than three dogs, exclusive of animals under the age of three months, and exclusive of other pets which at all times are kept within a fully enclosed building and which do not create odor or sound which is detectable on an adjoining lot, is permitted.
2. With the Council's approval, the keeping of wild or exotic animals, including snakes, is permitted if such animals are confined and any necessary permits are obtained from the Oregon Fish and Wildlife Commission.

11.40 Water Source

A dwelling unit or other structure intended for human occupancy or use must be connected to the Lexington municipal water system and shall not be served by a privately owned domestic well unless due to extreme extraordinary circumstances.

11.50 Historic Structure Preservation

Upon receiving an application for demolition or major exterior alteration involving a historic site as designated by the Comprehensive plan, the City Council in a public meeting shall review an application to determine its conformance with the preservation factors of this section.

11.51 Demolition Procedure

If it is determined the land use action will result in the demolition of any historical building, the City Council shall review the application taking into account the following:

1. State of repair of the building.
2. The reasonableness of the cost of restoration or repair.
3. The purpose of preserving such designated historical building or site.
4. The character of the neighborhood.
5. Other factors the City council finds appropriate.

Following the City Council review, the City Council may approve or deny the permit of land use action or delay action for sixty (60) days to allow cognizant agencies to explore alternatives. The City Council, upon finding significant progress is being made toward preserving the structure, may extend the delay for an additional thirty (30) days. If no suitable alternatives are available, the permit may be issued.

11.52 Major Exterior Alteration Procedures

Major exterior alterations shall be in accordance with the following:

1. Upon receipt of an application for a major exterior alteration of a historic structure listed in the Comprehensive Plan, the City Council, in a public meeting, shall review the proposed alteration to determine if the resource's historical significance will be altered. This review shall be based on the criteria for determining historic significance contained in the Comprehensive Plan.
2. Major exterior alterations as defined by this section include any change or alteration of a façade, texture, design, materials, fixtures, or other treatment.
3. All applications for major exterior alteration shall be accompanied by plans and specifications of the proposed alteration. The city Council may request additional sketches and other information deemed necessary to make an informed decision.
4. In order to approve the application, the City Council shall find the alteration harmonious and compatible with respect to style, scale, texture, and construction material and/or find the alteration will enhance the historical value of the resource. Conditions may be attached to the approval if the city Council deems it necessary to achieve the above objectives. The City Council shall disapprove the request if the proposal would reduce the resource's value or historic significance.

Conditions attached to a permit for major exterior alteration of a historic structure shall be limited to permit requirements addressing architectural design, surface texture, materials, fixtures, or other façade or surface treatments which are deemed inconsistent with the integrity of the historic values being preserved.

The City Council shall not make any recommendation or requirement except for the purpose of preventing development out of character with the historic aspects of the resource.

5. Nothing in this section shall be construed to prevent the ordinary maintenance for repair of any exterior architectural feature which does not involve a change in design, or the construction, reconstruction, or alteration of such feature which the building inspectors certify is required by the public safety because of unsafe condition.

ARTICLE 12 – ADMINISTRATIVE PROVISIONS

12.00 Purpose

This Article provides the procedures by which the Town reviews and decides upon applications for all permits relating to the use of land authorized by ORS chapters 92, 197 and 227. These permits include all form of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Lexington Comprehensive Plan and Development Code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project.

12.15 Assignment of Decision Maker

The following Town entity or official shall decide the following types of applications:

1. The Mayor shall issue the decision and authorize a Zoning Permit for all applications for permits which do not require a public hearing, such as permits for fences, building permits for single family residences, and similar permits with limited discretion. The Mayor may, at his/her discretion, refer any permit application to the Town Council for review and decision at public hearing, according to the procedures in this article.
2. The Town Council shall issue a decision on all actions that require a public hearing, with notice as provided in this Article, including Site Reviews, Conditional Use Permits, Variances, Actions Relating to Nonconforming Uses, Land Divisions, and Appeals of decisions of the Mayor. The Town Council shall also hear and decide quasi-judicial and legislative amendments to the Development Code, Zoning Map, and Comprehensive Plan.
3. A decision of the Town Council may be appealed to the Board of Appeals, made up of three citizens of Lexington appointed by the Mayor, with the concurrence of the town Council. A new Board of Appeals may be appointed as needed, with no continuing status beyond hearing the appeal. The Board of Appeals shall provide notice and conduct hearings as specified in this Article. The Board of Appeals shall review the record and shall not conduct a *de novo* hearing unless new information is available that would not have been available at the original proceedings. If an appellant feels that a fair hearing is not possible before a local hearing body, the appeal may be filed directly with the land Use Board of Appeals.
4. A decision of the Board of Appeals may be appealed to the Land Use Board of Appeals, as provided by state law.

12.20 Applications

A permit application may only be initiated by the record property owner, contract purchaser, or the approved agent, or the Town Council. If there is more than one record owner, then the Town shall not accept an application without signed authorization from all record owners. All permit applications shall be submitted on the form provided by the Town, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria and standards. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria and standards are, or can be, met.

12.21 Application

Information Required. Unless otherwise provided, a complete application includes all the materials listed in this section. The Town may waive the submission of any of these materials if not considered necessary for the specific review sought. Likewise, within 30 days of when the application is first submitted, the Town may require additional information, beyond that listed in this section or elsewhere in this Code, such as a traffic study, soils or geologic study, biological assessment, or other report prepared by an appropriate expert. The applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the Town shall not deem the application complete until all information required by the Town has been submitted. At a minimum, the applicant must submit the following:

1. One copy of a completed application form that includes the following information:
 - a. An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application.
 - b. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s).
2. A complete list of the permit approvals sought by the applicant.
3. A current preliminary title report for the subject property(ies).
4. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by the Town as being required.
5. Up to 20 copies of all reports, plans, site plans and other documents required by the section of the code corresponding to the specific approval(s) sought. At least one copy of the site plan and all related drawings shall be in a readable/legible 8-1/2 by 11 inch format for inclusion into the Town's bound record of the application.
6. A site plan shall include the following information. All site plans shall have dimensions clearly indicated. An applicant may provide the information on separate sheets, if necessary or desirable for clarity.
 - a. North arrow and scale
 - b. Location of property boundaries, including adjacent public or private streets and rights of way
 - c. Location of existing structures and natural features
 - d. Topography, with contours at no greater than 10 foot intervals, preferably less
 - e. Location of utilities and facilities, or proposed locations (sewer, water, fire hydrants, septic system, storm water facilities, etc.)
 - f. Proposed landscaping
 - g. Exterior lighting.
 - h. Circulation plan for vehicles, pedestrians, and bicyclists, including existing and proposed points of access and sidewalks.
 - i. Parking lot layout, with circulation plan and striping details.
 - j. Sign location and details
7. All application fees, including a deposit for costs of consultant review when required.
8. Permits from other agencies with jurisdiction over a site or use, such as the Department of Environmental Quality for subsurface sewage disposal, the Oregon Department of Transportation for access to the state highway or Morrow County for access to County roads, or any other appropriate agency. In lieu of submitting such permits or approvals with an application and upon a showing that obtaining such permits is feasible and reasonably expected, the Town Council may attach conditions of approval to any decision that require confirmation that such permits are issued before any final approval by the Town is granted.

9. Consolidation of applications. The Town may accept and may concurrently process applications for multiple permits on a single property, such as a zone change and conditional use permit or land division.

