

ARTICLE 1

PURPOSE AND AUTHORITY, OFFICIAL ZONING MAP

1.1 Short Title

This Ordinance shall be known and may be cited as the "Lowell Development Ordinance" or "LDO".

1.2 Enactment and Repeal

1.2-1 Enactment. This Ordinance consisting of 23 articles is hereby enacted and shall be the *Development Ordinance* for the City of Lowell, hereinafter "the City" and its planning and development regulation jurisdiction, including any extraterritorial jurisdiction. This ordinance supersedes the **“Unified Development Ordinance of the City of Lowell, North Carolina”** effective on July 12, 2010, together with amendments thereto, which is hereby repealed in its entirety. The **“Lowell Flood Damage Prevention Ordinance”** adopted and effective on July 12, 2010, together with amendments thereto, which is each hereby repealed to the extent stated in Article 18 herein.

ADOPTED on this the 11th day of May 2021.

s/ _____

Sandy Railey, Mayor

s/ _____

Beverly Harris, City Clerk

1.2-2 Effective Date. This Ordinance shall become effective 12:01 A.M. Eastern Standard Time on May 12, 2021.

1.3 Purpose

1.3-1 General Purpose. It is the purpose of this Ordinance to promote the health, safety, and the general welfare of the residents of the City of Lowell jurisdiction through the stated regulations of this Ordinance which include provisions to regulate use of buildings and land, land development, planned developments, manufactured housing, development of subdivisions, signs, off-street parking and loading, planting yards, watershed protection, and flood damage prevention.

1.3-2 Implementation of Comprehensive Land Use and Master Plans. This Ordinance shall be used to implement the “City of Lowell Comprehensive Land Use Plan” herein after referred to as “**City Plan 2040**” and/or “**the Plan**”, adopted in accordance with G.S. 160D-501 on April 13, 2021 including subsequent amendments adopted by the City Council of the City of Lowell. See Section 1.5 of this Article.

1.4 Guiding Principles

The guiding principles reflected in this ordinance are founded in the “City of Lowell Comprehensive Land Use Plan” herein after referred to as “**City Plan 2040**” and/or “**the Plan**”, adopted in accordance with G.S. 160D-501 on April 13, 2021 including subsequent amendments adopted by the City Council of the City of Lowell.

1.5 Relationship to Land Use and Comprehensive Master Plans

The administration, enforcement, and amendment of the Lowell Development Ordinance shall be carried out consistently with plans and documents comprising the “City of Lowell Comprehensive Land Use Plan” herein after referred to as “**City Plan 2040**” and/or “**the Plan**”, adopted in accordance with G.S. 160D-501 on April 13, 2021 including subsequent amendments adopted by the City Council of the City of Lowell. New planning documents or small area plans adopted by the City Council are automatically incorporated into this Ordinance. See Section 1.3-2 of this Article.

1.6 Jurisdiction

The provisions of this Ordinance shall apply to all the territory encompassed in the City of Lowell, North Carolina, and its planning and development regulation jurisdiction, including any extraterritorial jurisdiction as now or hereafter fixed, as depicted on the City’s Official Zoning Map on file at the Lowell City Hall. This map is hereby incorporated and made a part of this ordinance. This Ordinance shall govern the development and use of all land and structures within the City as provided for by Chapter 160D, except for bona fide farms in accordance with G.S.160D-903(c)-(e). Local Planning and Development Regulation, of the North Carolina General Statutes (G.S.)

1.7 Authority

This ordinance is adopted pursuant to portions of one or more of the following authorities established by General Statute (G.S.): Chapter 160D (Local Planning and Development Regulation), Chapter 160A (Cities and Towns), Chapter 113A (Pollution Control and Environment), Chapter 121 (Environmental Controls), Chapter 130A (Public Health), Chapter 133 (Public Works), and Chapter 136 (Roads and Highways). This Ordinance may be amended from time to time as required or allowed by subsequent legislative enactments.

1.8 Conflict or Inconsistency with Other Laws, Covenants, Deed Restrictions, or Agreements

- 1.8-1 Relation of this Ordinance to Other Regulations. This Ordinance is not intended to abrogate any other law, ordinance, or regulation. However, where conditions, standards, or requirements imposed by any provision of this Ordinance are either more restrictive or less restrictive than standards imposed by any other law, ordinance or regulation, the provisions which are more restrictive or which impose higher standards or requirements shall govern. In cases where reference is made to the North Carolina General Statutes, or any provision thereof, said reference shall be to the current language of said statute or provision. Whenever a process is prescribed by this Ordinance, and said process contains requirements in addition to those prescribed by state law, the process prescribed in this Ordinance shall be deemed supplemental; state law shall control.
- 1.8-2 Conflicting Provisions of this Ordinance. In the event of any conflict between the limitations, requirements, or standards contained in different provisions of this Ordinance in applying them to an individual use or structure, the more restrictive provision shall apply. However, the regulations for overlay districts set forth in Article 8 of this Ordinance shall control in the event of any conflict between those regulations and regulations which are set forth in Article 8 of this Ordinance for the underlying district. In the event of a conflict or inconsistency between the text of this Ordinance and any caption, figure, illustration, or map contained herein, the text shall control.
- 1.8-3 Conflicts with Covenants, Deed Restrictions, etc. This Ordinance is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Ordinance shall govern.
- 1.8-4 Effect on Existing Agreements. This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights, or permits previously adopted or issued pursuant to law.