12.22 Completeness Review.

1. Upon submission, the Town shall date stamp the application form and verify that the appropriate application fee has been submitted. The Mayor shall review the application and all information submitted with it and shall evaluate whether the application is complete enough to process. Within 30 days of receipt of the application, the Mayor shall complete this initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and, if not, what information must be submitted to make the application complete.
2. Upon receipt of a letter indicating the application is incomplete, the applicant has 180 days within which to submit the missing information or the application shall be rejected and all materials and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the 180 day period, the Town shall again verify whether the application, as augmented, is complete.
3. Once the Town determines the application is complete enough to process, or the applicant refuses to submit any more information, the Town shall declare the application complete and take final action on the application within 120 days of that date unless the applicant waives or extends the 120-day period. The 120-day period, however, does not apply in the following situations:
 - a. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the 120-day period.
 - b. Any delay in the decision making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within 300 feet of the subject property shall extend the 120-day period for the amount of time required to correct the notice defect.
 - c. The 120-day period does not apply to any application for a permit that is not wholly within the Town's authority and control.
 - d. The 120-day period does not apply to any application for an amendment to the Town's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment
4. The approval standards which control the Town's review and decision on a complete application are those which were in effect on the date the application was first submitted.

12.30 Public Hearings

All public hearings before the Town Council shall comply with the procedures of this section. In addition, all public hearings held pursuant to this Article shall comply with the Oregon Public Meetings Laws, the applicable provisions of ORS 197.763 and any other applicable law.

1. When the Town determines that an application is complete or when an appeal has been properly filed, the Town shall schedule a hearing before the Town Council.
2. Notice of the hearing shall be issued at least 20 days prior to the hearing, as specified in Section 11.050.
3. The Town shall prepare a report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant Town, agency, and public comments, describes all other pertinent facts as they

relate to the application and the approval criteria. This report shall be available no less than seven (7) days prior to the public hearing.

4. At the beginning of the initial public hearing for any quasi-judicial application or appeal, a statement describing the following shall be announced to those in attendance:
 - a. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;
 - b. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The decision maker may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open.
 - c. Failure to raise an issue on the record, with sufficient specificity and accompanied by statements or evidence sufficient to afford the Town and all parties to respond to the issue, will preclude appeal on that issue to the Land Use Board of Appeals;
 - d. Any party wishing a continuance or to keep open the record must make that request while the record is still open.
 - e. That the commission chair shall call for any ex parte contacts, conflicts of interest or bias before the beginning of each hearing item.
5. Requests for continuances and to keep open the record - The hearing body may continue the hearing from time to time to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time certain and location for the continued hearing is established. Similarly, the hearing body may close the public testimony portion of the hearing but keep open the record for the submission of additional written material or other documents and exhibits. The hearing body may limit the factual and legal issues that may be addressed in any continued hearing or open-record period.

12.40 Notice

Notice shall be provided for a public hearing on any permit as required by this section, unless otherwise provided by state law.

1. Each notice of a hearing authorized or required by this Development Code shall be published at least one time in a newspaper of general circulation in the Town not less than 20 days prior to the hearing.
2. In addition, individual notice shall be mailed or otherwise delivered as required by this Development Code. These mailed notices shall be mailed to the names and addresses of affected persons or parties within 300 feet of the affected property as the names and addresses are shown on the last available Morrow County Assessor's assessment roll.
3. Failure of a person to receive the notice prescribed in this Section shall not impair or invalidate the proceedings of the subject hearing or any actions or decisions resulting therefrom.
4. The notice provisions of the Section and this Development Code shall not restrict the giving of notice by other means, including the public posting of notice, the posting of affected property, or the use of radio and/or television.

5. Notice to affected agencies. The Town of Lexington shall provide timely notice to Morrow County and the Oregon Department of Transportation regarding any land use action on or adjacent to a County or State transportation facility, and to any other affected agency.

12.50 Decisions

All decisions made pursuant to the provisions of this Development Code, for the approval, approval with conditions, or denial of an application authorized or required for a use permitted by this Development Code, shall be based upon, and accompanied by, a statement that includes the following information:

1. The criteria and standards relied upon and considered relevant to the decision
2. The facts relied upon in rendering the decision
3. The justification for the decision based on the criteria, standards, facts and conclusions set forth.

12.51 Notice of Decision

Written notice of the decision shall be given to all parties to the proceedings within ten (10) working days, or as otherwise required by a specific provision in this Development Code. The Town shall send, by first class mail, a notice of all decisions rendered under this Code to all persons with standing, i.e., the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:

1. The file number and date of decision;
2. The name of the applicant, owner and appellant (if different);
3. The street address or other easily understood location of the subject property;
4. A brief summary of the decision, and if an approval, a description of the permit authorized or approval granted;
5. A statement that the decision is final unless appealed, and description of the requirements for perfecting an appeal;
6. The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

12.52 Conditions of Approval

The Town may impose reasonable conditions to the decision for approval of any application. Conditions of approval shall ensure that all applicable approval standards are, or can be, met. Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings.

12.53 Modification of Conditions

Any request to modify a condition of permit approval shall be processed in the same manner, and shall be subject to the same standards, as was the original application. However, the decision maker may at its sole discretion, consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

12.60 Appeals

A person may appeal a decision of the Mayor made pursuant to this Development Code to the Town Council. A decision of the Town Council may be appealed to the Land Use Board of Appeals. A person filing an appeal shall file written notice of an appeal with the Town within 15 days after the decision is made, stating the nature of the decision, the grounds for appeal, whether the petitioner has standing to appeal, the date of the decision, and the specific issues the petitioner

seeks to have reviewed. An appeal shall not be considered by the Town Council until the required filing fee has been paid.

1. The Town Council shall hold a public hearing on the appeal within 45 days from the date the appeal is filed, with notice as specified in Section 12.40. A hearing on an appeal may be recessed or continued for good cause.
2. The Town Council may review a lower decision upon its own motion if this review is initiated within the 15 day appeal period after the decision or requirement is made. The Mayor shall convey any decision made by the Mayor to the Town Council within seven days of making the decision.
3. An appeal or review proceedings shall be based upon, but not limited to, the record of the decision being appealed or reviewed, however the issues shall be limited to those specified in the notice of appeal.
4. Following the hearing, the reviewing authority may uphold, overrule or modify any decision or requirement, and shall set forth findings and conclusions for these decision.

12.70 Objection to Procedure

Any party who objects to the procedure followed in any particular matter, including bias, conflict of interest and undisclosed ex parte contacts, must make a procedural objection prior to the Town's rendering a final decision. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived. In making a procedural objection, the objecting party must identify the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights.

1. *Ex parte contacts.* Any factual information obtained by a decision-maker outside the context of a quasi-judicial hearing shall be deemed an ex parte contact. Prior to the close of the record in any particular matter, any decision-maker that has obtained any material factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This rule does not apply to legislative proceedings.
2. *Conflict of interest.* Whenever a decision maker, or any member of a decision maker's immediate family or household, has a financial interest in the outcome of a particular quasi-judicial or legislative matter, that decision maker shall not participate in the deliberation or decision on that matter.
3. *Bias.* All decisions in quasi-judicial matters shall be fair, impartial, and based on the applicable approval standards and the evidence in the record. Any decision-maker that is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This rule does not apply to legislative proceedings.

12.80 Revocation of Permit

The Town Council may revoke or modify any permit granted under the provisions of this Development Code on any one or more of the following grounds:

1. A permit may be revoked on the basis of fraud, concealment, or misrepresentation by the applicant to the approving authority during the application process.
2. A permit shall be revoked on the basis that the use for which a permit was granted has ceased to exist or has been suspended for one year or more unless otherwise provided for in this Development Code or in the approval of the use.

3. A permit may be revoked or modified on the basis that the permit granted is being, or recently has been, exercised contrary to the terms or conditions of the approval, or in violation of any state or local statute, code, resolution, law or regulation.
4. A permit may be revoked or modified on the basis that the use for which the approval was granted is so exercised as to be detrimental to the public health, safety or general welfare, or in such a manner as to constitute a nuisance.
5. Any permit granted pursuant to this Development Code shall become null and void if not exercised within the time period specified in the permit or as specified by this Development Code. If no time period is specified in the permit or by this Development Code, the time period shall be construed to not exceed one (1) year from the date of approval of the permit.
6. The Town Council shall hold a public hearing on any proposed revocation after giving written notice to the permittee and other affected persons. The reviewing authority shall render its decision within ten (10) days after the conclusion of the hearing. Appeals shall be as provided for in this Development Code or as otherwise provided by law.

12.90 Expiration of Approval

All permit approvals, except for zoning map or comprehensive plan map amendments, automatically become void if any of the following events occur:

1. If, within one year of the date of the final decision, a building permit has not been issued; or
2. If, within one year of the date of the final decision, the activity approved in the permit has not commenced or, in situations involving only the creation of lots, the land division has not been recorded.

12.100 Extension of an Approval

The Town may extend, prior to its expiration, any approved permit for a period of six months, up to an aggregate period of one year, provided that there has been substantial implementation of the permit. Any request for an extension shall be reviewed and decided upon by the deciding authority following the same procedures as for the original decision.

1. Substantial implementation of a permit shall require at minimum evidence in a written application showing:
 - a. The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit;
 - b. Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder;
 - c. The request for an extension is not sought for purposes of avoiding any responsibility imposed by this code or the permit or any condition thereunder; and
 - d. There have been no changes in circumstances or the law likely to necessitate significant modifications of the development approval of conditions of approval.
2. New application required - Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.
3. Deferral of the expiration period due to appeals. If a permit decision is appealed beyond the jurisdiction of the Town, the expiration period shall not begin until review before the Land Use Board of Appeals and the appellate courts has been completed, including any remand proceedings before the Town. The expiration period provided for in this section will begin

to run on the date of final disposition of the case (the date when an appeal may no longer be filed).

12.110 Reapplication

If an application is denied, no reapplication for the same or substantially similar proposal may be made for one year following the date of final decision denying the permit unless new evidence or a change of circumstances exist.

12.120 Fees

The Town may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals. Fees shall be based upon the Town's actual or average cost of processing the application or conducting the appeal process. The requirements of this section shall govern the payment, refund and reimbursement of fees.

1. *Payment.* All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.
2. *Review by Consultant.* At its sole discretion, the Town may contract for review of an application by appropriate professionals, including but not limited to, a civil engineer, planner, traffic engineer, environmental specialist, or other expert, and may require an applicant to reimburse the Town for costs of such services. The Town may require a deposit from the applicant, to cover estimated costs of consulting services.
3. *Refunds.* Fees will only be refunded as provided in this subsection:
 - a. When a fee is paid for an application that is later found to not be required, the Town shall refund the fee.
 - b. Errors. When an error is made in calculating a fee, overpayments will be refunded.
 - c. Refund upon withdrawal of an application. In the event an applicant withdraws an application, the Town shall refund the unused portion of the fee. In this case, the Town shall deduct from the fee the Town's actual costs incurred in processing the application prior to withdrawal.
 - d. Any unused portion of a deposit for consultant services shall be refunded following the issuance of a final decision.
4. *Fee waivers.* The Town may waive all or any portion of an application or appeal fee if, in the opinion of the Town, an application must be resubmitted because of an error made by the Town.

ARTICLE 13 – INTERPRETATION AND ENFORCEMENT

13.00 Administration and Enforcement.

1. The Mayor, Town Recorder, the Town Council, and/or other Town official duly appointed and/or designated by the Town Council shall have the powers and the duties to enforce the provisions of this Development Code and any or all amendments. In addition, the Town Council may initiate action to enforce any provision of this Development Code, including any violation of any restriction or condition established under the provisions of this Development Code in the granting of any application authorized or required pursuant to the provisions of this Development Code.
2. Failure to comply with any order or decision as above provided will subject the violator to any legal remedy provided under law, including but not limited to the following:
 - a. A complaint filed with the Municipal and/or Justice Court, or other court of competent jurisdiction whereupon conviction the court may fine the violator up to the maximum allowed by law. Each day a violation occurs may be considered a separate offense.
 - b. The Town Council and/or a certified Building Official may order the stoppage of work of any type which is in violation of any of the provisions of this Development Code or a permit. A copy of the Stop Work Order shall be posted at the site of construction or use, and a copy shall be served upon the property owner and/or the permittee. Upon posting of the order, all work shall cease forth-with, and the property owner, permittee or permittee's agents or employees who thereafter continue to work shall be in violation of this Development Code. The Stop Work Order shall not be removed until satisfactory evidence that the violation has or will be corrected has been provided.
3. The Mayor, with notice to the Town Council, is authorized to make minor corrections of a typographical nature in this Code. If the Town Council does not agree that the correction is minor or typographical in nature, the change shall be accomplished through the ordinance amendment process. Any changes in the substance or meaning of the text shall be accomplished through the ordinance amendment process.

13.10 Interpretation.

1. Words used in the present tense include the future, the singular form includes the plural, the plural includes the singular.
2. Where a provision of this ordinance is less restrictive than a provision of another ordinance or requirement of the city, the provision which is more restrictive shall govern.
3. The word "shall" indicates a mandatory requirement.

13.20 Authorization of Similar Uses

The Town Council may decide, following a public hearing, that a use not specifically listed in the allowed uses of a district, may nonetheless be allowed if it is deemed to be similar in nature and impact to the uses allowed in the applicable zone. Any similar use so authorized must be similar to, or of the same type as, the uses allowed in the underlying district. However, this section does not allow the authorization of a use which is specifically listed as allowed in some other zone

13.30 Penalty

Any person, firm or corporation who violates or refuses to comply with any provision of this Development Code is punishable upon conviction by a fine up to the maximum amount allowable by state law for each provision violated. It shall be the responsibility of the offender to abate the violation, and each day that the violation is permitted to exist shall constitute a separate offense.

13.40 Violations declared Nuisances

The location, erection, construction, maintenance, repair, alteration or use of a building or structure, or the use of land in violation of this Development Code is hereby declared a nuisance and may be abated accordingly.

13.50 Severability

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

ARTICLE 14 – TRANSPORTATION AND STREETS

14.10 Transportation Improvements.

1. Uses Permitted Outright. Except where otherwise specifically regulated by this ordinance, the following improvements and permitted outright:
 - a. Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.
 - b. Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
 - c. Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
 - d. Landscaping as part of a transportation facility.
 - e. Emergency measures necessary for the safety and protection of property.
 - f. Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan except for those that are located in exclusive farm use or forest zones.
 - g. Construction of a street or road as part of an approved subdivision or land partition approved consistent with the applicable land division ordinance.
2. Conditional Uses Permitted
 - a. Construction, reconstruction, or widening of highways, roads, bridges or other transportation projects that are: (1) not improvements designated in the Transportation System Plan or (2) not designed and constructed as part of a subdivision or planned development subject to site plan and/or conditional use review, shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or EA (Environmental Assessment), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:
 - (1) The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.
 - (2) The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.
 - (3) The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
 - (4) Project includes provision for bicycle and pedestrian circulation as consistent with the comprehensive plan and other requirements of this ordinance.
 - b. If review under this Section indicates that the use or activity is inconsistent with the Transportation System Plan, the procedure for a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review.
3. New Streets. Generally, new streets are created by a land division and reviewed through that process for conformance to the Transportation System Plan and this Code.
4. Creation of Streets and Ways not part of a Land Division. Any party desiring to create a street or way not part of a land division shall make written application to the Town, and shall provide a warranty deed for the area to be included with the street along with engineering

design and construction plans for construction of the street. The Town may accept a street dedication and authorize street construction, with requirement for a financial guarantee as provided in Section 15.140. Where access is to a County Road or State Highway, the necessary permits shall be obtained prior to approval by the Town Council. Creation of a new street may require an amendment to the Transportation System Plan to establish the functional classification and location for the proposed street.