1.9 Severability

If any section or specific provision or standard of this ordinance or any regulating district boundary arising from it is found by a court to be invalid or unenforceable for any reason, the decision of the court shall not affect the validity or enforceability of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

Should any section or provision of this ordinance be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect, impair, or invalidate the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

1.10 Interpretation of Ordinance

1.10-1 Minimum Requirements; Greater Restrictions Govern. In the interpretation and application of this Ordinance, all provisions shall be considered to be minimum requirements unless specifically stated otherwise. If any federal or state law or other ordinance or regulation allows lesser regulation, this Ordinance shall govern so that, in all cases, the more restrictive limitation or requirement shall govern. Whenever regulations imposed by this Ordinance are less restrictive than regulations imposed by any governmental authority, the regulations imposed by that authority shall govern.

1.11 Rules of Construction

1.11-1 Word Interpretation.

- (A.) Words not defined in this Ordinance shall be given their ordinary and common meaning.
- (B.) Words used in the present tense include the future tense.
- (C.) Words used in the singular number include the plural number and the plural number includes the singular number unless the context of the particular usage clearly indicates otherwise.
- (D.) Words used in the male gender include the female gender.
- (E.) The words "shall," "will," and "must" are mandatory in nature implying an obligation or duty to comply with the particular provision.
- (F.) Any act authorized by this Ordinance to be carried out by a specific official of the City is, by implication, authorized to be carried out by a designee of that official.

1.11-2 Relationship of this Ordinance to Any Pending Action. The adoption of this Ordinance shall not affect any action, suit, notice of violation, citation, or proceeding that may be pending at the date this ordinance becomes effective. All rights and liabilities that have

been received or created and any violation that has occurred under any previous provisions of the Code of Ordinances of the City of Lowell that have been superseded by this Ordinance are still valid and may be preserved and enforced.

1.12 Compliance

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained or moved, and no land use shall be commenced, maintained, or modified except as authorized by this Ordinance.

No applicable permit shall be issued or granted that does not conform to the requirements of this Ordinance. Developments that have received staff approval, Enforcement Officer approval, or a building permit before the effective date of this Ordinance may proceed in accordance with such approval or permit while such approval or permit remains in effect.

1.13 Establishment of Official Zoning Map

- 1.13-1 Official Zoning Map. The City and its planning and development regulation jurisdiction, including any extraterritorial jurisdiction, as now or hereafter fixed, is hereby divided into districts, as established in Article 8 (Zoning Districts) and as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map is on file with the City Clerk and maintained by the *Planning, Zoning & Subdivision Administrator* at the Lowell City Hall in accordance with G.S. 160A-77 and G.S. 160A-78.
- 1.13-2 Map Certification and Changes. The Official Zoning Map shall be attested by the City Clerk and shall bear the seal of the City together with the effective date of the adoption of this Ordinance. If changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map.

1.14 Interpretation of District Boundaries

- 1.14-1 Boundary Interpretation. Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the following rules shall apply in the interpretation of area boundaries and the location of lines shown on the map:
- (A.) Centerline: Where a boundary line lies within and follows a street or *alley* right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or *alley* right-of-way, railroad right-of-way, or utility easement. If such a street or *alley* right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is *abandoned* or removed from dedication, the district boundaries shall be construed as following the centerline of the *abandoned* or vacated road bed or utility easement.

- (B.) Lot Line: Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located. Split zoning of lots should be avoided to the extent possible, with zoning boundaries following lot lines where feasible.
- (C.) City Limits: Boundaries indicated as approximately following the City limits shall be construed as following the City limits boundary lines.
- (D.) Watercourses: Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines and shall be construed to reflect the naturally occurring changes to the location of the watercourse which may occur over time.
- (E.) Extensions: Boundaries indicated as parallel to or extensions of street or *alley* rights-of-way, channelized waterways, railroad rights-of-way, utility easements, lot lines, City limits, or county lines shall be so construed.
- (F.) Scaling: In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map. In the case of Flood Hazard Area, Corps of Engineering work maps, if available, shall be used for scaling.
- (G.) Other: Where the actual location of existing physical or natural features vary with those shown on the Official Zoning Map, or in other circumstances not addressed in this section, the Board of Adjustment shall have the authority to interpret the district boundaries.

1.15 State of Emergency

The requirements of this Ordinance may be temporarily suspended during federal disaster “state of emergency” declarations by the Executive Office of the President and/or Federal Emergency Management Administration (FEMA) and/or during “Imminent Threat Alert” declared by the U.S. Department of Homeland Security and/or during a state of emergency declared by the Governor of the State of North Carolina and/or by resolution adopted by the City Council during a regular, continued, special or emergency meeting of the City Council.

Upon authorization by resolution of the City Council, the *Planning, Zoning & Subdivision Administrator* may suspend the application of all or part of the requirements of this Ordinance as necessary to facilitate public health, safety and welfare during a declared state of emergency whether directly or indirectly affecting the City of Lowell.

During the period of declaration and for any period of response and/or recovery thereafter authorized by the City Council, all or part of the provisions of this Ordinance may be stayed and activities conducted, including but not limited to temporary housing, emergency response operations and/or command facilities, temporary medical facilities, mobile and/or temporary hospitals, motor/mobile/modular homes for hosting emergency personnel and/or victims, motor/mobile/modular units providing specialized services for healthcare and/or housing, and any other purpose for the provision of relief from the impacts of an emergency affecting all or part of the City of Lowell.

A state of emergency resolution shall establish criteria for its expiration and establish guidelines for waiving the provisions of this Ordinance.

Upon the conclusion, lifting, and/or rescinding of the declared “state of emergency” by the authorized federal and/or state official, these rules are reinstated without further action by the City and shall be in full force and effect unless specified in the resolution adopted by the City Council.

Activities not directly associated with the response and/or recovery of the impacts of such reason for declaration of the state of emergency shall meet and comply with the standards and specifications of this Ordinance.