5. New streets that are not within the Town’s jurisdiction may require an amendment to the Transportation System Plan, to establish the functional classification and location for the proposed street.

14.11 Requirements for Streets

The creation of a street shall be in conformance with street standards and requirements for land division except, however, the Town Council may approve the creation of a street to be established by deed without full compliance with the regulations applicable to land divisions provided any of the following conditions exist:

1. The establishment of the street is initiated by the Town Council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
2. The tract in which the street is to be dedicated is an isolated ownership of one acre or less.
3. The tract in which the street is to be dedicated is an isolated ownership of such size and condition as to make it impossible to develop more than two lots.

14.20 Access Management

The Town shall not approve a permit for any use unless appropriate access is provided to a public street. The Town shall require that access permits from ODOT or Morrow County be provided when access is proposed to streets within the jurisdiction of these agencies. Driveway and intersection spacing shall be based on the functional classification of the roadway (Arterial, Collector, and Local Street) shall be as specified in Table 11 of the Transportation System Plan, reproduced here:

MINIMUM INTERSECTION SPACING STANDARDS

Functional Classification	Public Street (feet)	Private Access Drive (feet)
State Highways	See Access Management Spacing Standards, 1999 Oregon Highway Plan (Appendix C of OHP)	
Other Arterials and Major Collectors within UGB	600	300
Minor Collector	300	75
Local	150	15

14.30 Traffic Analysis Reports

A Traffic Analysis report shall be required for any land use action, whether new development or redevelopment, that generates the following levels of trips:

1. Trip Generation Threshold: any project that generates 50 vehicle trips during the adjacent street peak hour.
2. Mitigation Threshold: installation of any traffic control device and/or construction of any geometric improvements that will affect the progression or operation of traffic traveling, entering, or exiting the highway.
3. Heavy Vehicle Trip Generation Threshold: any project that generates 20 heavy vehicle trips daily.

4. Trip generation estimates shall be based upon the latest edition of the Institute of Transportation Engineers Trip Generation Manual.

14.31 Preparation of a Traffic Analysis Report

All traffic analysis reports shall be prepared by a registered professional engineer in accordance with ODOT's guidelines and standard engineering practices.

14.32 Traffic Analysis Report Recommendations

No permit shall be issued by the Town without the requirement that recommended improvements shall be accomplished, or a showing that such improvements are of such a scope and scale that the costs cannot be born by a single development.

14.40 Street Trees

Street trees shall be required for all new development, except for a new single family residence on an existing lot. Trees shall be a minimum of 1-1/2 inch caliper and shall be installed in accordance with recommended practices, including an appropriate staking. Trees shall be planted within the right-of-way for streets fronting new development, with a minimum spacing of one tree every 30 feet and a minimum of one per lot or two per corner lot.

ARTICLE 15 – LAND DIVISIONS

15.10 Purpose

ORS Chapters 92 and 215, and this ordinance set forth the minimum standards governing the approval of land development, including subdivisions and partitions, as necessary to carry out the Town Comprehensive Plan and to promote the public health, safety and general welfare. The purpose of these provisions and regulations are to:

1. Encourage well-planned subdivision and partition development to create a livable Town with all needed amenities and community facilities.
2. Encourage development in harmony with the natural environment and within resource carrying capacities.
3. Ensure equitable processing of land divisions, and accomplish to the greatest extent possible the goals and objectives of the Town Comprehensive Plan.
4. Provide for orderly and efficient development, and to coordinate development with public facilities and service plans and capabilities.

15.11 Compliance

No person may subdivide or partition land and no land division shall be approved within the Town of Lexington except in accordance with ORS Chapter 92 and the provisions of this Article and applicable provisions of the Development Code.

15.12 Application Required

Before a plat of any land division, whether subdivision or partition, may be made and recorded, the person proposing the land division or his authorized agent or representative shall make an application in writing to the Town for approval of the proposed land division in accordance with the requirements and procedures established by the Development Code.

15.20 Tentative Plan Application

Any person proposing a land division, or his authorized agent or representative, shall submit an application for the proposed land division, together with improvement plans and other supplementary material as may be required, as specified in Section 12.21 and this section. Up to 20 copies of the land division plan and all accompanying material shall be submitted to the Town, with the appropriate filing fee.

15.21 Tentative Plan Information Requirements

The Town may waive any item if not considered essential for review of the proposal. The Tentative Plan of a proposed land division shall be drawn at a scale of one (1) inch equals 50 feet or at a scale suitable to show all details and information. In addition to requirements of Section 12.21, the following information shall be provided:

1. Proposed name of the subdivision
2. Names, addresses and phone numbers of the owner of record and subdivider, authorized agents or representatives, surveyor, and any assumed business names filed or to be filed with the Corporation Commissioner by the owner or subdivider which will be used in connection with the subdivision.
3. Date of preparation, north point, scale and gross area of the proposed subdivision.
4. Appropriate identification of the drawing as a Tentative Plan for a subdivision.
5. Location and tract designation sufficient to define its location and boundaries, and a legal description of the tract boundaries in relation to existing plats and streets.
6. Existing conditions on and around the site, including:
 - a. Location, names and widths of existing improved and unimproved streets and roads within and adjacent to the proposed subdivision.

- b. Location of any existing features such as section lines, section corners, city and special district boundary lines and survey monuments.
 - c. Location of existing structures, irrigation canals and ditches, pipelines, waterways, and railroads, and natural features such as rock outcroppings, marshes, wooded areas and natural hazards.
 - d. Location and direction of physical features and constraints, including water courses, areas subject to erosion, high water tables, and flood hazards.
 - e. Location, width and use or purpose of any existing easement or right-of-way within and adjacent to the proposed subdivision.
 - f. Existing sewer lines, water mains, culverts, and underground and overhead utilities within and adjacent to the proposed subdivision, together with pipe sizes, grades and locations.
 - g. Contour lines related to some established bench mark or other engineering acceptable datum and having minimum intervals of two feet for slopes of less than five percent, five feet for slopes of five to fifteen percent, ten feet for slopes of fifteen percent, and twenty feet for slopes greater than twenty percent.
7. Proposed land division plan, including:
- a. Location, names, width, typical improvements, cross sections, approximate grades, curve radii and length of all proposed streets, and the relationship to all existing and projected streets.
 - b. Location, width and purpose of all proposed easements or right-of-ways and relationship to all existing easements or right-of-ways.
 - c. Location of at least one temporary bench mark within proposed subdivision boundary.
 - d. Location, approximate area and dimension of each lot, and proposed lot and block numbers, and the proposed use of any lot intended for public or non-residential use.
 - e. A plan for proposed phasing. The Town may require a tentative plan for streets, utilities, and lot layout for any unsubdivided portion or remainder tract when a portion of a site is not included in a land division proposal and owned or controlled by the subdivider.
 - f. Source, method, and preliminary plans for domestic and other water supplies, sewage disposal, solid waste disposal and all utilities.
 - g. Description and location of any proposed community facilities.
 - h. Storm water and other drainage facility plans.
 - i. Solar protection statement.
 - j. If access is proposed to a state highway, an access permit or other document indicating that the Oregon Department of Transportation can approve the point or points of access.
 - k. The Town may, at its sole discretion, require a Traffic Impact Analysis, Geotechnical or Hydrological Report, Environmental Report, or other report prepared by a licensed or registered professional, if necessary to the consideration of a proposal and its impacts upon the Town and the site.
8. Future street plan and future lot plan. The application shall include a conceptual plan for the extension and connection of existing and future streets within 600 feet of the site proposed for land division. The future street plan shall extend the existing grid pattern, except as

affected by topographic conditions and physical constraints, and shall provide for a lotting pattern similar to the existing pattern in the Town, consistent with the zoning designation for the area.

15.30 Findings for approval

The Town shall approve a Tentative Plan for a proposed land division when it finds that the land division satisfies all of the following requirements:

1. The land division complies with all requirements and standards of in this ordinance.
2. The land division is an effective, efficient and unified treatment of the development possibilities on the project site, and provides for the orderly development and land use patterns in the area. The Town shall consider in particular whether the proposed streets and roads are laid out in a manner that conforms to the plats of subdivisions and maps of partitions already approved as to width, improvements, general direction and in all other respects, unless the Town determines it is in the public interest to modify the street or road pattern or topographic or other physical constraints affect the orderly continuation of the existing street patterns.
3. The land division is compatible with the area surrounding the site, considering Comprehensive Plan and zoning designations.
4. The land division will not create an adverse impact on public facilities and services required to serve the development, including public streets, and that appropriate provisions have been made to provide public facilities. Each new lot shall have, at minimum, street frontage, public water supply, and acceptable sewage disposal. Other public services, such as electricity, natural gas, cable television, etc. shall be made available to new lots as appropriate.
5. Natural features and resources such as natural vegetation, and special terrain features are preserved to the extent feasible.

15.40 Master Plan. A “Master Development Plan” shall be submitted for all developments that propose phased platting and for any development that proposes modifications to requirements. The Master Development Plan shall include, but not be limited to, the following elements:

1. Overall development plan, including phase or unit sequences.
2. Schedule of improvements initiation and completion.
3. Development plans of any common elements or facilities.

15.41 Master Plan with modifications to requirements. In the context of a Master Plan, the Town may consider modifications to the strict standards of the Development Code, including housing types and arrangement, setbacks, lot areas, street standards, and other dimensional standards. Mixed uses may be included in the context of a master Plan. The Town may approve a Master Plan that shall be consistent with the requirements of Article 15 of the Development Code except as proposed to be modified, and the following criteria:

1. The proposed arrangement of structures, uses, and other features is compatible with the Town. “Compatible” does not mean “identical,” but rather a design that is generally similar to the existing community.
2. Requirements of emergency service providers can be satisfied.
3. Public facilities and services are available and will not be adversely impacted.
4. Proposed modifications to standards can be justified within the context of the proposal as a whole, and thus allow a more pleasing arrangement of structures and uses than would have been possible otherwise.

15.50 Tentative Plan Approval

The Town shall consider an application for land division at public hearing as provided in Article 12. The Town Council shall review the Tentative Plan and all reports and recommendations of appropriate officials and agencies. The Town may approve, approve with conditions, modify, or deny the proposed land division. The Town shall make its decision at a public hearing and shall issue its decision with Findings that demonstrate the decision is consistent with this ordinance and any other applicable requirements.

1. The Town's decision is final unless the decision is appealed to the Town's Board of Appeals. Any decision of the Town's Board of Appeals may be appealed to the State Land Use Board of Appeals.
2. Approval of the Tentative Plan shall not constitute final acceptance of the plat of a land division for recording; however, approval of such Tentative Plan shall be binding upon the Town for preparation of the plat.

15.60 Resubmission of a denied Tentative Plan

If the Tentative Plan for a land division is denied, the Town shall not accept an identical plan for the same property for a period of six months after the date of the final action denying said plan. Upon resubmission, the applicant shall consider all items for which the prior denial was based and the resubmission shall be accompanied by a new filing fee.

15.70 Final Plat.

1. Filing Time Period Requirements. Within twelve (12) months after the date of decision that approves a Tentative Plan, the developer shall prepare and submit a final plat that conforms to the Tentative Plan as approved. If the applicant fails to submit an application for approval of a final plat before the expiration of the twelve (12) month period following the approval of the Tentative Plan, the plan approval shall be declared void and the applicant must submit a new plan together with the appropriate filing fee to proceed with the development.
2. The applicant shall submit the original drawing, five prints, and any supplementary information required by this ordinance and the original decision including certificates from other agencies indicating their approval of the proposal, e.g. an irrigation district, Morrow County, Oregon Department of Transportation, etc.
3. Time Period Extension. The Town Council may, upon submittal of a formal request for a time extension and justification therefor by the applicant, grant up to an additional six months for the submission of the final plat.

15.71 Form of final plat

The final plat shall be submitted in the form prescribed by the State Statute, Morrow County, and this ordinance.

15.72 Approval of the final plat

The Town Council shall consider at a public hearing the final plat, along with construction and improvement plans, recommendations and approvals from affected agencies and jurisdictions, and all other pertinent information. The Town Council shall make its decision to approve the final plat based upon the following:

1. Consistency with the approved tentative plan, including layout of streets and lots and other features.
2. Recommendation of the Town's Engineer that proposed improvements comply with appropriate standards and commonly accepted engineering practices.
3. Access Permits. Where access is to be a county road or state highway the necessary access permits shall be obtained prior to final plat review.

4. Statement from the appropriate Morrow County official that the final plat satisfies state and county requirements for plats.

15.73. Recording the final plat

Following approval, the final plat shall, without delay, be submitted to Morrow County for final approval of the plat, supplemental documents, improvement and repair completions or assurances thereof. Such submittal shall occur within 45 days of approval by the Town Council. An applicant shall, without delay, submit the plat for signatures of other public officials required by law. Approval of the plat shall be null and void if the plat is not recorded within 45 days after the date of approval of the governing body has been obtained. After obtaining all required approvals and signatures, the subdivider shall file the plat and an exact copy thereof in the County Clerk's office and the affected City Recorder's office.

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed upon the tax roll, have been paid which have become a lien upon the subdivision or which will become a lien during the calendar year.
2. At the time of filing such plat, the person offering it for filing shall also file with the County Recording officer, an exact copy thereof, made with black India ink or photocopy upon good quality of linen tracing cloth or any other suitable drafting material having the same or better transparency. The engineer or surveyor who made the plat shall make an affidavit to indicate that the photocopy or tracing is an exact copy of the plat. The copy filed with the County Recording officer shall be certified by him to be an exact copy and then shall be filed in the archives of the County, and be preserved by filing without folding. The subdivider shall provide, without cost, prints from such copy to the County Assessor and to the Town Recorder and County Planning Department.

15.80 Partitioning

All land partitioning within the Town shall be approved by the Town Council in accordance with the requirements for subdivision and land division in this Article. The Town Council may determine, through the review of an application, that some required improvements are not necessary for a particular property or would be out of scale with the nature of the proposal. In other respects, approval of a partition and approval of a subdivision shall follow the same procedures and be subject to the same standards and approval criteria.

15.90 Design Standards

Any land division, whether by Subdivision, creation of a street or other right-of-way, partitioning or master planned development, shall be in compliance with the design standards set forth by this ordinance.

15.91 Streets

1. General. The location, width and grade shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the street. 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.
2. Minimum Right-of-Way and Roadway Width. Unless otherwise approved in the tentative plan, the street right-of-way and roadway surfacing widths shall not be less than the minimum width in feet set forth in the following table and shall be in conformance with standards and specifications set forth in current "Design & Construction Standards for Streets & Roads in Morrow County, ORE" and other applicable affected Town standards and specifications.

Street Design Standards

CLASSIFICATION	CROSS SECTION	RIGHT-OF-WAY	TURN LANE	PAVED TRAVEL LANES	BIKE LANE	PEDESTRIAN FACILITIES	ON-STREET PARKING	LANDSCAPE STRIP
Arterial	2 lanes	70 feet	No	12 foot	5 foot	6 foot sidewalk – Both sides of roadway	7 foot where right-of-way is available	5 foot – Both sides
Collector – Minor	2 lanes	60 feet	No	12 foot	5 foot	6 foot sidewalk – Both sides of roadway – optional	Optional – where right-of-way is available	6 foot – Both sides
Local Street in a Commercial or Industrial Zone	2 lanes	60 feet	No	12 foot	5 foot	6 foot sidewalk – Both sides of roadway – optional	Optional – where right-of-way is available	6 foot – Both sides
Local Street – Option 1	2 lanes	50 feet	No	12 foot	Shared Roadway	Shared Roadway	No	At discretion the of Town
Local Street – Option 2	2 lanes	50 feet	No	12 foot	Shared Roadway	6 foot paved pedestrian facility-separated – one or both sides at the discretion of Town	At the discretion of the Town	5 foot landscaped strip on both sides which may include a swale
Alley	NA	16 feet	No	10 foot road surface minimum	Shared Roadway	Shared	No	No

¹ Minimum width = 12 feet

² Provided right-of-way is available

3. Reserve Strips. Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required.
4. Alignment. All streets shall, as far as is practical, be in alignment with existing streets by continuations of the center lines. Staggered street alignment resulting in “T” intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and, in no case, shall be less than 100 feet. The streets and roads shall be laid out to conform to the plat of subdivisions and maps of partitions already approved for adjoining property as to width, improvements, general direction, and in all other respects, unless the Town Council determines it is in the public interest to modify the street or road pattern. Streets and roads shall be laid out in such a way so as to connect to existing roads at the time of development or through extension at a future date by creating dead-end streets without turn-arounds, except that temporary turn-arounds may be required when necessary for public safety.
5. Future Extension of Streets. Where necessary to give access to or permit a satisfactory future land division on adjoining land, streets shall be extended to the boundary of the land division and the resulting dead-end streets may be approved without a turn-around. Reserve strips and street plugs may be required to preserve the objectives of street extensions. Streets and accessways are always required unless one or more of the following conditions exists:
 1. Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands, or other bodies of water where a connection could not reasonably be provided.
 2. Buildings or other existing development on adjacent lands physically precludes a connection now or in the future considering the potential for redevelopment
6. Intersection Angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires a lesser angle. In no case shall the acute angle be less than 80 degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the

intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet or more of tangent adjacent to the intersection unless topography requires a lesser distance. The intersection of more than two streets at any one point will not be approved. Right-of-way lines at street intersections shall have a minimum corner radius of 15 feet.

7. 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 land division by the developer. During consideration of the tentative plan for a land division, the Town Council shall determine whether improvements to existing streets, adjacent to or within the tract, are required and may require such improvements as a condition of approval of the tentative plan.
8. Half Streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the land division when in conformity with the other requirements of these regulations and when the Town Council 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. When dedication of a half street is approved, a pavement width adequate for two way traffic shall be constructed.
9. Cul-de-Sac. A cul-de-sac may be used as part of a development plan, consistent with other provisions of this section. A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than nine dwelling units unless approved otherwise by the Town Council. A cul-de-sac shall terminate with a circular turn-around.
10. 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 in the city or county. Street names and numbers shall conform to the established pattern in the affected city urban area, and shall be subject to the approval of the Town Council.
11. Grades and Curves. Grades shall not exceed eight (8) percent on arterials, ten percent on collector streets or 12 percent on other streets except as otherwise provided for. Center line radii of curves shall not be less than 500 feet on arterials, 250 feet on collectors, or 100 feet on other streets and shall be on an even 10 feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable sites, the Town Council may accept steeper grades and sharper curves as recommended by the Town's Engineer. In flat area, allowance shall be made for finished street grades having a minimum slope, preferably of at least 0.5 percent.
12. Streets Adjacent to Railroad Right-of-Way. Wherever the proposed land division contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of land between the streets and railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.
13. Marginal Access Streets. Where a land division abuts or contains an existing or proposed arterial street, the Town Council may require marginal access streets, reserve frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

14. Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Town Council. Alleys are recommended in residential areas.
15. Access Management. Projects abutting a state highway shall meet access management standards that are consistent with the Oregon Department of Transportation's Access Management Standards.
16. Corner Clearance. Corner clearance at intersections shall meet or exceed the minimum connection spacing requirements for that roadway. New connections shall not be permitted within the functional area of an intersection or exchange as defined by the connection spacing standards of this ordinance, unless no other reasonable access to the property is available. Where no other alternatives exist, the Town Council may allow construction of an access connection along the property line farthest from the intersection. In such cases, directional connections such as right-in/right-out, right-in only, or right-out only may be required.
17. Driveways. Driveways providing access to a state highway shall be consistent with Oregon Department of Transportation's Access Management Standards. In addition, driveways shall meet the following standards:
 - a. If the driveway is a one-way in or out drive, then the driveway shall be a minimum width of 10 feet and shall have the appropriate signage designating the driveway as a one way connection.
 - b. For two way access, the driveway shall have a minimum width of 20 feet.
 - c. Driveway approaches shall be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers shall be avoided due to the potential for vehicular weaving conflicts.
 - d. The length of driveways shall be designed in accordance with the anticipated storage length for entering and exiting vehicles to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.
18. Easements and Legal Access. All lots shall have access onto a public right-of-way, provided via direct frontage onto an existing public road. If there is no alternative, access may be approved by way of a private roadway or an easement, however this shall be considered a last resort and shall not be approved simply as a matter of convenience. In most cases, a new public street shall be required for access and a variance or modification of street right of way and pavement standards may be approved when justified by circumstances of topography, previous land divisions, or other situation pertaining to the property. Such variance is preferable to an easement or private street. The need for future streets and connectivity shall be considered in requiring dedication, when it is likely that separate street segments can be combined into a continuous street. Minimum easement requirements to provide legal access shall be as follows:
 - a. 100 feet or less, an easement width of 20 feet.
 - b. More than 100 feet, an easement width of 40 feet.
 - c. Parcels where 3 or more lots share an access (current or potential), an easement of 60 feet. However, when an easement of 66 feet can be made available, a new public street shall be considered the Town's preferred alternative and an easement shall be approved only when unusual circumstances with respect to the site or topography prevent a public street.

19. Joint and Cross Access. Adjacent commercial or office properties classified as major traffic generators shall provide a cross access drive and pedestrian access to allow circulation between sites. These shall be established as a system wherever feasible including:
 - a. A continuous service drive consistent with access management standards.
 - b. Stub-outs or other design features to allow tie-ins to adjacent properties.Pursuant to this section, property owners shall record an easement allowing joint or cross access between parcels, record an easement on the deed to dedicate access rights to the main roadway, and to close non-conforming existing driveways, and to record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
20. Requirements for Phased Development Plans. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as a single property in relation to the access standards of this ordinance. This shall also apply to phased development plans.
21. Nonconforming Access Features. Legal access in place as of the date of adoption that do not meet spacing and design standards shall be brought into compliance with applicable standards when new access permits are requested or when a change in land use or improvements occurs.
22. Reverse Frontage. Lots that front on more than one street shall be required to locate motor vehicle access on the street with the lower functional classification.
23. Shared Access. Land divisions with frontage on the state highway system shall be designed with shared access points to and from the highway. If access to a lower classification street becomes available, then conversion to that access is encouraged, along with closing the state highway access.
24. Connectivity. The street system of a proposed land division shall be designed to coordinate with existing, proposed, and planned streets outside of the land division as provided in this ordinance and in the local street plans of the TSP. Whenever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to provide access to abutting properties or to locally extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the Town Council, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local residential access streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation. Connections shall be designed to avoid or minimize through traffic on local streets. Appropriate traffic controls, such as traffic calming measures, are preferred means of discouraging through traffic.

15.92 Blocks

1. General. The length, width, and shape of blocks shall take into account the need for adequate building site size and street width and shall recognize the limitations of the topography.
2. Minimum Block Lengths. In general, blocks shall be similar to existing blocks within the Town, which have lengths of approximately 325 feet. A maximum block length of 600 feet shall be established within the urban growth boundary, provided access spacing is consistent with standards for the functional classification of the adjacent streets. A block shall have sufficient width to provide for two tiers of building site unless topography or the location of adjoining streets justifies an exception.

3. Easements.

- a. Utility Lines. Easements for sewers, water mains, electric lines or other public utilities shall be at least 12 feet wide and centered on lot or parcel rear lot lines, except for utility pole tieback easements which may be reduced to six feet in width.
- b. Water Courses. If a tract is traversed by a water course, such as a drainage way, channel or stream, a storm water easement or drainage right-of-way shall be provided that conforms substantially with the lines of the water course, and such further widths as will be adequate for the purpose. Streets or parkways parallel to the major water courses may be required.
- c. Pedestrian and Bicycle Ways. When desirable for public convenience, a pedestrian or bicycle way at least 10 feet in width may be required to connect to a cul-de-sac or to pass through an unusually long or oddly shaped block or otherwise provide appropriate circulation.

15.93 Building Sites.

1. Size and Shape. The size, width, shape and orientation of building sites shall be appropriate for the location of the land division and for the type of development and use contemplated, and shall be consistent with the lot size provisions of the zoning ordinance with the following exceptions:
 - a. In areas that will not be served by a public sewer, minimum lot and parcel sizes shall permit compliance with the requirements of the Department of Environmental Quality and shall take into consideration problems of soil structure and water table as related to sewage disposal by septic tank.
 - b. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the Town Council. 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.
2. Access. Each lot shall abut upon a street other than an alley for a width of at least 50 feet (see 15.91.B).
3. Through Lots and Parcels. Through lots shall be avoided, except where they are essential to provide separation of residential development from major traffic arterials or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least ten feet wide and across which there shall be no right of access may be required along the line of building sites abutting such a traffic arterial or other incompatible uses.
4. Lot and Parcel Side Lines. The lines of lots, as far as it 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.
5. Division by Right of Way or Drainage Ways. No lot shall be divided by the boundary line of the County, City, or other taxing or service district, or by the right-of-way of a street, utility line, or drainage way, or by an easement for utilities or other services.
6. Flag lots shall not be permitted.
 - a. Flag lot driveways shall be separated by at least twice the minimum frontage distance.
 - b. The flag lot driveway must meet driveway access standards of Table 11.

- c. A flag lot shall comply with the minimum lot area of the zoning district, not including the “flag pole” or driveway portion of the lot.
7. The depth of any lot shall not exceed three times its width unless there is a topographical or environmental constraint or man-made feature such as a railroad line.

15.94 Grading of Building Sites

Grading of building sites shall conform to the following standards unless physical conditions demonstrate the priority of other standards.

1. Cut slopes shall not exceed one foot vertically to one-half feet horizontally.
2. Fill slopes shall not exceed one foot vertically to two feet horizontally.
3. The character of soil for fill and the characteristics of lots and parcels made usable by fill shall be suitable for the purpose intended.
4. A grading plan shall comply with standard engineering practices.

15.95 Building Lines

If special building setback lines are to be established in a subdivision, they shall be shown on the plat and included in the deed restrictions.

15.96 Large Lots

When proposed land divisions create large lots or parcels that are double or greater the minimum area established in the zoning district and which at some future time could be redivided, the Town Council may require that the blocks or lots be of such size and shape that they may be divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size.

15.10 Land for Public Purposes.

1. If the county or an affected special district or the Town has an interest in acquiring a portion of a proposed land division for a public purpose, or if the county 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 Town Council may require that those portions of the land division to be reserved for public acquisition, for a period not to exceed one year.
2. Within or adjacent to a land division, a parcel of land of not more than five (5) percent of the gross area of the land division may be required to be set aside as and dedicated to the public by the Town Council as being suitable and adaptable for park and recreation uses. In the event no such area is suitable for park and recreation purposes, the developer may be required, in lieu of setting aside land, to pay into a public fund an amount equal to the value of the area required for dedication above in the land division. If the nature of the land division is being dedicated to the public for streets and other public uses, the requirements of this section shall be reduced so that the total obligation of the developer does not exceed 40 percent.

15.110 Improvements

In addition to other requirements, improvements to be installed by a developer, either as a requirement of this ordinance or other applicable regulations or at his own option, shall conform to the requirements of this article.

1. Plan Review and Approval. Improvement work shall not be commenced until plans therefore have been reviewed and approved by the Town or a designated representative thereof. Such review and approval shall be at the expense of the developer. To the extent necessary for evaluation of a proposed development, such improvement plans may be required before approval of the tentative plan of a subdivision or the tentative development plan of a planned unit development.

2. Notification. Improvement work shall not commence until after the Town has been notified and approval thereof has been granted, and if work is discontinued for any reason it shall not be resumed until after the Town is notified and approval thereof granted. The cost of such inspections and approvals shall be borne by the developer.
3. Improvements as Platted. Improvements shall be designed, installed and constructed as platted and approved, and plans therefor shall be filed with the final plat at the time of inspection.
4. Inspection. Improvements shall be constructed under the inspection and approval of an inspector designated by the Town. Expenses incurred thereof shall be borne by the developer. The Town, through said inspector, may require changes in typical sections and details of improvements if unusual conditions arise during construction to warrant such changes in the public interest.
5. Utilities. Underground utilities including but not limited to electric power, telephone, water mains, water service crossings, sanitary sewers and storm water drains, to be installed in streets shall be constructed by the developer prior to the surfacing of the streets.
6. As Built Plans. A map showing public improvements as built shall be filed with the Town upon completion of the improvements and a copy thereof shall be recorded with the final plat. Such map shall also be provided in reproducible form (Mylar or comparable).
7. The Town shall receive from the developer a "development agreement" that specifies all requirements, including the amount of deposit for inspections, as specified in 15.141.

15.111 Standards for Improvements

Standards for construction of improvements shall be based upon standard engineering practices and AASHTO standards.

15.12

The following improvements shall be installed at the expense of the developer in any land division, subdivision or partition, as required by the Town:

1. Streets. Streets, including alleys and curbs may be required, within the land division, adjacent thereto, and those outside the land division may require to be improved as a condition of approval, and shall be improved to specifications adopted by this ordinance and other applicable Town and county regulations. Catch basins shall be installed and connected to drainage facilities in accordance with specifications in this and other applicable regulations. Upon completion of street improvements, monuments shall be re-established in accordance with this ordinance and ORS at every street intersection and all points of curvature and points of tangency at their centerlines.
2. Surface and Storm Sewer System. Drainage facilities shall be provided as deemed necessary within the land division and to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage within the land division, as provided by specifications of this ordinance and other applicable standards, shall take into account the capacity and grade necessary to maintain unrestricted flow from drainage through the land division and allow extension of the system to serve such areas.
3. Sanitary Sewers. Sanitary sewers as required shall be installed to serve the land division and to connect the land division to existing mains. In the event it is not possible to connect the land division to a Town sewer system, the Town Council may authorize the use of an interim system approved by the DEQ, if lot areas are of adequate, considering the physical characteristics of the area and if sewer laterals designed for future connection to a sewage disposal system are installed and sealed. Design shall take into account the capacity and grade to allow for desirable extension beyond the land division.

4. Water System. Water lines and fire hydrants serving each building site in the land division and connecting the land division to the serving system as may be required shall be installed by specifications required by the Town. The design shall take into account water provisions for extension beyond the land division.
5. Pedestrian Facilities. Site plans shall include a pedestrian circulation plan for providing safe and convenient pedestrian access. Pedestrian facilities as may be required shall be installed on at least one side of a public street and in any special pedestrian facility or walkway within the land division. The Town Council may approve a land division without appropriate pedestrian facilities in special type industrial districts if alternative pedestrian routes are available. Walkways shall be constructed to specifications set forth by the Town.
6. Bicycle Facilities. Site plans shall include a bicycle circulation plan. If appropriate to the extension of a system of bicycle routes, existing or planned, the Town Council may require the installation of bikeways or other bicycle facilities.
7. Streets Name Signs. Street name signs shall be installed at all street intersections. One street sign shall be provided at the intersection of each street. Two street signs shall be provided at four-way intersections.
8. Street Lights. Streetlights may be required and if so required shall be installed and shall be served from an underground source of supply.
9. Curbs. Curbs may be required, and if so required, shall be installed by the developer in accordance with standards set forth by the Town.
10. Other. The developer shall make necessary arrangement with the utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable televisions may be required to be placed underground.

15.121 Approval of Improvements

All improvements shall be approved by the Town's inspectors prior to acceptance. All costs of inspection shall be paid for by the developer.

15.122 Acceptance of Improvements

Improvements shall receive preliminary acceptance after inspection at the time the improvements are constructed. Final acceptance shall be considered by the Town within one year after construction is completed.

15.130 Building Permits

No building permit shall be issued upon lots to receive and be served by sanitary sewer or approved sewage disposal system and water service as improvements required pursuant to this ordinance unless such improvements are in place and serviceable or bonded for and approved by the Town. All improvements required and pursuant to this ordinance and other applicable regulations shall be completed, in service and approved by the Town prior to the sale and occupancy of any building unit erected upon a lot within the land division. Prior to sale and occupancy, and as a condition of acceptance of improvements, the Town may require a one-year Maintenance Surety Bond in an amount not to exceed ten percent of the value of all improvements to guaranteed maintenance of said improvements for a period of not less than one year from the date of acceptance.

15.140 Improvement Guarantee and Security Required.

15.141 Agreement for Improvements

Prior to final approval of a land division by the Town, the developer shall either install required improvements and repair existing streets and other public facilities damaged in development of the property or execute and file with the Town an agreement between himself and the Town that specifies the period in which required improvements and repairs shall be completed and provided

that, if the work is not completed within the period specified, the Town 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 land divider. The agreement shall also provide for payment to the Town for the cost of inspections.

1. Type of Security. The land divider shall file with the agreement, to assure his full and faithful performance thereof, one of the following, pursuant to approval and acceptance by the Town.
 - a. A surety bond executed by a surety company authorized to transact business in the State of Oregon in a form approved by the Town's Attorney.
 - b. 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.
 - c. Such other security as may be deemed necessary by the Town to adequately insure completion of improvements pursuant to the agreement.
2. Amount Required. Such assurance of full and faithful performance shall be for a sum approved by the Town sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of inspections.
3. Default Status. If a land divider fails to carry out provision of the agreement and the Town has unreimbursed costs or expenses resulting from such failure, the Town shall call on the bond or cash deposit for reimbursement. If the cost and expense incurred by the Town exceed the amount of the bond or cash deposit, the land divider shall be liable to the Town for the difference plus any attorney fees and costs incurred.

ARTICLE 16 – FLOOD DAMAGE PREVENTION

16.10 Purpose

This article adopts flood damage prevention regulations. Definitions and administrative provisions in this article apply only to requirements within the article, and are not intended to replace or supercede the administrative provisions of Article 12 or any other provision of this code, except as specifically applicable within a designated flood zone.

16.11 Statutory Authorization

The Legislature of the State of Oregon has in ORS 221 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town of Lexington, does ordain as follows:

16.12 Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by methods and provisions designed 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; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

16.20 Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

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.

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.

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

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

Start of Construction means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building or mobile home 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 market value of the structure either:

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

16.30 Lands to which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Town of Lexington, Oregon.

16.31 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Lexington," dated October 9, 1979, and as amended, with accompanying Flood Insurance Maps, as amended, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at Lexington Town Hall.

16.40 Administration

16.41 Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16.30 and 16.31. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS" in Section 16.20 and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

16.42 Designation of the Administrator of this Ordinance

The Lexington Town Council is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

16.43 Duties and Responsibilities of the Town Council

Duties of the Council shall include, but not be limited to:

1. Permit Review
 - a. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

- b. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 16.53.A are met.
2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 16.31 Basis for Establishing the Areas of Special Flood Hazard, the Town Council 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 Sections 16.52 Specific Standards and 16.53 Floodways.
3. Information to be Obtained and Maintained.
- a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved flood proofed structures:
 - (i) Verify and record the actual elevation (in relation to mean seal level), and
 - (ii) Maintain the flood proofing certifications required in Section 16.52.B (3).
4. Alteration of Watercourses
- a. Notify adjacent communities and the Oregon Water Resources Department prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
5. Interpretation of FIRM Boundaries. 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 1910.6 of the rules and regulations of the national Flood Insurance Program (24 CFR 1909, etc.).

16.50 Provisions for Flood Hazard Protection

16.51 General Standards

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

- 1. Anchoring
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - b. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - (i) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side.

- (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
 - (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds and,
 - (iv) any additions to the mobile home be similarly anchored.
- c. 3. An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater. Certifications must be provided to demonstrate that this standard has been met.
2. Construction Materials and Methods
- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Utilities
- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - b. 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; and,
 - c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
4. Subdivision Proposals
- a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
 - d. Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).
5. Review of Building Permits. Where elevation data is not available, 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.

16.52 Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 16.31, Basis for Establishing the Areas of Special Flood Hazard or Section 16.43.B, Use of Other Base Flood Data, the following provisions are required:

- 1. Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
- 2. 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 the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 16.43.C.2.
3. Mobile Homes
- a. Mobile homes shall be anchored in accordance with Section 16.51.
 - b. For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has comments; and for mobile homes not placed in a mobile home park or mobile home subdivision, require that:
 - (i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
 - (ii) adequate surface drainage and access for a hauler are provided; and,
 - (iii) in the instance of elevation on pilings, that:
 - (1) lots are large enough to permit steps,
 - (2) piling foundations are placed in stable soil no more than ten feet apart, and
 - (3) reinforcement is provided for pilings more than six feet above the ground level.
 - c. No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

16.53 Floodways

Located within areas of special flood hazard established in Section 16.31 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil 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 Section 16.53.A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 16.50 Provisions for Flood Hazard Reduction.
3. Prohibit the placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision.