ZONING BOOK

City of Lowell, Massachusetts

Adopted by the Lowell City Council December 7, 2004.

This document includes all approved amendments through November 16, 2010.

Chapter 290 of the City Code of Ordinances

Lowell Zoning Ordinance

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* **Editor's note** – Printed herein is the zoning ordinance of the city formerly codified as Chapter 31 in the Code of Ordinances, and re-codified in December 2008 as Chapter 290 of the Code of Ordinances. The source of this appendix is the pamphlet compiled by the city entitled "Lowell Zoning Ordinance" certified as a true copy of the Zoning Code of the City of Lowell in effect on December 8, 2004, and supplemented through November 24, 2009. All ordinances amending the zoning code since 2004 have been included in the appropriate sections and are indicated in the history notes immediately following the amended sections. Section 10.3 is available under separate cover. The absence of a history note indicates the section remains unchanged from the pamphlet.

Diagrams have been included in this zoning book for illustrative purposes only and have not been formally adopted as part of the Lowell Zoning Ordinance. The diagrams shall not be construed as altering any regulations expressed herein. Where a conflict exists, the expressed regulations in the Zoning Ordinances shall have precedence over the diagrams. [Ord. 07-13-04] Except that diagrams within the Hamilton Canal District Form-Based Code (HCD-FBC), Section 10.3 of the Zoning Ordinance, have been formally adopted as a part of the Zoning Ordinance and shall be construed as a mandatory portion of the regulatory requirements within the HCD Zoning Districts. [Ord. 02-24-09]

Cross references – Planning board established a § 2-91 et seq.; advertising, Ch. 3 animals, Ch. 4: buildings and building regulations, Ch. 5; swimming pool regulations, § 5-46 et seq.; wetlands regulations, § 5-120; fire protection and prevention, Ch., 8; garbage and refuse, Ch. 9; health and sanitation, Ch. 10; throwing or depositing litter prohibited, § 10-67; licenses and business regulations, Ch. 11; adult entertainment establishments regulated, § 11-36 et seq.; motor vehicles and traffic, Ch. 13; traffic regulations for specific streets, § 13-81 et seq.; parks and recreation, Ch. 14; Lowering, removing edgestone or curbing, § 17-1; utilities, Ch. 18.

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ARTICLE I. PURPOSE AND AUTHORITY

SECTION 1.1 TITLE

This ordinance, ordained in accordance with the provisions of Chapter 40A of Massachusetts General Laws shall be known as the "Lowell Zoning Ordinance."

SECTION 1.2 PURPOSES OF CHAPTER

The purposes of this chapter are to promote the health, safety, convenience, morals, and general welfare of the city; to encourage the most appropriate use of land throughout the city; to prevent overcrowding of the land; to conserve the value of the land and buildings; to lessen congestion in the streets; to avoid undue concentration of population; to provide adequate light and air; to facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements, and to preserve and increase the amenities of the city, all as set forth in Section 2A of 1975 Mass. Acts 808.

SECTION 1.3 AUTHORITY

This chapter has been enacted pursuant to authority granted by G.L. c. 40A,, the Zoning Act, and the Home Rule Amendment, Article 89 of the Massachusetts Constitution.

SECTION 1.4 APPLICABILITY

The provisions of this chapter shall apply to all buildings, structures or land within the boundaries of the city.

SECTION 1.5 INTERPRETATION

In interpreting and applying the provisions of this chapter, the requirements contained herein are declared to be the minimum requirements for the purposes set forth, and also, as further set forth by G.L. c. 40A, as amended.

SECTION 1.6 EFFECT OF CHAPTER ON COVENANTS AND AGREEMENTS

This chapter shall not nullify the more restrictive provisions of covenants, agreements or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

SECTION 1.7 AMENDMENT OF CHAPTER

The city council may from time to time amend this chapter or a district boundary indicated upon the zoning map in the manner prescribed by G.L. c. 40Aand all amendments thereto. A person making application to the city council for a zoning change in accordance with this amendment, shall prepay to the city clerk at the time of filing of such application, such fee as may be required by the city clerk.

SECTION 1.8 SEVERABILITY

It is hereby declared to be the intention of the city council that the actions, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance.

ARTICLE II DEFINITIONS

For the purpose of this chapter, certain words and terms are hereby defined. The definitions set forth in the state building code of the city are also applicable, where appropriate, with respect to words and terms not defined herein. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "lot" includes "plot"; the word "building" includes "structure"; the word "occupied" includes the words "designed, arranged or intended to be occupied." Where the verb "use" is employed, it shall be construed as if followed by the words "or is intended, arranged, designed, built, altered, converted, rented or leased to be used"; the word "shall" is mandatory and is not directory. However, all definitions must be in conformity with G.L. c. 40A, as amended.

ABANDONED USE: A use which has been discontinued for twenty-four (24) consecutive months.

ACCESSORY BUILDING: A building devoted exclusively to a use subordinate to the principal use and, customarily, incidental to the principal use of the lot.

ACCESSORY SIGN: A sign which is subordinate to the principal use and customarily incidental to, and on the same lot as, the principal use.

ACCESSORY USE: A use subordinate to the principal use, and customarily incidental to, and on the same lot as the principal use.

ADULT ENTERTAINMENT ESTABLISHMENT: Any of the following businesses:

> Adult bookstore: An establishment having as a substantial or significant portion of its stock in trade printed matter, books, magazines, picture periodicals, motion picture films, video cassettes, or coin operated motion picture machines for sale, barter or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “sexual conduct” as that term is described in G.L., c. 272, s.31; “sexual devices” or an establishment having for sale sexual devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in G.L. c. 272, s.31, or an establishment with a segment or section devoted to the sale or display of such materials.
>
> Adult motion picture theatre: An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “sexual conduct” as defined in G.L. c. 272, s. 31 for observation by patrons therein.
>
> Adult mini motion picture theatre: An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “sexual conduct” as defined in G.L., c. 272, s. 31 for observation by patrons therein.

ANTENNA: Any exterior apparatus designed for telephonic, radio, television, personal communications services (PCS), pager network, or any electromagnetic waves of any bandwidth. An antenna can either be attached to a tower or attached to a building.

ARTIST: A person regularly engaged in and who derives a substantial portion of his/her annual income from art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented distribution or related production.

ARTIST LIVE/WORK SPACE: The use of all or a portion of a building for both art use and the habitation of artists.

ART USE: The production of art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented distribution or related production. Such use may include the fine and applied arts including painting or other like picture, traditional and fine crafts, sculpture, writing, creating film, creating animation, the composition of music, choreography and the performing arts.

ART/CRAFT STUDIO: A facility for art use as defined above that is separate from any residential uses, occupied by no more than three (3) individuals at any one time.

ASSISTED LIVING FACILITY (ALF): A facility as defined in 651 CMR 12.02.

AUTOMOTIVE USES: As the term is used in the Table of Use Regulations herein shall mean motor vehicles of any kind, including but not limited to automobiles, trucks, sport utility vehicles, motorcycles, mopeds, recreational vehicles, snowmobiles, travel trailers, and the like.

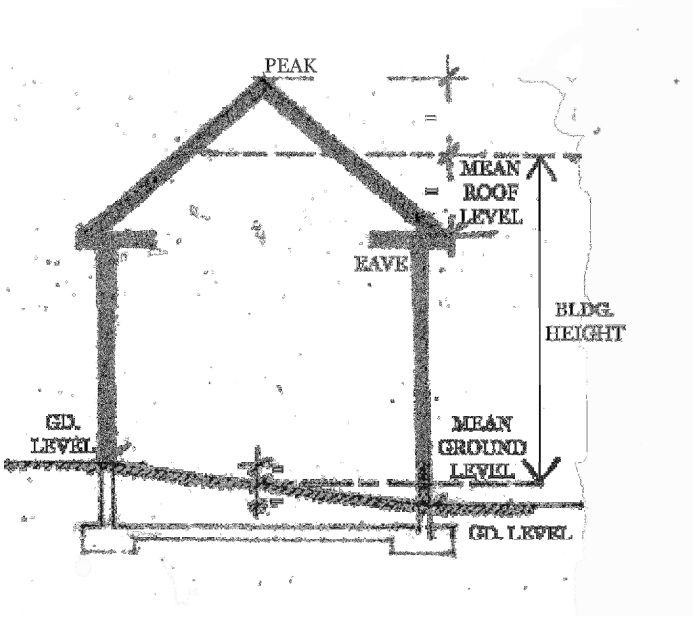
> Autobody or Paint Shop shall mean a painting facility provided all servicing and repairs are carried out inside the building.
>
> Automotive Repair Garage shall mean a repair facility not including autobody or paint shops, provided all servicing and repairs are carried out inside the building.
>
> Automotive Sales, indoor shall mean a sales place for new or used cars conducted entirely with a building, or rental agency for autos, trailers, or motorcycles conducted entirely within a building provided no major repairs are made.
>
> Automotive Sales, outdoor shall mean a sales place or storage place for new or used cars conducted partly or wholly on an open lot, or rental agency for automobiles, trailers, motorcycles conducted partly or wholly outdoors.
>
> Automotive Service Station shall mean a filling station, with or without self-service gasoline pumps, where no major repairs are made provided that all lubrication and minor repairs are carried out inside the building.
>
> Car Washing Establishment shall mean a facility using mechanical equipment for purposes of cleaning automobiles and other vehicles.

BANNER: A temporary or permanent sign made of fabric or fabric-like material which may be free-hanging or attached at all corners.

BOARDING OR LODGING HOUSE: a house where lodgings are let to four or more persons not within second degree of kindred to the person conducting it, and shall include fraternity houses and dormitories of educational institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under G.L. c. 111, s. 71 or rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.

BUILD: The word "build" shall include the words "erect," "construct," "alter," enlarge," "modify," "excavate," "fill," and any others of like significance.

BUILDING: The word "building" shall include the word "structure" unless the context unequivocally indicates otherwise. "Building" shall also mean any three-dimensional enclosure by any building materials of any space for use or occupancy, temporary or permanent, and shall include foundations in the ground, also all parts of any kind of structure above ground except fences and field or garden walls or embankment retaining walls.



BUILDING HEIGHT: The vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the mean ground level at all elevations of a building.

BUILDING-MOUNTED WIND ENERGY FACILITY: A wind energy facility shall be considered to be building integrated if it is designed to be permanently mounted on a building or other inhabitable structure. This definition applies to wind turbines of any capacity that are designed to be operated in direct contact with a building. This definition also covers, for the purposes of this zoning provision, other wind energy facilities primarily used for land-based applications which may be permanently mounted and operated on a building. [Ord. 5-25-10]

BUSINESS OR PROFESSIONAL OFFICE: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise, including banks and other financial institutions.

CHILD CARE FACILITY: A day care center or school age child care program, as those terms are defined in G.L. c. 28A, s. 9 and exempt from regulation pursuant to G.L. c. 40A, s. 3.

CLUB OR LODGE, PRIVATE: Buildings, structures and premises used by a nonprofit social or civic organization, or by a nonprofit organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

COMMERCIAL RECREATIONAL FACILITY, INDOOR: A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Such facilities shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers conducted for or not for profit; provided, however, that activities connected therewith shall be at least 45 feet from any lot line in residential districts.

COMMERCIAL RECREATIONAL FACILITY, OUTDOOR: Golf course, driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, whether for profit or nonprofit, except those activities more specifically designated in this ordinance.

CONTRACTOR'S GARAGE: A garage or storage unit, which may also include an office and serve as an official business address, where a licensed building tradesman or contractor stores supplies, vehicles, tools, and other equipment that is normally part of their commercial activities, provided that no major manufacturing or repair activity occurs on the premises. [Ord. 07-13-04]

CORNICE: The exterior trim of a structure at the meeting of a roof and a wall.

DECK: A horizontal platform supported by any combination of posts, beams, foundations, and/or joists with or without handrails, steps or terraces and not covered by a permanent roof.

DOOR, FRONT: An entry that serves as the principal entrance for residents or visitors to one or more offices, dwelling units or retail establishments on a lot, and includes obvious design elements that identify it as a primary entrance.

DORMITORY: A building used as group living quarters for individuals enrolled and/or employed by a university, college, boarding school or convent. A dormitory shall be owned and operated by a sponsoring institution, except that a dormitory for a minimum of fifty (50) college and/or university students may be developed and/or operated by a separate private for-profit entity. Where a dormitory is privately developed and/or operated, programs and services must meet the standards of Section 7.8 of the Zoning Code. [Ord. 11-24-09]

DRAINAGE STRUCTURE: A detention or retention area designed to hold stormwater beyond the time when a storm occurs for discharge into the ground, into wetlands, into streams, or into a public or private drain system. Drainage systems, such as infiltration trenches or pipes, located entirely underground are not considered surface drainage structures.

DRIVEWAY: A vehicular passageway providing access between a street or way and a parking space, parking area, garage, or loading area, or between two such areas on a lot or lots.

DWELLING, ATTACHED: A dwelling unit designed for or occupied as a residence and separated from another dwelling unit on one (1) or more sides of a vertical party wall.

DWELLING, DETACHED: A building designed for or occupied as a residence and separated from any other building except accessory buildings by side yards.

DWELLING, MULTIFAMILY: A building containing three (3) or more dwelling units, and wherein units may be located on more than one (1) floor.

DWELLING, SINGLE FAMILY: A detached dwelling, other than a mobile home designed for or occupied by one (1) family.

DWELLING, TWO- FAMILY: A freestanding building designed, or intended exclusively for residential use, containing two (2) dwelling units, each family occupying a single-dwelling unit typically situated one (1) above the other but may also be two (2) attached dwelling units.

DWELLING UNIT: Any room or suite of rooms forming a habitable unit for one (1) family with its own cooking and food storage equipment and its own bathing and toilet facilities and its own living, sleeping and eating areas wholly within such room or suite of rooms.

EDUCATIONAL USE, EXEMPT: Use of land or structures for educational purpose exempt from regulation pursuant to G.L. c. 40A, s. 3.

EDUCATIONAL USE, NONEXEMPT: Use of and or structures for educational purpose not exempt from regulation pursuant to G.L. c. 40A, s. 3.

FAÇADE: The exterior face of building which is treated in an architectural fashion.

FAMILY: An individual, or two (2) or more individuals related by blood, marriage, or adoption living together, or not more than three (3) individuals not related by blood, marriage, or adoption living together.

FLASHING SIGN: An illuminated sign in which the artificial light is not maintained in a stationary or constant intensity.

FLOOR AREA, GROSS: The sum, in square feet, of the gross horizontal areas of all the floors of a building, as measured from the exterior faces of the exterior walls or centerlines of walls separating two (2) buildings, including:

1. Roofed porches and balconies, whether enclosed or unenclosed and unroofed porches and balconies

above the second floor.
2. Elevator shafts and stairwells on each floor.
3. Accessible attic space with clear headroom of at least five feet, whether finished or unfinished, except as hereafter excluded. Accessible attic space includes spaces that are only accessible via a pull-down stair or ceiling hatch.
4. Interior balconies, mezzanines and penthouses.
5. Basement and cellar areas, except as hereafter excluded.

The following areas are excluded from the gross floor area:

1. Areas used for parking garages, accessory parking or off-street loading purposes.
2. Basement and cellar areas devoted exclusively to uses accessory to the operation of a commercial or industrial building.
3. Open or lattice-enclosed exterior fire escapes, and unroofed porches and balconies no higher than the second floor.
4. Attic space and other areas for elevator machinery in any building or mechanical equipment accessory to the operation of a commercial or industrial building.
5. Attic space that is not accessible and attic space with less than five feet of clear headroom.
[Ord. 07-13-04]

FLOOR AREA RATIO: The ratio of gross floor area of a structure to the total area of the lot.

GARAGE DOOR, RESIDENTIAL: The door to a residential garage that provides access for a vehicle to be driven into or out of that garage.

HOME OCCUPATION: An activity customarily carried on by the permanent resident of a dwelling unit, inside the dwelling unit, requiring only customary home or hobby-type equipment, but excluding the following:

1. The sale of articles produced elsewhere than on the premises for the purpose of sale;

2. The storage of materials or products outside of a principal building;

3. Motor vehicle repair, landscaping yard or contractor's yard.

Home occupations include but are not limited to activities conducted by recognized professions, fine art studios, dressmaking, and teaching of not more than four (4) pupils simultaneously.

HOTEL or MOTEL: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year.

LARGE WIND ENERGY FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity with a tower taller than 100 feet. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines. [Ord. 5-25-10]

LIGHT MANUFACTURING: Fabrication, assembly, processing, finishing work or packaging.

LINTEL: Is the horizontal support member across the head of a door or window.

LOT: The whole area of a single parcel of land with ascertainable boundaries in single or joint ownership, undivided by a street, approved and established by deed(s) or record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved and recorded.

LOT AREA: The horizontal area of the lot exclusive of any area in a public or private way open to public use and exclusive of any land below the high water line of any water body contained therein. At least seventy (70) percent of lot area required for zoning compliance shall be land other than wetland.

LOT AREA (HRC DISTRICT) : See Section 5.1.5.

LOT COVERAGE: The area of a lot covered by the aggregate of the maximum horizontal cross-section area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, bay windows, balconies and terraces.

LOT FRONTAGE: A continuous line between side lot lines measured along the edge of a street and also provided that there are both rights of access and potential safe year-round practical vehicular access, unimpeded by:

1. wetlands, unless a wetlands crossing has been approved by the Conservation Commission; or

2. topography which prevents a proposed driveway from meeting the requirements of Section 6.7 of this ordinance, unless the Planning Board has granted an exception as provided in said Section 6.7.2 and 6.7.3; or

3. other natural barriers

between the street line and a potential building site, and the street has been determined by the Planning Board to provide adequate access to the lot under the provisions of the Subdivision Control Law and the City of Lowell Subdivision Regulations. On any lot bounded on more than one (1) side by a street or streets, frontage requirements shall apply for at least one (1) of the abutting streets.

LOT LINE, FRONT: A line dividing a lot from a street.

LOT LINE, REAR: Except for triangular lots, corner lots, and other such lots, the lot line opposite the front lot line.

MANUFACTURING: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, including, but not limited to, the following types of industries: food and kindred products, apparel, textiles and related products, electronic and electrical products, furniture and fixtures, printing and publishing, paper and allied products, plastic and allied products, primary and fabricated metal products, machinery, transportation and related equipment products, instruments and related products, including the storage of raw materials and containers used in or incidental to any of the foregoing provided that any open lot storage shall not exceed 12 feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height of the material so stored.

MASSAGE: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointment or other such similar preparations commonly used in the practice of massage under such circumstances that it is reasonably expected that the person to whom the service is provided, or some third person on his or her behalf, will pay money or give any other consideration or any gratuity therefor. The practice of massage shall not include the following individuals while engaged in the personal performance of duties or their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Massachusetts.

2. Nurses who are registered under the laws of the Commonwealth of Massachusetts.

3. Barbers and beauticians who are duly licensed under the laws of the Commonwealth of Massachusetts, except that this exclusion shall apply solely to the massage of the neck, face, scalp and hair of the customer or client for cosmetic or beautifying purposes.

MEDICAL OR DENTAL CENTER OR CLINIC: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

METEORLOGICAL TOWER: A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate. [Ord. 5-25-10]

MUNICIPAL FACILITY: Government office, service, or facility, including police and fire stations, libraries, and administrative offices, owned or operated by the City of Lowell, the Lowell School Department, or any of their departments or any non-residential facilities of the Lowell Housing Authority.

NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITY: A non-residential drug treatment program that assists individual addicted to drugs by administration of a substitute drug. Any facility that dispenses, prescribes, administers, allocates, delivers, hands out, or uses in any way a substitute drug, with or without providing other treatment services, shall be deemed a 'Narcotic Detoxification and/or Maintenance Facility' and subject to the regulations under section 7.7 of this ordinance. [Ord. 4-18-06]

NONCONFORMING STRUCTURE: Any structure which does not conform to the dimensional requirements in this chapter or to the parking and loading requirements of this chapter for the district in which it is located; provided, that such structure was in existence and lawful at the time the applicable provisions of this or prior zoning ordinances became effective.

NONCONFORMING USE: A use of a building, structure or lot that does not conform to the use regulations of this ordinance for the district in which it is located; provided, that such use was in existence and lawful at the time the applicable provisions of this or prior zoning ordinances became effective.

OPEN SPACE, LANDSCAPED: The parts of a lot designed and developed for pleasant appearance in trees, shrubs, ground cover and grass, including other landscaped elements, such as natural features of the site, walks and terraces. Such space shall not include rooftops or areas of lot used for parking, access drives or other hard-surfaced areas except walks, and terraces as noted above, designed and intended for non-vehicular use. Such hard-surfaced walks and terraces shall not exceed twenty-five (25) percent of the total required landscaped open space.

OPEN SPACE, USABLE: The parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation, including swimming pools, tennis courts or similar facilities, for gardens or for household service activities such as clothes drying, which space is at least seventy-five (75) percent open to the sky, free of automotive traffic and parking and readily accessible to all those for whom it is required. Open space shall be deemed usable only if at least seventy-five (75) percent of the area has a grade of less than eight (8) percent.

PARKING GARAGE OR PARKING AREA, NONRESIDENTIAL: A building, structure, lot or part of a lot designed or used for the shelter or storage of commercial or noncommercial motor vehicles used by the occupants or users of a lot or lots devoted to use or uses not permitted in a residence district, in which space is available either to long-term or to transient or casual parkers.

PARKING GARAGE OR PARKING AREA, RESIDENTIAL: A building, structure, part of a building or structure, lot or part of a lot designed or used for the shelter or storage of noncommercial motor vehicles used by the occupants

or users of a lot or lots devoted to a use or uses permitted in a residence district and in which no space is rented for casual or transient parkers.

For all parking areas, the following definitions shall apply.

> Access drive shall mean the portion of a private parking area or commercial parking lot or structure used to provide access from the street to the parking spaces, but which does not abut a parking space on any side.
>
> Angle parking shall mean parking spaces placed at an angle less than 90 degrees from a drive lane.
>
> Drive lane shall mean the portion of a private parking area or commercial parking lot or structure which abuts a parking space on one or more sides, which is not used for vehicular parking, and which provides access from the parking space to a street with or without the use of an access drive.
>
> Perpendicular parking shall mean parking spaces placed at an angle of 90 degrees from a drive lane.

PERMANENT SIGN: A sign intended to be used for a period greater than thirty (30) days.

PLANNED RESIDENTIAL DEVELOPMENT: A land use category allowed by special permit that may include the subdivision of land for multiple residential buildings and other compatible land use activities as outlined in Section 8.2 herein.

PLANNED UNIT DEVELOPMENT: A mixed use development on a plot of land containing a minimum of the lesser of sixty thousand (60,000) square feet or (5) five times the minimum lot size of the zoning district or as otherwise indicated in this Code, in which a mixture of residential, open space, commercial, industrial or other uses as permitted in the underlying zoning district and a variety of building types to be allowed by special permit as provided for herein.

PORCH: A horizontal platform supported by any combination of posts, beams, foundations, and/or joists with or without handrails, steps or terraces covered by a permanent roof, but not enclosed with walls, windows or screens any higher than 4 feet from the platform.

PROJECTION: An architectural feature, often containing window and/or door assemblies, including bay windows, door porticos, eaves, and balconies, that protrudes beyond the primary wall plane of a building. They may be semi-circular, faceted or rectangular and often have their own roof. They are used to provide a wider view, bring in more light, and contribute to the articulation of a building's exterior.

PUBLIC SERVICE FACILITY: Public facilities including but not limited to transformer stations, substations, pumping stations, telephone exchanges, provided that in residence districts such public service facility is considered essential to service such a residential area and that no public business office, storage yard or storage building is operated in connection with the facility.

RECOGNIZED PROFESSION: Architecture, engineering, law, medicine, dentistry or other activity in which specialized services to clients are performed by persons possessing a degree from a recognized institution of higher learning demonstrating successful completion of a prolonged course of specialized intellectual instruction and study, and possessing evidence of professional capability such as membership in a professional society requiring standards of qualification for admission or licensing by the Commonwealth.

RECYCLING FACILITIES: A facility in which recyclables, such as newspapers, magazines, books and other paper products; glass; metal; asphalt products; and other materials are recycled, reprocessed, and treated to return such products to a condition in which they may be again used as a new product; provided, however, that motor vehicle salvage yards and graveyards; junkyards; and solid waste transfer facilities shall not be deemed a "recycling facility" for the purposes of this definition.

RELIGIOUS USE, EXEMPT: Use of land or structures for religious purpose exempt from regulation pursuant to G.L. c. 40A, s. 3.

RESTAURANT: A building, or portion thereof, including but not limited to a lunch room, cafeteria, ice cream parlor, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. Alcoholic and nonalcoholic beverages may be served, subject to local licensing. Entertainment shall be limited to music with no dancing. No drive-up or drive-through window shall be employed.

RESTAURANT, TAKE-OUT: Any establishment which has as its principal business the preparation of food, frozen dessert, or beverage for sale to be consumed away from the premises of the establishment, or at ten or fewer seats at tables, benches or counters. This does not apply to restaurants that occasionally sell such items for consumption away from the premises, and does not apply to drugstores or grocery stores. Restaurants of a size greater than 1500 square feet cannot be considered take-out restaurants. Take out restaurants may have drive-through windows, by special permit, if drive-through windows are an allowed use in the district in which the restaurant is located, as defined under 12.4 (g) in Article XII: Table of Uses in the Lowell Zoning Ordinance. [Ord. 4-3-07]

RETAIL: A facility selling goods but not more specifically listed in the Table of Use Regulations.

SELF-STORAGE FACILITY or MINI-WAREHOUSE: A facility where individual portions of the space are rented to consumers for the temporary storage of business or personal items.

SENIOR CONGREGATE HOUSING: A form of housing in which each individual or two-person family is provided with separate quarters which contain living and sleeping space and which may contain kitchen and bath facilities. Such housing shall also contain common dining, kitchen and social facilities. The provision of meals, housekeeping, personal care and limited support services may also be provided. A minimum of 80 percent of the separate living quarters shall be restricted to families of not more than two persons with at least one member sixty-two (62) years of age or older. [Ord. 11-29-05]

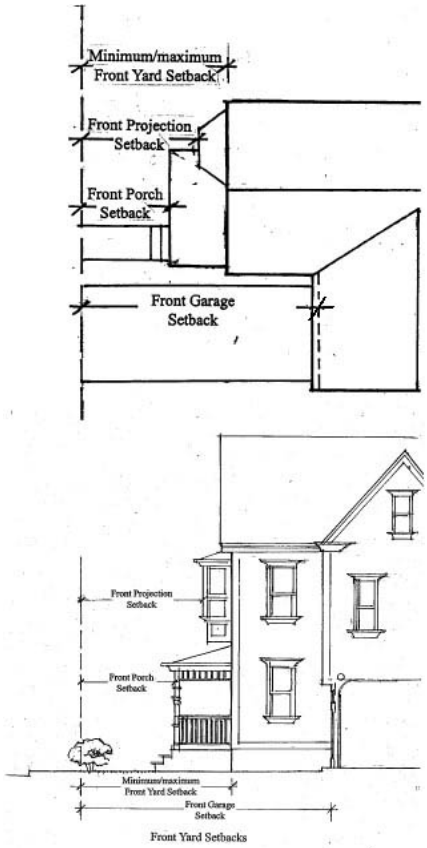
SERVICE BUSINESS: Any of the following uses:

1. Barber, beauty shop, salon for hail, nails, or tanning, laundry and dry cleaning pick-up agency, shoe repair, self-service laundry or other similar uses;

2. Hand laundry, dry cleaning or other similar use, provided personnel on premises is limited to five employees;

3. Printing shop, photographers studio, career, or other similar use, provided personnel on premises is limited to five employees.

SETBACK, FRONT: The shortest horizontal distance between the boundary separating a parcel, lot or block of land from the street or way that it fronts on and a building or feature of a building. Where the front portion of a lot is encumbered by an easement for a public sidewalk or roadway, all front setback dimensions are measured from the boundary



Front Yard Setbacks

separating the easement area from the unencumbered lot. This code regulates the following front yard setbacks.

Front garage setback: The shortest horizontal distance measured between the boundary of the parcel, lot or block bordering a street or way and a residential garage door visible from a street or way.

Front porch setback shall mean the shortest horizontal distance measured between the boundary of the parcel, lot or block bordering a street or way to the closest point of a covered porch attached to the front of a building.

Front projection setback shall mean the shortest horizontal distance measured between the boundary of the parcel, lot or block bordering a street or way to the closest point on a building projection but excluding covered porches.

Maximum front yard setback shall mean the longest permitted horizontal distance measured between one boundary of the parcel, lot or block bordering a street or way to a front-facing façade of the building including a front door.

Minimum front yard setback shall mean the shortest horizontal distance measured between the boundary of the parcel, lot or block bordering a street or way to the closest point on a building excluding projections or covered porches.

SIDEWALK: A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

SIGN: A structure which consists of a device, light, letter, word, model, banner, pennant, trade flag, logo, insignia, or representation which advertises , directs, or announces a use conducted, goods, products, services, or facilities available which influence persons, or conveys information, including electric signs, but excluding window displays or merchandise and signs which are incidental to the displayed merchandise.

SIGN, AREA OF: The area of a sign shall be measured as follows:

1. For a sign, either freestanding or attached, the area shall be considered to include all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.

2. For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording and accompanying designs or symbols, together with any background of a different color than the natural color of the building.

3. For a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all the letters and symbols.

SIGN, ON PREMISES: Sign or other advertising device which advertises or indicates only the person occupying the premises on which it is located, the merchandise for sale or the activity conducted thereon.

SILL: The horizontal exterior member below a window.

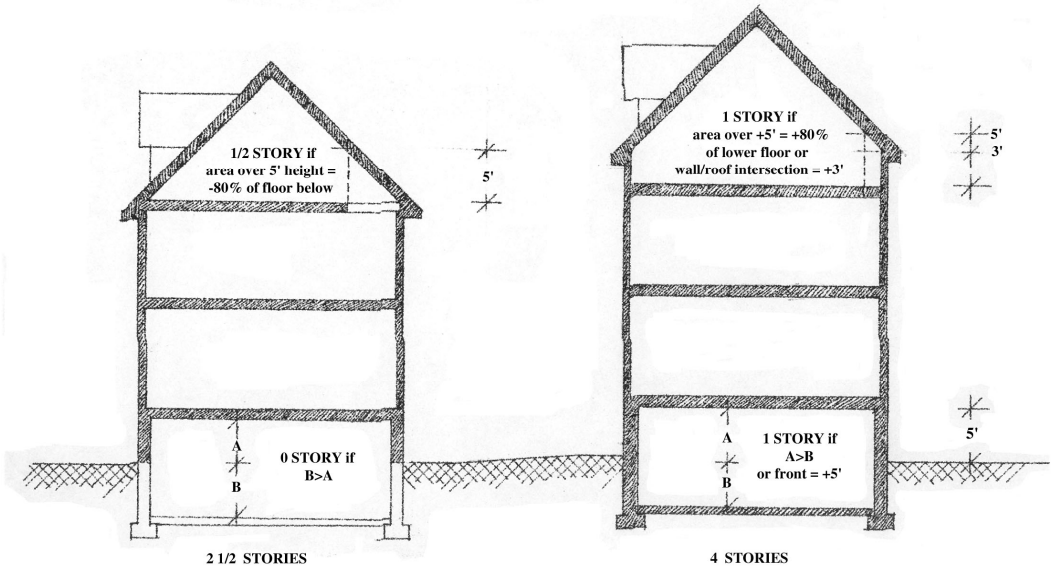
SMALL WIND ENERGY FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity with a tower shorter than 100 feet. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines. [Ord. 5-25-10]

SPECIAL PERMIT GRANTING AUTHORITY: Unless, specifically designated otherwise herein, the Board of Appeals of the City of Lowell. [Ord. 8/10/04]

STATE BUILDING CODE (SBC): The latest edition of the Massachusetts State Building Code.

STORY: That part of a building or structure between any floor and the floor or roof above. A cellar, basement or parking area will count as a story only if a) more than half of the clear height is above the average elevation of the finished lot grade, OR, b) more than five feet of the front elevation is above the grade at the front of the structure. Steeples and projections used or intended to be used exclusively for utility service or access to the roof shall not be deemed a story. Attic areas used for storage or structural support where no portion of the attic can be converted to a living area under the Massachusetts Building Code shall not be considered a story. [Ord. 11-29-05]

STORY, HALF: A partial story under a roof which has the line of intersection of the roof and the wall face not more than three feet above the floor level, and in which space the floor area with headroom of five feet or more occupies no more than 80 percent of the area of the story directly beneath. Where such floor area occupies more than 80 percent it shall be considered a story. Dormers are included in determining the story status. Attic areas used for storage or structural support where no portion of the attic can be converted to a living area under the Massachusetts Building Code shall not be considered a half-story. [Ord. 11-29-05]



STREET: An accepted city way, or a way established by or maintained under county, state, or federal authority, or a way built to the specifications of a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

TELECOMMUNICATIONS FACILITY: Any structure, antenna, tower, or other device used for commercial purposes and which provides mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (ESMR), personal communications service (PSC), or common carrier wireless exchange access services.

TELECOMMUNICATIONS TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas. The term telecommunications tower shall include self-supporting lattice towers, guy towers, monopole towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular phone towers, and the like.

TEMPORARY SIGN: A sign intended to be used for a period of thirty (30) days or less.

TERRACE: A paved surface on grade intended for private or shared use between residences. Not included are porches, decks or balconies.

TOWER HEIGHT: The vertical distance from the mean grade (average grade around the perimeter) to the highest point of the structure.

TOWNHOUSE DEVELOPMENT: Development of individual dwelling units in a row of at least three such units in which each unit has its own access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

TRAILER: A highway vehicle designed, constructed and equipped for use as a dwelling and which is capable of being hauled or towed, or is self-propelled, including any such vehicle so converted as would make it immobile.

TRANSIENT: A person or stay which is brief or temporary as a guest.

USE: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

VETERINARY ESTABLISHMENT: A place for the treatment of animals, including kennels and pet shops, provided that in business districts all animals are kept indoors and there are no noise or odors perceptible from adjoining establishments or buildings.

WAREHOUSE: A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises, but not including open storage or bailing of junk, scrap metal, rags, waste paper or used rubber.

WETLAND: That area of land which may not be excavated or filled as of right and is subject to federal, state, county or town regulations governing lakes, ponds, rivers, streams, fresh water swamps and other wetlands features as identified by the Wetland Protection Act, as determined by the conservation commission or DEP.

WHOLESALE: The sale of goods in large quantity for the purpose of resale and completely enclosed in a building. Such uses shall not include the sale or transfer of flammable liquids, gas, explosives or other potentially hazardous materials.

WIND ENERGY FACILITY: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines. [Ord. 5-25-10]

YARD, FRONT: The yard extending across the full width of the lot and lying between the front street line, or the building line and the nearest part of a building, excluding front porches and projections.

YARD, REAR: The yard extending across the full width of the lot and lying between the rear line of the lot and the nearest part of a building.

YARD, SIDE: The yard between the side line of the lot and the nearest part of a building and extending from the front yard to the rear yard, or in the absence of either such yards, to the front or rear lot line as may be.

ARTICLE III DISTRICTS

SECTION 3.1 ESTABLISHMENT

For the purpose of this chapter and consistent with the goals and objectives of the City's Comprehensive Master Plan, the city is hereby divided into seven (7) types of Residential, six (6) types of Commercial and Mixed-Use and five (5) types of Office, Industrial, and Special Purpose Districts as follows:

3.1.1 Residential Districts

Three groupings of residential districts are established to reinforce the three types of neighborhoods that are found in Lowell: suburban areas, traditional neighborhoods, and urban communities.

1. Suburban Neighborhood Residential Districts are designed to preserve, promote, and enhance the neighborhood character of Lowell's newer residential areas. The SSF district emphasizes single-family homes, while the SMF encourages suburban-scale apartment and condominium developments.

SSF: Suburban Neighborhood Single Family
SMF: Suburban Neighborhood Multi Family

2. Traditional Neighborhood Residential Districts are designed to preserve, promote, and enhance the pedestrian-scale character of Lowell's historic residential neighborhoods. All three encourage moderately-sized lots and prohibit large-scale developments. The TSF district emphasizes single-family homes, the TTF district also allows two-family homes, while the TMF also allows three-family homes and up to 6-unit multi-family developments by special permit. To encourage neighborhood stability and owner-occupancy, special provisions are provided for single-family developments in the TTF and TMF zones.

TSF: Traditional Neighborhood Single Family
TTF: Traditional Neighborhood Two Family
TMF: Traditional Neighborhood Multi-Family

3. Urban Neighborhood Residential Districts are designed to preserve, promote, and enhance the character of Lowell's neighborhoods and redevelopment areas where urban-scale development patterns are typical or appropriate. The USF district emphasizes single-family homes on smaller lots, while the UMF district also allows two-family and multi-family developments.

USF: Urban Neighborhood Single Family
UMF: Urban Neighborhood Multi-Family

3.1.2 Commercial Districts

There are two general types of commercial districts proposed: retail and mixed-use. Retail districts are designed to promote and strengthen retail and related commercial development at key nodal areas where commercial uses should be specifically emphasized. Mixed Use Commercial Districts are designed to promote and sustain vibrant commercial activity by encouraging a balanced mix of uses that collectively create a viable market environment for commercial development and expansion. Unlike the retail districts that strictly limit non-commercial development in prime retail locations, mixed-use districts recognize and encourage complementary residential development alongside commercial uses. These districts are grouped to reinforce the same suburban, traditional, and urban development patterns that form the character of Lowell's neighborhoods.

1. Suburban Retail and Mixed-Use Districts promote the development of businesses that draw their markets

from citywide and regional service areas, with the SMU district also allowing a balance of regional-retail and suburban-scale apartment and condominium developments.

RR: Regional Retail District
SMU: Suburban Mixed-Use District

2. Traditional Retail and Mixed-Use Districts promote a vibrant business environment in Lowell's traditional neighborhood centers that enhances the character of the surrounding neighborhood. The TMU district is designed to promote a mix of residential and retail uses in secondary areas where neighborhood-scale commercial activity can enhance the character of the surrounding residential area.

NB: Neighborhood Business District
TMU: Traditional Mixed-Use District

3. Urban Retail and Mixed Use Commercial Districts promotes the vitality of Lowell's historic downtown. The DMU is designed to promote a vibrant urban environment in the heart of Downtown Lowell. The UMU district focuses on revitalizing the commercial areas in the urban neighborhoods near downtown.

DMU: Downtown Mixed-Use District
UMU: Urban Mixed-Use District

3.1.3 Office, Industrial, and Special Purpose Districts
Office and Industrial Districts are designed to encourage the location of commercial and industrial activities in locations which best serve the needs of these land uses while also protecting the health, safety, and welfare of the occupants of residential properties for whom these activities may constitute nuisances. The OP district is designed to promote research and development as well as general office uses. The LI district allows a broad range of cleaner industrial uses as well as storage activities. The GI district allows most manufacturing and industrial uses, as well as most automotive uses. The HRC district promotes the continued development of mid-rise and high-rise commercial areas in areas that are well served by transportation infrastructure. The institutional mixed-use district is designed to capitalize on the development potential of the major institutional campuses in the City, while also serving to contain the impact of these campuses within designated areas.

OP: Office/Research Park
LI: Light Industry, Manufacturing, & Storage
GI: General Industry
HRC: High-Rise Commercial District
INST: Institutional Mixed-Use District

3.1.4 Planned Development Districts
Planned Development Districts support the implementation of approved comprehensive development schemes for designated areas of the City as set forth in Article X.

PDMI: Planned Development – Medical/Institutional (PD-MI) – see Section 10.1

3.1.5 Overlay Districts
In addition, there are several overlay districts, as set forth in Article IX.

3.1.6 Hamilton Canal District Form-Based Code
The purpose of the Hamilton Canal District Form-Based Code (HCD-FBC) is to insure that the development of the Hamilton Canal District is consistent with the goals of the Hamilton Canal District Master Plan dated September 2008 and the Jackson Appleton Middlesex (JAM) urban renewal plan. The districts of the HCD-FBC are regulated through Section 10.3 of the Zoning Ordinance.

SECTION 3.2 ZONING MAP

The boundaries of each of the districts are hereby established as shown on the map entitled City of Lowell Massachusetts Zoning Map, December 2004 as or hereafter amended, which map is made a part of this chapter. The zoning map and all boundaries, notations and other data shown thereon are made by this reference as much a part of this chapter as if fully described and detailed herein. A certified copy of the zoning map shall be in the custody of the city clerk, with an electronic record of the zoning map maintained by the Management Information Systems department. All changes in zoning districts or otherwise shall be reflected by proper zoning map changes. [Ord. 11-29-05]

1. The location of the overlay districts are as set forth in Article IX.

SECTION 3.3 INTERPRETATION OF MAP

3.3.1 General. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

1. Where the district boundary is a street, railroad right-of-way, or waterway, the boundary line shall be the centerline of the street, railroad right-of-way, or waterway.

2. Where the boundary line is indicated approximately parallel to the street, it shall be taken as parallel thereto. The actual location of such boundary line, unless otherwise clearly indicated, shall scaled to determine the distance from the nearest street right of way line. If there is any variance between the scaled distance from the boundaries to the street line and the distance as marked in feet upon the map, the latter shall govern.

3. Where the districts designated on the map are bounded by lot lines, the lot lines shall be construed to be the boundary lines, unless they are otherwise indicated on the map. This paragraph 3.3.1(3) shall take precedence over paragraph 3.3.1(2) where a conflict exists.

4. Where a boundary line between districts divides a lot in single ownership upon the effective date of this ordinance or upon the effective date of any amendment changing the boundaries of one (1) of the districts in which the lot lies, the regulations controlling the more restrictive district may be applied to the entire lot. Alternatively, the portion of the land in the more restrictive district may be used to satisfy the dimensional requirements of the less restrictive district where no active use is made such portion. All uses associated with the less restrictive district shall be located therein. The land associated with the less restrictive use shall be screened from adjacent residentially used lot(s) in accordance with the requirements set forth in Section 6.5 or appropriately fenced.

5. When a lot in one (1) ownership is situated part in the city and part in an adjacent city or town, the regulations and restrictions of this chapter governing active uses of the land shall be applied to that portion of such lot as lies in the city in the same manner as if the entire lot were situated therein; provided, however, that by the grant of a special permit, the Planning Board may vary this requirement.

ARTICLE IV. USE REGULATIONS

SECTION 4.1 GENERAL

In each district, the use of land, buildings and structures shall be regulated as set forth in this Article IV and as provided elsewhere in this chapter.

SECTION 4.2 TABLE OF USE REGULATIONS

See Article XII.

4.2.1 Key. A use listed in The Table of Uses is permitted as a right in any district under which it is denoted by the letter "Y." It is prohibited if designated by the letter "N." If designated in the table by the letters "SP," the use may be permitted as a special permit only if the Board of Appeals determines and grants a special permit therefore as provided in Section 11.3, subject to the provisions of Section 11.3.2 and 11.3.2a, as well as any such further restrictions as the Board may establish. If designated in the table by the letters "PB," the use may be permitted as a special permit only if the Planning Board determines and grants a special permit therefore as provided in Section 11.3, subject to the provisions of Section 11.3.2 and 11.3.2a, as well as any such further restrictions as the Board may establish. If designated in the table by the letters "CC," the use may be permitted as a special permit only if the City Council determines and grants a special permit therefore as provided in Section 11.3, subject to such further restrictions as the City Council may establish. [Ord. 4-18-06]

4.2.2 Definitions of Uses. In the event of development on a site where a new use or structure is being added to an existing use or structure, the use regulations set forth in the table shall apply to both the existing and new uses and structures. [Ord. 4-3-07]

4.2.3 Mixed-Use. Projects integrating uses in a mixed-use development on a single lot must be in a zoning district in which each use is allowed on that lot, and must meet all zoning criteria for each use on that lot except as otherwise provided herein. Where different uses have different minimum criteria, (i.e. setbacks) the more prohibitive minimum will apply. Where different uses have different aggregate criteria (i.e. open space) the sum total will be applied. Aggregate parking requirements may be reduced per the shared parking regulations in Section 6.1.5(4). [Ord. 4-3-07]

SECTION 4.3 ACCESSORY USES

4.3.1 General. The following accessory uses shall be permitted or authorized by special permit if on the same lot as the building or use to which it is accessory, as set forth in the Table of Accessory Uses, except as otherwise provided herein.

4.3.2 Table of Accessory Uses. See Article XIII.

4.3.3. Home Occupation - As of Right. A home occupation may be allowed as of right provided that it:

1. work done on the lot is confined to within a dwelling and is conducted solely by the person(s) occupying the dwelling as a primary residence; [Ord. 4-3-07]

2. is clearly incidental and secondary to the use of the premises for residential purposes and is the only home occupation on the lot;

3. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

4. does not utilize exterior storage of material or equipment;

5. does not exhibit any exterior indication, including signs, of its presence or any variation from residential appearance;

6. does not produce any customer, pupil, employee or client trips to the occupation site and has no nonresident employees;

7. is registered as a business with the City Clerk.

4.3.4. Home Occupation - By Special Permit. A home occupation may be allowed by special permit issued by the Board of Appeals, provided that it:

1. fully complies with Sections 4.3.3. subsections 2, 3, 4, and 7, and is the only home occupation on the lot;

2. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than three (3) additional employees;

3. does not exhibit any exterior indication of its presence or any variation from residential appearance, except for a sign or name plate in compliance with Section 6.3;

4. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily customer vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

4.3.5 Special Rules.

1 In all districts, the renting of rooms or the furnishing of table board by a resident owner to not more than two (2) non-transient roomers or boarders shall be considered as an accessory use provided no separate cooking facilities are maintained, and no sign or nameplate is displayed.

2. Provisions of a garage or parking space for occupants, employees, customers, or visitors shall be considered as an accessory use, provided where accessory to residential uses in Residential SSF, TSF, TTF, and USF Districts such garage or parking space shall be limited to the accommodation of five (5) passenger vehicles, or two (2) passenger vehicles for each dwelling unit, whichever is greater. The storage of any unregistered vehicle and/or repair of a vehicle is prohibited unless otherwise permitted by the respective use district.

3. In multifamily dwellings, hospitals or hotels with more than thirty (30) sleeping rooms, a newsstand, barbershop, dining room or similar service for occupants thereof, when conducted and entered only from within the building and no signs or advertising devices thereof are visible form outside the building, shall be considered as an accessory use.

4. In any district, the total area of uses accessory to the principal use, may not occupy more than twenty-five (25) percent of the floor area in a main building, and the total area of uses or buildings accessory to the principal use except for parking facilities and driveways may not occupy more than fifteen (15) percent of the entire area of the lot. In Residential Districts, an accessory building shall not be located nearer than ten (10) feet to the principal building or nearer than five (5) feet to any side or rear lot line or nearer to the front lot line than the minimum setback in the zoning district in which it is located.

5. In a Commercial, Mixed-Use, Special Purpose, Office, or Industrial District, an off-site parking area, as an accessory use, located within 1000 feet of a primary use on a separate lot and for the parking of passenger cars of employees, customers or guests of commercial or institutional establishments, provided no charge is made

for parking, and no automotive sales or service operations are performed in the parking area, may be allowed by special permit.

6. , Parking or allowing to stand any motor vehicle and/or motor vehicle attachment (excluding recreational vehicles) having a gross vehicle weight of twelve thousand (12,000) pounds or more, or exceeding 24 feet in length, or having three (3) or more axles, for more than one-half (1/2) hour, on any day, at any time, where parking or standing a vehicle is not otherwise regulated by traffic regulation; provided that this regulation shall not apply during actual service delivery, or in the case of an emergency, is permitted as of right in a GI or LI District only, and may be allowed in an OP or RR District by special permit. Such activity is prohibited in all other zones. Motor vehicles, regardless of size, owned or operated by the City of Lowell, the Commonwealth of Massachusetts, or the United States of America are hereby exempt from these regulations.

4.3.6 Temporary Building or Use. The commissioner of buildings may grant a permit for a temporary building or use incidental to a building development, which does not comply with the provisions of this ordinance, where reasonably required for such development. Such permit may be issued for an initial period of not more than one (1) year. In the case of a building, the application shall be accompanied by a bond and bill of sale to the city, effective in case the building is not removed prior to the expiration of the permit. Permits may be renewed by the commissioner of buildings for successive periods of not more than one (1) year each, not to exceed a total of three (3) years.

4.3.7 Conditions.

1. In a Residential District, an accessory use shall not involve the maintenance of a stock-in-trade or the use of signs, illumination, show windows, or displays, either exterior or interior, except such signs as are permitted by this ordinance.

2. No accessory building shall be used as a dwelling, unless otherwise allowed by Article XIII(n), except for the accommodation of a night watchman or janitor on a lot in an Industrial District. [Ord. 11-29-05]

SECTION 4.4 ACCESSORY STRUCTURES

4.4.1 Conditions.

1. An accessory building in a Residential District shall not exceed sixteen (16) feet in height above the ground level.

2. Garages and other residential outbuildings with no more than one story of habitable space may exceed this height limitation to allow a roof pitches equal to that of the primary dwelling located on the same property. Under no circumstances shall the height of the accessory building exceed that of the primary dwelling.

3. No garage shall be provided nearer to the front street line than the prescribed minimum setback distance of the zoning district in which the lot is located.

SECTION 4.5 NONCONFORMING USES AND STRUCTURES

4.5.1 Applicability. This zoning ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

4.5.2 Nonconforming Uses. The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more

detrimental than the existing nonconforming use to the neighborhood. Only the following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;

2. Change from one nonconforming use to another, less detrimental, nonconforming use.

4.5.3 Nonconforming Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. In a Residential District, the nonconforming use shall be entirely within a structure. Only the following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed;

2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

4.5.4 Variance Required. The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require a variance; provided, however, that the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a special permit from the Board of Appeals.

4.5.5 Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. Any of the following circumstances shall not be deemed to increase the nonconforming nature of said structure:

a. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.

b. alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

c. alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements (the provisions of this clause c) shall apply regardless of whether the lot complies with current area and frontage requirements.

d. alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure (the provisions of this clause d) shall apply regardless of whether the lot complies with current area and frontage requirements.

e. alteration to a nonconforming structure which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded.

f. construction of an otherwise compliant addition to a structure with a pre-existing encroachment on one required side yard setback, where the altered structure would comply with the SUM of side setbacks if the non-conforming side met the minimum side setback. The addition may not further encroach on the previously deficient side yard area. [Ord. 11-29-05]

In the event that the Building Commissioner determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

4.5.6 Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning ordinance.

1. Notwithstanding the above, a nonconforming residential structure which has been abandoned, or not used for a period of two years, may reestablish its protected status upon the grant of a special permit by the Board of Appeals. No such special permit shall be granted unless the structure has adequate parking to serve the premises. The required parking may be located either on site or on another lot, but all required spaces must be within four hundred (400) feet of the entrance to the use that they serve.

4.5.7 Reconstruction after Catastrophe or Demolition. A nonconforming structure may be reconstructed after a catastrophe or after demolition in accordance with the following provisions. The floor area, ground coverage, number of stories, and height of the structure in existence before the demolition shall delimit the maximum permissible size and shape of the rebuilt structure: [Ord. 11-29-05]

1. Reconstruction of said premises shall commence within one year after such catastrophe or demolition. [Ord. 11-29-05]

2. In the event of demolition and reconstruction, a special permit shall be required from the Board of Appeals prior to such demolition. The Board shall not grant such special permit unless the proposed reconstruction is determined to be compatible in style and scale with the existing neighborhood and off-street parking is provided in accordance with Section 6.1.

4.5.8 Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

4.5.9 Infectious Invalidity. A property owner may not create a valid building lot by dividing it from another parcel rendered nonconforming by such a division. [Ord. 4-3-07]

ARTICLE V. DIMENSIONAL REQUIREMENTS

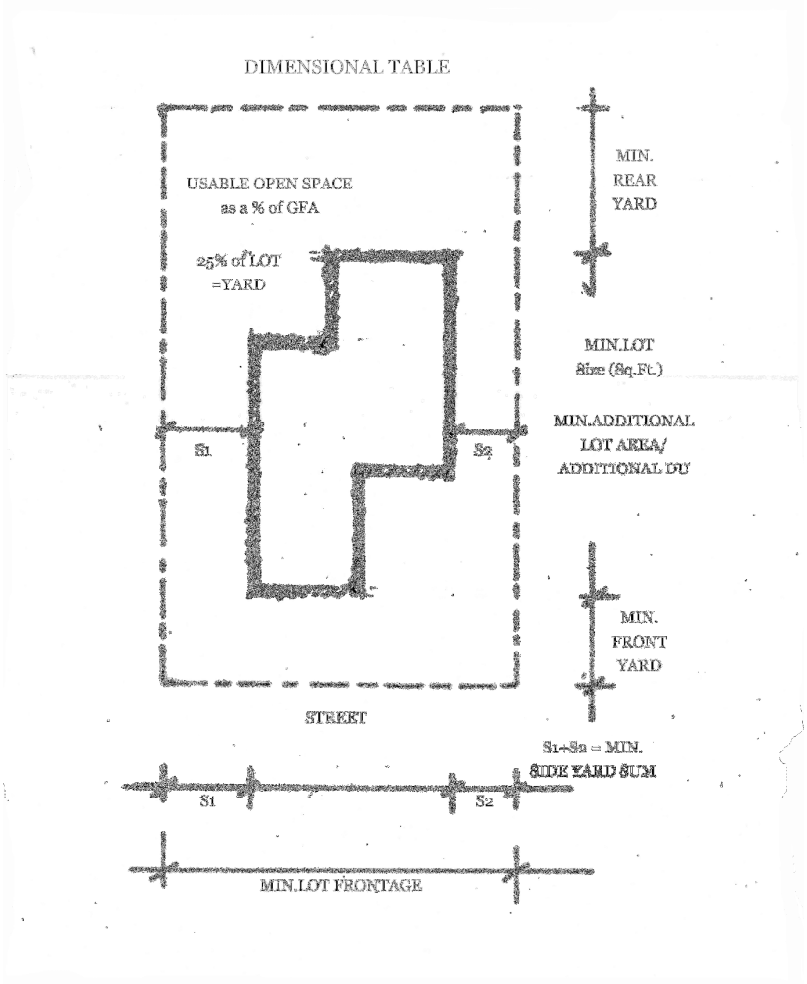
SECTION 5.1 TABLE OF DIMENSIONAL REGULATIONS

No building or structure shall be built nor shall any existing building or structure be enlarged which does not conform to the regulations as to maximum ratio of floor area to lot area, minimum lot sizes, minimum lot area for each dwelling unit or equivalent, minimum lot frontage, minimum setback dimensions of front, side and rear yards, minimum open space, and maximum height of structures, and all other dimensional requirements in the several districts as set forth in the Table of Dimensional Regulations, except as hereinafter provided.

	District	Type of Use	Dimensions (in feet or square feet unless otherwise noted)													
			Max. FAR	Min. Lot Size	Min. LA/DU	Min. Frontage	Front Yard Setbacks					Minimum Side Yard	Min. Rear Yard	Minimum UOS /DU	Max. Height	Max. Stories
							Min.	Max.	Projections	Porches	Garages					
SUBURBAN DISTRICTS	**SSF**	All permitted uses	0.35 †††	10000	10000	75	25	----	22	17	30	10 SUM 25	25	750	35	2.5
	SMF	All permitted uses	0.75	20000	3000	25	25	----	----	----	30	20	25	750	40	3
	SMU	Residential Dwellings	2	20000	3000	25	25	----	----	----	30	20	0†	300	----	----
		All other uses	2	----	----	25	----	----	----	----	----	0†	0†	----	----	----
	RR	All permitted uses	2	----	----	25	----	----	----	----	----	0†	40	----	----	----
TRADITIONAL NGHBRHD. DISTRICTS	**TSF**	All permitted uses	0.35 †††	7000	7000	55	15	20	12	9	24	10 SUM 25	20	300	32	2.5
	TTF	1 family dwelling	----	6000	6000 ††	55	15	20	12	9	24	10	20	500 ††	32	2.5
		All other uses	----	6000	4000 ††	65	15	20	12	9	24	10 SUM 25	20	500 ††	35	2.5
	TMF	1 family dwelling	----	4500	4000 ††	50	15	20	12	9	24	5 SUM 20	20	500 ††	32	2.5
		All other uses	----	6000	4000 ††	65	15	20	12	9	24	10 SUM 25	20	500 ††	35	3
	TMU	1 family dwelling	----	4500	2500	50	*	*	*	*	21	5 SUM 20	20	250	32	2.5
		Other Residential Dwellings	----	6000	2500	65	*	*	*	*	21	10 SUM 25	20	250	45	4
		All other uses	1	----	----	25	----	8	----	----	21	0†	0†	----	45	4
	NB	Residential Dwellings	1	6000	2500	40	*	*	*	*	21	0†	20	250	35	3
		All other uses	1	----	----	25	----	8	----	----	21	0†	0†	----	40	3
URBAN DISTRICTS	**USF**	1 family dwelling	0.75	3000	2500	35	10	15	7	4	21	3 SUM 17	15	225**	32	2.5
		All other uses	----	5000	2500	35	10	15	7	4	21	3 SUM 17	15	225**	32	2.5
	UMF	All permitted uses	----	3400	1000	40	*	*	*	*	*	3 SUM 17	15	----	65	6
	UMU	Residential Dwellings	----	3400	1000	40	*	*	*	*	*	3 SUM 17	15	----	----	----
		All other uses	4	----	----	25	----	----	----	----	----	----	----	----	----	----
	DMU	All permitted uses	4	----	----	25	----	----	----	----	----	----	----	----	----	----
SPECIAL PURPOSE DISTRICTS	**HRC**	Residential Dwellings	3	43560	----	25	25	--	----	----	30	20	25	100	200	15
		All other uses	5	----	----	25	----	----	----	----	----	----	----	----	200	15
	INST	All permitted uses	2	----	----	25	----	8	----	----	----	0†	0†	----	100	8
	OP	All permitted uses	2	----	----	25	40	----	----	----	----	20	40	----	50	4
INDUSTRIAL DISTRICTS	**LI**	All permitted uses	2	----	----	25	----	----	----	----	----	----	----	----	----	----
	GI	All permitted uses	2	----	----	25	----	----	----	----	----	----	----	----	----	----

----Denotes no dimensional requirement.
* Front setbacks in these districts shall be consistent with existing setbacks on the block.
† Side and rear yard setbacks in these districts must be at least 15 feet when abutting a residentially-zoned lot.
** [Ord. 11-29-05]
†† [Ord. 4-18-06]
††† [Ord. 4-3-07]

5.1.1 Notes to Dimensional Table.



1. The following abbreviations are used in table 5.1: Max. is maximum. Min. is minimum. DU is dwelling unit. FAR is floor area ratio. LA/DU is the lot area required for each dwelling unit on a lot. UOS is usable open space as described in section 5.3.2.

2. A portion of the façade of a primary building on a lot, including its front door, must be located between the minimum and maximum front yard setbacks listed. Where multiple primary buildings on a lot are built within the maximum front yard setback, each must have a front door on the street-facing façade of the building that is located between the minimum and maximum front yard setbacks. [Ord. 11-29-05] Covered front porches may fall within the minimum front yard setback but must be set back at least the distance listed under "porches." Projections which conform to the requirements of section 5.1.7 may be located as close to the front lot line as the distance listed under "projections." All residential garage doors visible from the public way must be set back from the front lot line at least the distance listed under "garages."

3. In the suburban and traditional neighborhood districts, the lot coverage for a residential dwelling shall not exceed thirty-five (35) percent of the lot area.

4. Rear yards in a RR district may be reduced to ten (10) feet by special permit provided there are no residential abutters to the rear of the property and the property does not abut a residential zoning district to the rear.

5. When an existing building, having been constructed more than sixty (60) years ago, is converted to residential use outside the boundaries of the Artist Overlay District, it is subject to the provisions of Section 8.1.1. When an existing building, having been constructed more than sixty (60) years ago, is converted to residential use within the boundaries of the Artist Overlay District, it is subject to the provisions of Section 9.2.5. [Ord. 07-13-04]

6. A lot with a preexisting nonconforming structure that complies with the required sum of the two side yard setbacks but encroaches on the minimum yard requirement to one side may not be divided in such a manner as to leave the structure on a smaller lot that no longer meets the required sum of the two side yard setbacks. [Ord. 11-29-05]

5.1.2 Computation of Lot Area.

1. The lot or yard areas required for any new building or use may not include any part of a lot that is required by any other building or use to comply with any requirements of this chapter, nor may these areas include any property of which the ownership has been transferred subsequent to the effective date of this ordinance if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

2. At least ninety percent (90%) of the lot area used to satisfy the minimum lot area per dwelling unit or minimum lot area requirements must not be designated wetlands, used for a surface drainage system, or have a grade in excess of eight percent (8%).

5.1.3 Lot with Multiple Buildings. In the case of multiple buildings on a lot in single ownership, the distance between such buildings shall comply with the requirements of the State Building Code. In the TMF, USF, and UMF residential districts, the distance between multiple residential buildings on a lot in single ownership must meet or exceed twice the minimum side yard dimension in that zoning district. [Ord. 11-29-05]

5.1.4 Grandfathered Lots. Lots lawfully laid out shall be governed by the provisions of G.L. c. 40A, s. 6, para. 4.

5.1.5 Lots in the HRC District. In the HRC District, a lot may consist of one (1) or more contiguous lots of record. Lots shall be considered contiguous even though the lots or portions thereof are separated from each other by roads, railroads or waterways, so long as any lot or portion of a lot so separated is within three hundred (300) feet of the remaining lot or portion of a lot and so long as said land (lot or lots) is held in common ownership.

5.1.6 Yards. In all Suburban and Traditional Neighborhood Residential Districts at least twenty-five (25) percent of every lot area shall be yard areas. Every part of a required yard shall be open to the sky and unobstructed except for ordinary projections of the belt courses, cornices, sills, skylights and ornamental features projecting from the building not more than twelve (12) inches. Awnings, arbors, fences, flagpoles, recreational and laundry drying equipment and similar objects shall not be considered obstructions when located within a required yard. Open or lattice-enclosed fire escapes for emergency use only are permitted. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, or the depth of a front yard, the minimum horizontal distance between the corresponding lot line and the building shall be used. The following shall be allowed to be placed within the minimum side and rear yard requirements, but are subject to all applicable front yard requirements:

1. One story accessory buildings up to 120 square feet and 16 feet in height;

2. Above ground pools up to 500 square feet in surface area;

3. One unroofed porch (deck) per dwelling unit, up to 200 square feet in area, may be placed within the rear yard only. This deck may be no closer than five (5) feet from the rear lot line in the SSF, TSF, TTF, TMF and TMU district. Decks greater than five (5) feet in height above the mean ground level must be at least ten (10) feet from a rear lot line in the SSF, TSF, TTF, TMF and TMU district. Unroofed porches or decks are subject to all applicable side yard requirements. [Ord. 4-3-07]

4. Garages and accessory buildings that comply with all applicable provisions of section 4.3.5(4).

5.1.7 Projections.

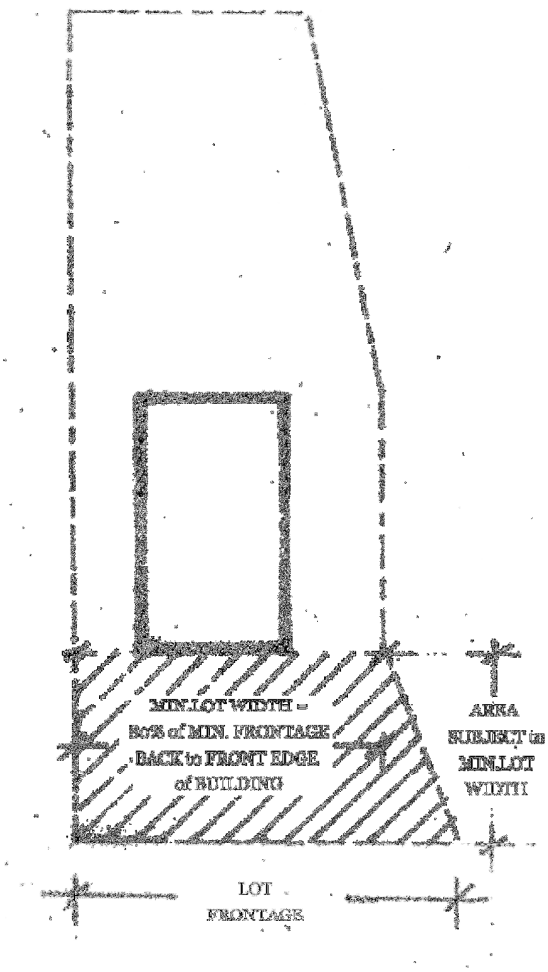
1. Projecting eaves, chimneys, bay windows, balconies, open fire escapes and like projections which do not project more than three and one-half (3 ½) feet, and which are part of a building not more than thirty-five (35) feet in height, may extend beyond the minimum side and rear yard regulations; provided however, that these elements are not any closer to property lines than ten (10) feet, and the yard areas over which these project are not included in the minimum yard area and open space requirements. [Ord. 4-18-06]

2. Projecting eaves, bay windows, balconies, and like projections may extend beyond the minimum front yard regulations; provided however, that these elements are not any closer to property lines or parking areas than the distance listed under "projections" in table 5.1, the total width of projecting features does not exceed thirty percent (30%) of the total width of the lot or fifty percent (50%) of the width of the building whichever is less, and the yard areas over which these project are not included in the minimum yard area and open space requirements.

5.1.8 Building Bulk.

1. For any building or group of buildings on a lot, the ratio of gross floor area to a lot shall not exceed the maximum specified in the Table of Dimensional Requirements; except, that in a Residential District, the gross floor area of any residence building may be increased, not to exceed a floor area ratio of 3:1 by one (1) square foot of floor area for every one (1) square foot of open, landscaped area supplied on the same lot as the principal use in addition to the required minimum yard areas specified in Section 5.1.6. Gross floor area shall be defined as in this chapter.

2. Where a lot in a Residential or Business District abuts on a street or public open space more than one hundred (100) feet wide, one-quarter of the excess over one hundred (100) feet but not more in any case than forty (40) feet may be added to the actual depth of the lot for the distance such lot abuts such street or public open space for calculating the lot area to be used in determining allowable gross floor area based on the maximum floor area specified in the Table.



5.1.9 Reduction of Lot. No lot shall be changed in size or shape so that the height, area, yard or off-street parking and loading requirements herein prescribed are no longer satisfied. This provision shall not apply where a portion of a lot is acquired for a public purpose. [Ord. 4-3-07]

5.1.10 Lot Width. Each lot shall have a width of not less than eighty (80%) percent of the required frontage at all points between the sideline of the right of way along which the frontage of the lot is measured and the nearest point on the front wall of the structure upon such lot. Such width shall be measured along lines which are parallel to such sideline. This provision may be varied upon the grant of a special permit by the Planning Board.

SECTION 5.2 SPECIAL DIMENSIONAL REGULATIONS

5.2.1 Certain Residential Uses. For residential uses permitted in Residential and Business Districts which are not divided into dwelling units, each one thousand (1,000) square feet of gross floor area of the building shall be considered equivalent to one (1) dwelling unit for purposes of computing minimum lot area.

5.2.2 Number of Dwellings on a Lot. No more than one (1) primary residential dwelling structure shall be built on a lot in a USF, SSF, TSF or TTF district. No more than six (6) dwelling units may be constructed on a lot in a TMF district. [Ord. 11-29-05]

5.2.3 Construction near Wetlands. No new building or structure shall be constructed nor shall any existing building or structure be enlarged within fifty (50) feet of an existing wetland or body of water, except by special permit, and with the express written approval of the Lowell Conservation Commission, following a public hearing. No septic field shall be constructed or an existing septic field enlarged within seventy-five (75) feet of an existing wetland or body of water. No building permit for construction within one hundred (100) feet of a wetland or within the boundaries of floodplain shall be valid prior to the effective date of a wetlands determination of the applicability and/or the issuance of an order of conditions.
See section 5-120 of the Code of Ordinances of the City of Lowell for the Lowell Wetlands Regulations.

5.2.4 Lots with More than One Frontage.

1. On a lot abutting streets on more than one (1) side, the front yard requirement of each of the abutting streets shall apply regardless of designated front lot lines, except for the maximum front yard setback requirement, which shall apply only to one of the abutting streets. The remaining sides shall be subject to the side yard requirements.

2. Lots which abut an alley to the rear or side may not use the alleys as frontage for zoning purposes and are not subject to the front yard setback requirements from the property lines which abut the alley.

5.2.5 ***Reserved***

5.2.6 Exceptions to Yard Requirements. The following are special rules regarding the yard requirements set forth in the Table of Dimensional Requirements:

1. In all residential districts, the front wall of a dwelling structure (exclusive of porches and projections) may conform to the average setback of the front wall of the dwelling structures (exclusive of porches and projections) on the lots adjacent thereto on either side. In all residential districts, a front porch, as defined herein, may conform to the average setback of the front porches on the lots adjacent thereto on either side. In all residential districts, a projection, as defined herein, may conform to the average setback of the projections on structures on the lots adjacent thereto on either side. In no case may any part of the preceding provisions of this section be used to allow an existing building to extend nearer to any street line or building line that had been previously established on a given lot. [Ord. 4-18-06] A vacant lot or lot occupied by a building set back more than the minimum setback established for the district , shall be considered as though occupied by a building set back the minimum required distance in said district. All garages must conform to the minimum setbacks established in table 5.1.

2. *reserved.*

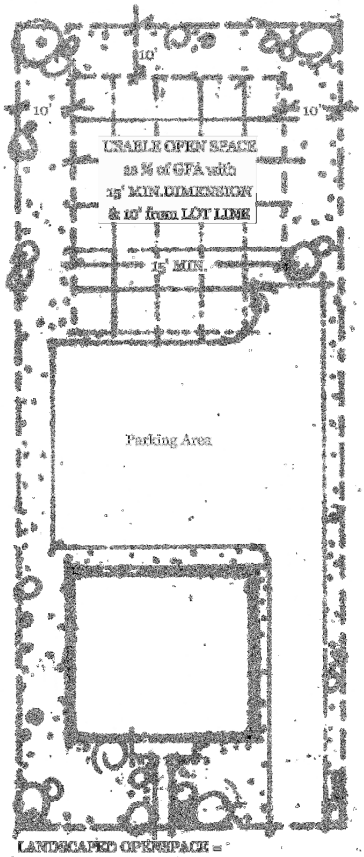
3. In a TMF, TMU, UMF, UMU, or INST District, if a building is hereafter erected on a lot adjacent to a building having a blank wall directly on the side lot line, the new building may be so designed and erected that it will be flush with the portion of the blank wall of the former building which extends along the lot line; otherwise, however, not less than the required side yard shall be provided; in any case, the required side yard shall be provided for the remainder of the full lot depth. In case a side wall contains windows or in case any part of a side blank wall or an existing building shall be set back from side lot line, then a building hereafter erected on the lot adjacent to such an existing building shall be set back from the side lot line in accordance with the provisions hereof.

5.2.7 Exceptions to Height Requirements.

1. The provisions of this Section governing the height of buildings and structures in all districts, shall not apply to chimneys, water towers, air conditioning equipment, elevator bulkheads, skylights, ventilators and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy, nor to domes, towers or spires above buildings, if such features are not used for human occupancy

and occupy less than ten (10) percent of the lot area, nor to wireless or broadcasting towers and other like unenclosed structures which occupy less than ten (10) percent of the lot area.

2. In all districts a building may exceed the maximum height and story requirements established in table 5.1 provided that the building's height and number of stories do not exceed the height and number of stories of the tallest building located on a directly abutting lot, that claims frontage on the same street or way as the proposed building lot, and the building's height does not exceed the sum of one-half the width of the right-of-way the building's lot fronts on and the minimum front setback in the zoning district.



5.2.8 Corner Clearance. In all districts, between the lines of intersecting streets and the line joining points on such lines fifteen (15) feet distant from their point of intersection no building, structure, or fence may be erected and no vegetation may be maintained above a height of three and one-half feet (3 ') above the plane through their curb grades.

5.2.9 Frontage Reduction for Large SSF Lots. Lots in existence on the effective date of this ordinance in the SSF zone which contain a minimum of 20,000 square feet of lot area may be considered buildable with a minimum of forty (40) feet of frontage. Larger lots may be subdivided in such a manner as to leave each new buildable lot created with at least 20,000 square feet of lot area and forty (40) feet of frontage with a special permit granted by the Planning Board.

SECTION 5.3 OPEN SPACE

5.3.1 Landscaped Open Space in Residential Districts.
1. On residentially-zoned lots and residential lots in SMU, TMU, or UMU zones with greater than 40 feet of frontage, at least 50% of the area between the front lot line and the front façade of the primary structure on a lot must be designated as landscaped open space as defined herein

2. On residentially-zoned lots and residential lots in SMU, TMU, or UMU zones with less than 40 feet of frontage, the area in the front setback area that is not paved at the time of approval of this ordinance, or paved through a properly approved paving permit must be designated as landscaped open space as defined herein.

3. No vehicle may be parked in the Landscaped Open Space area of any lot in the City of Lowell.

5.3.2 Usable Open Space. Where a minimum usable open space is required in addition to landscaped open space, there shall be included in every lot, used in whole or in part for dwelling units intended for family occupancy, an area of usable open space, as defined in Section 2, provided at the rate specified in the Table of Dimensional Regulations. Where open space is provided to serve more than one (1) family, it shall be deemed usable only if:

1. Each open space area is at least 15 feet square (i.e. 225 square feet); [Ord. 11-29-05]

2. Such space is at least five (5) feet from any lot lines.

3. The area designated as usable open space does not include any surface drainage structures or designated wetland areas.

5.3.3 ***Reserved.***

ARTICLE VI. GENERAL REGULATIONS

SECTION 6.1 OFF-STREET PARKING

6.1.1 Intent of Parking Requirements. It is the intention of this Section that all structures and land uses be provided eventually with sufficient off-street parking space to meet the needs of persons making use of such structures and land uses.

6.1.2 Applicability. No permit shall be issued for the erection of a new structure, the enlargement of an existing structure or the development of a land use, unless the plans show the specific location and size of the off-street parking required in compliance with the regulations set forth in this article and the means of access to such space from public streets. In the event of the enlargement of an existing structure, the regulations set forth in this article shall apply to both the area added to the existing structure and the existing structure. [Ord. 4-3-07]

6.1.3 Special Regulations.

1. Any use in existence or lawfully begun on the effective date of this ordinance is not subject to these parking requirements, but any parking facility thereafter established to serve such use may not in the future be reduced below these requirements.

2. Changes of use of a structure that does not conform to these parking requirements are permitted without being subject to these requirements provided that, the new use does not require more parking than the former use and the property has been vacant or unoccupied for no more than three (3) years. If these conditions are not met and the reuse of an existing structure or building is subject to these parking requirements, required parking may be provided on a separate lot as long as the required spaces are no more than four hundred (400) feet from the entrance to the use they serve.

3. Where the computation of required parking spaces results in a fractional number, shall be counted as one (1).

4. Required off-street parking facilities which after development are later designated as and accepted by the city for off-street parking purposes shall be deemed to continue to serve the uses or structures to meet the requirements for which they were originally provided.

6.1.4 Table of Parking Requirements. Off-street parking facilities shall be provided as follows. All requirements based on square footage refer to gross floor area unless otherwise noted. The shared parking chart identifies the percentage of the established required parking spaces that must be provided for each time period in shared parking situations.

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
1. RESIDENTIAL USES										
a. Single-family detached dwelling occupied by not more than one family	**Where Permitted**	**2 spaces per dwelling unit (du)**	**plus 2 spaces for each curb cut above one per 10 dwelling units**		**60**	**100**	**100**	**80**	**100**	**100**
b. Two family attached or semi-detached dwelling	**Where Permitted**	**2 spaces per du**								
c. Multi-family dwelling including 3-6 units	**DMU**	**1 space per du**								
	All other permitted zones	**.75 spaces per bedroom or 2 spaces per du, whichever is greater [Ord. 4-18-06]**								
d. Multi-family dwelling including 7 or more units	**DMU**	**1 space per du**								
	All other permitted zones	**.75 spaces per bedroom or 2 spaces per du, whichever is greater [Ord. 4-18-06]**								
e. Townhouse Development including 3-6 units	**Where Permitted**	**.75 spaces per bedroom or 2 spaces per du, whichever is greater [Ord. 4-18-06]**								
f. Townhouse Development including 7 or more units	**Where Permitted**	**.75 spaces per bedroom or 2.2 spaces per du, whichever is greater [Ord. 4-18-06]**								
g. One or two dwelling units in a building with a legal non-residential use on the ground floor.	**Where Permitted**	**2 spaces per du**								
h. Senior Congregate Housing, including, but not limited to, assisted living facilities.	**Where Permitted**	**1 space per du**								

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
i. Non-family accommodations:										
1. Tourist home; Bed and Breakfast Inn	**Where Permitted**	**1 space per room**			**70**	**100**	**100**	**70**	**100**	**100**
2. Boarding or Lodging house, fraternity	**Where Permitted**	**1 space per 2 beds**			**80**	**100**	**100**	**80**	**100**	**100**
3. Dormitory	**Where Permitted**	**1 space per 2 beds**			**80**	**100**	**100**	**80**	**100**	**100**
4. Hotel	**Where Permitted**	**1 space per room**	**Plus requirements for other uses, such as restaurant or lounge**		**70**	**100**	**100**	**70**	**100**	**100**
5. Motel	**Where Permitted**	**1 space per room**			**70**	**100**	**100**	**70**	**100**	**100**
j. Boarding Room in Private Residence	**Where Permitted**	**1 space per room**			**60**	**100**	**100**	**80**	**100**	**100**

2. CONVERSION OF DWELLING STRUCTURE										
a. Existing single family detached dwelling converted for not more than two families	**Where Permitted**	**2 spaces per du**			**60**	**100**	**100**	**80**	**100**	**100**
b. Other dwellings converted for more than two families	**DMU**	**1 space per du**			**60**	**100**	**100**	**80**	**100**	**100**
	All other permitted zones	**.75 spaces per bedroom or 2 spaces per du, whichever is greater [Ord. 4-18-06]**								

3. INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES										
a. Use of land or structures for exempt religious purpose.	**Where Permitted**	**1 space per 100 sq ft**			**10**	**5**	**5**	**100**	**50**	**5**
b. Preschool, Elementary, or Junior High School	**Where Permitted**	**3 spaces per 2 instructional rooms**			**100**	**50**	**5**	**10**	**5**	**5**
c. High School	**Where Permitted**	**6 spaces per instructional room**			**100**	**50**	**5**	**10**	**5**	**5**
d. Licensed child care facility operated independent of a private residence (2)	**Where Permitted**	**3 spaces per 2 instructional rooms**			**100**	**20**	**5**	**10**	**10**	**5**

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
e. Library or museum open to the public or connected with a permitted educational use and not conducted as a gainful business.	**Where Permitted**	**1 space per 600 sq ft**			**100**	**20**	**5**	**10**	**10**	**5**
f. Commercial recreational facility, outdoor	**Where Permitted**	**1 space per 200 sq ft**			**50**	**100**	**5**	**100**	**100**	**5**
g. Commercial recreational facility, indoor	**Where Permitted**	**1 space per 200 sq ft**			**50**	**100**	**5**	**100**	**100**	**5**
h. Community center, settlement house, humane society, or other similar facility operated by an educational, non-profit, public, or religious institution or organization not conducted as a gainful business.	**Where Permitted**	**1 space per 600 sq ft**			**100**	**80**	**5**	**100**	**80**	**5**
i. Club or lodge, private.	**Where Permitted**	**1 space per 100 sq ft**			**40**	**100**	**10**	**80**	**100**	**50**
j. Licensed hospital or other licensed establishment for the care of sick, aged, disabled or convalescent persons.	**Where Permitted**	**1 space per 3 beds, plus 1 space per emergency care bed**			**100**	**80**	**80**	**90**	**80**	**80**
k. Other health care facility.	**Where Permitted**	**1 space per 3 beds**			**100**	**40**	**10**	**10**	**10**	**10**
l. Cemetery.	**Where Permitted**	**1 space per 400 sq ft of gross building floor area**			**N/A**					
m. Institutional use not listed in any other use category.	**Where Permitted**	**As required by special permit**			**N/A**					

4. RETAIL, RESTAURANT, AND CONSUMER SERVICE USES										
a. Retail operation	**UMU, TMU, NB, INST**	**1 space per 900 sq ft**			**90**	**80**	**5**	**100**	**70**	**5**
	All other permitted zones	**1 space per 500 sq ft**								
b. Service Business	**UMU, TMU, NB, INST**	**1 space per 900 sq ft**								

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
	All other permitted zones	**1 space per 500 sq ft**								
c. Restaurant, other than Take-Out Restaurant.	**UMU, TMU, NB, INST**	**1 spaces per 100 sq ft**			**40**	**80**	**10**	**60**	**100**	**50**
	All other permitted zones	**1 space per 50 sq ft**								
c(1). Take-Out Restaurant [Ord. 4-3-07]	**UMU, TMU, NB, INST**	**1 spaces per 300 sq ft**								
	All other permitted zones	**1 space per 200 sq ft**								
d. Bar, saloon, or other establishment where alcoholic beverages are sold and consumed, but which is not licensed to prepare or serve food	**UMU, TMU, NB, INST**	**1 spaces per 100 sq ft**								
	All other permitted zones	**1 space per 50 sq ft**								
e. Drive-in establishment where driver does not leave his/her car:										
1. Restaurant, beverage service, or other drive-in establishment not listed in 6.1.[4](e)(2) below. [Ord. 11-16-10]	**Where Permitted**	**Queue for ten cars per drive-up window**	**Plus parking required for any indoor service area**							
2. Pharmacy, bank, or financial services business. [Ord. 11-16-10]	**Where Permitted**	**Queue for five cars per drive up window**	**Plus parking required for any indoor service or office area**							

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
f. Veterinary establishment, kennel or pet shops or similar establishments	**Where Permitted**	**1 space per 300 sq ft**			**90**	**80**	**5**	**100**	**70**	**5**
g. Funeral or undertaking establishment.	**Where Permitted**	**1 space per 50 sq ft**			**100**	**100**	**5**	**100**	**100**	**5**
h. Adult entertainment establishments:					**40**	**100**	**100**	**40**	**100**	**100**
1. Club, bar, saloon, or other establishment that provides live entertainment	**Where Permitted**	**1 space per 50 sq ft**								
2. Retail operation	**Where Permitted**	**1 space per 900 sq ft**								
i. Massage Therapy establishments:	**Where Permitted**	**1 space per 300 sq ft**			**80**	**100**	**5**	**80**	**100**	**5**
j. Body Art Establishments	**Where Permitted**	**1 space per 1000 sq ft**			**100**	**80**	**10**	**100**	**80**	**10**
k. Movie or live performance theater	**Where Permitted**	**1 space per five seats or 1 space per 100 sq ft if no fixed seating**			**40**	**80**	**5**	**75**	**100**	**50**

5. OPEN AIR OR DRIVE-IN RETAIL AND SERVICE										
a. Sales place for flowers, garden supplies, agricultural produce conducted partly or wholly outdoors, commercial green house or nursery	**Where Permitted**	**1 space per 300 sq ft of sale space**			**90**	**80**	**5**	**100**	**70**	**5**
b. Place for exhibition, lettering or sale of gravestones.	**Where Permitted**	**1 space per 900 sq ft of interior space**			**100**	**5**	**5**	**100**	**5**	**5**
c. Open air or drive-in theater or other open air place of entertainment or athletics conducted for profit.	**Where Permitted**	**1 space per 2000 sq ft**			**10**	**90**	**5**	**100**	**100**	**5**
d. Open lot storage of new building materials, machinery and new metals but not including junk, scrap metal, rags, waste paper and similar materials	**Where Permitted**	**1 space per 1600 sq ft**			**100**	**10**	**10**	**100**	**10**	**10**
e. Open lot storage of used lumber or other building materials	**Where Permitted**	**1 space per 1600 sq ft**								
f. Open lot storage of coal, coke, sand or other similar materials, or such storage in silos or hoppers	**Where Permitted**	**1 space per 1600 sq ft**								

6. AUTOMOTIVE AND RELATED USES										

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
a. Automotive Sales, indoor	**Where Permitted**	**1 customer space per 15 sale cars allowed by license**			**90**	**60**	**5**	**100**	**60**	**5**
b. Automotive Sales, outdoor	**Where Permitted**	**1 customer space per 15 sale cars allowed by license**			**90**	**60**	**5**	**100**	**60**	**5**
c. Automotive service station	**Where Permitted**	**2 spaces per service bay but not less than 2 spaces**	**In addition to service bay & pump islands**		**100**	**80**	**75**	**100**	**75**	**75**
d. Automotive repair garage	**Where Permitted**	**2 spaces per service bay**	**In addition to service bay**		**100**	**60**	**75**	**75**	**75**	**75**
e. Autobody or paint shops	**Where Permitted**	**2 spaces per service bay**	**In addition to service bay**		**100**	**60**	**75**	**75**	**75**	**75**
f. Car washing establishment	**Where Permitted**	**As required by special permit**	**plus queue for 5 cars**		**90**	**80**	**5**	**100**	**70**	**5**

7. UTILITIES, TELECOMMUNICATIONS, AND PUBLIC SERVICE USES										
a. Public utility or service facilities	**Where Permitted**	**1 space per 1600 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**
b. Municipal facility, other than those set forth in subsection c, below	**Where Permitted**	**1 space per 400 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**
c. Municipal service facilities operated by the City of Lowell Department of Public Works, Lowell Water Utility, or Lowell Wastewater Utility.	**Where Permitted**	**1 space per 1600 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**
d. Radio or television studio.	**Where Permitted**	**1 space per 600 sq ft**			**100**	**20**	**10**	**50**	**20**	**10**
e. Radio or television transmission stations (including towers related to said use).	**Where Permitted**	**1 space per 1600 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**
f. Telecommunications facilities	**Where Permitted**	**1 space per 1600 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**

8. OFFICE AND LABORATORY USES										
a. Business or professional office, with a gross floor area of 5000 square feet or less.	**Where Permitted**	**1 space per 400 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
b. Business or professional office, with a gross floor area greater than 5000 square feet.	**Where Permitted**	**1 space per 400 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**
c. Medical or dental center or clinic, including laboratories incidental thereto.	**Where Permitted**	**1 space per 300 sq ft**			**100**	**20**	**5**	**5**	**5**	**5**
d. Telephone Answering Service.	**Where Permitted**	**3 spaces per 100 sq ft**			**100**	**80**	**20**	**100**	**80**	**20**
e. Laboratories or research facilities, provided any manufacturing is incidental to the operation of the facility and does not exceed fifty percent of the gross floor area of the building	**Where Permitted**	**1 space per 1000 sq ft**			**100**	**20**	**20**	**20**	**20**	**20**

9. INDUSTRIAL USES										
a. Distribution center, parcel delivery center, delivery warehouse	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
b. Self-storage facility.	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
c. Steam laundry or dry cleaning plant.	**Where Permitted**	**1 space per 1200 sq ft**			**N/A**					
d. Food and beverage manufacturing, bottling or processing and commissary.	**Where Permitted**	**1 space per 1200 sq ft**			**N/A**					
e. Commercial storage warehouse, cold storage plant, or storage building	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
f. Wholesale business, including storage associated with said business	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
g. Manufacturing, assembly, reconditioning and processing plant	**Where Permitted**	**1 space per 1200 sq ft**			**N/A**					
h. RR freight terminals, shops and yards.	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
i. Rendering or preparation of grease tallow, fats and oils, manufacture of shortening, table and other food oils	**Where Permitted**	**1 space per 2000 sq ft**			**N/A**					
j. Stone cutting, shaping and finishing in completely enclosed buildings.	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
k. Recycling facility	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					

					Shared Parking Chart					
	Zone	**Min. Parking Req.**	**Notes**		**Weekdays 8AM-5PM**	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
l. Dismantling or wrecking of used motor vehicles and storage and sale of the parts	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
m. Truck or bus terminal, yard or building for storage or servicing of trailers, trucks, shipping containers, or buses and parking lot for trucks.	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
n. Processing of sand and gravel and the manufacture of bituminous concrete.	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
o. Open lot storage of junk, scrap, rags, paper, junked vehicles and other similar salvage articles.	**Where Permitted**	**1 space per 1000 sq ft**			**N/A**					
p. Manufacture, processing, assembly or other industrial operations subject to Building and Health Department Regulations without limit as to category or product except as otherwise listed in this Table.	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
q. Gravel or material removed	**Where Permitted**	**1 space per 1600 sq ft**			**N/A**					
r. Contractor Garage	**Where Permitted**	**1 space per 1000 sq ft**			**N/A**					
s. Portable Storage Unit or Shipping Container larger than 120 sf	**Where Permitted**	**N/A**			**N/A**					

10. ARTIST USES										
a. Artist Live/Work Space	**DMU**	**1 space per du**			**80**	**100**	**100**	**80**	**100**	**100**
	All other permitted zones	**2 spaces per du**								
b. Art/Craft Studio	**Where Permitted**	**1 space per 1000 sq ft**			**100**	**75**	**10**	**100**	**75**	**10**

6.1.5 Notes to Parking Table.

1. *Reserved.*

2. Where no fixed seats are used in a place of assembly whose parking requirements are based on seating, each twenty (20) square feet of public floor area shall equal one (1) seat.

3. Where an institution provides dormitory residence accommodations, the number of parking spaces furnished for the purpose may be deducted from the requirements established for the educational buildings normally used by students in residence.

4. Two or more uses may meet their parking requirements by sharing a common shared parking area, provided that the shared spaces are held in common ownership with all uses being served through easements or fee title, that all spaces are located within four hundred (400) feet of all uses they serve, and that the total number of spaces conforms with the Shared Parking Requirements outlined in section 6.1.4. Shared parking requirements for multiple uses are calculated using the following worksheet.

		Multiply required spaces by percentage in Shared Parking Chart					
		Weekdays 8AM-5PM	**Weekdays 6PM-12AM**	**Weekdays 12AM-6AM**	**Weekends 8AM-5PM**	**Weekends 6PM-12AM**	**Weekends 12AM-6AM**
Use A:							
Req. Spaces _____		____	____	____	____	____	____
Use B:	+						
Req. Spaces _____		____	____	____	____	____	____
Use C:	+						
Req. Spaces _____		____	____	____	____	____	____
TOTAL:		_____	_____	_____	_____	_____	_____

The largest of the totals is the combined parking requirement in the shared lot to serve all uses.

5. Parking requirements for restaurants and take out restaurants may be reduced to 1 space per 500 square feet in the UMU, TMU, NB and INST zones, and 1 space per 250 feet in all other permitted zones, by special permit issued by the ZBA, if the applicant can prove that on-site parking will sufficiently serve the size of the facility. [Ord. 4-3-07]

6.1.6 Location and Layout of Parking Facilities. Unless otherwise allowed herein, required off-street parking facilities shall be provided on the same lot as the principal use they are required to serve, subject to the following exceptions:

1. In the case of new construction of a multifamily residential building in a Commercial or Mixed-Use District, or a UMF Residence District, the required parking facilities may be provided on lots not more than four hundred (400) feet away from the building to be served.

2. In HRC Districts, the required off-street parking may be provided on the same lot as the principal use it is required to serve. However, any other lot or lots within the same HRC District which is or are not more than one thousand five hundred (1,500) feet away from the entrance of the building to be served, may be used to meet the requirement for off-street parking.

3. In Industrial Districts and in the case of institutional uses in any district, the required parking facilities may be provided on lots not more than one thousand (1,000) feet away from the building to be served.

4. In the case of a dormitory of a nonprofit educational institution the required parking facilities may be provided on lots not more than one thousand five hundred (1,500) feet away, measured along a traveled way, from the dormitory to be served.

5. In the UMU, TMU, INST and NB districts and for residential uses in the DMU district, all parking requirements may be met by leasing spaces in publicly-owned off-street parking facilities located within one thousand five hundred (1,500) feet of an entrance to the use. [Ord. 4-18-06]

6. In the UMU and UMF districts, non-residential parking requirements are reduced by fifty percent (50%) if a publicly-owned off-street parking facility is located within one thousand five hundred (1,500) feet of an entrance to the use. In the UMU and UMF districts, residential parking requirements may be reduced by as much as fifty percent (50%) if a publicly-owned off-street parking facility is located within one thousand five hundred (1,500) feet of an entrance to the use by special permit if the Planning Board finds that said public parking will accommodate the parking demands of the proposed project. [Ord. 4-18-06]

7. In the TMU, INST and NB districts, non-residential parking requirements are reduced by fifty percent (50%) if a publicly-owned off-street parking facility is located within four hundred (400) feet of an entrance to the use. In the TMU, INST, and NB districts, residential parking requirements may be reduced by as much as fifty percent (50%) if a publicly-owned off-street parking facility is located within four hundred (400) feet of an entrance to the use by special permit if the Planning Board finds that said public parking will accommodate the parking demands of the proposed project. [Ord. 4-18-06]

8. All non-residential uses in the DMU district and/or within the boundaries of the Artist Overlay District are exempt from the listed parking requirements if a publicly-owned off-street parking facility is located within one thousand five hundred (1,500) feet of an entrance to the use. [Ord. 4-18-06, Ord. 11-16-10]

All privately-owned off-site parking facilities shall be under the same ownership or be leased to the same ownership as the building or buildings which they serve. Where a certificate of occupancy has been issued conditional to the maintenance of off-site parking facilities, such certificate of occupancy shall lapse in the event of the sale or conveyance of the land used for such parking facilities for the required parking, or if said land is otherwise no longer available for such use. Parking spaces satisfying these requirements need not be in the city.

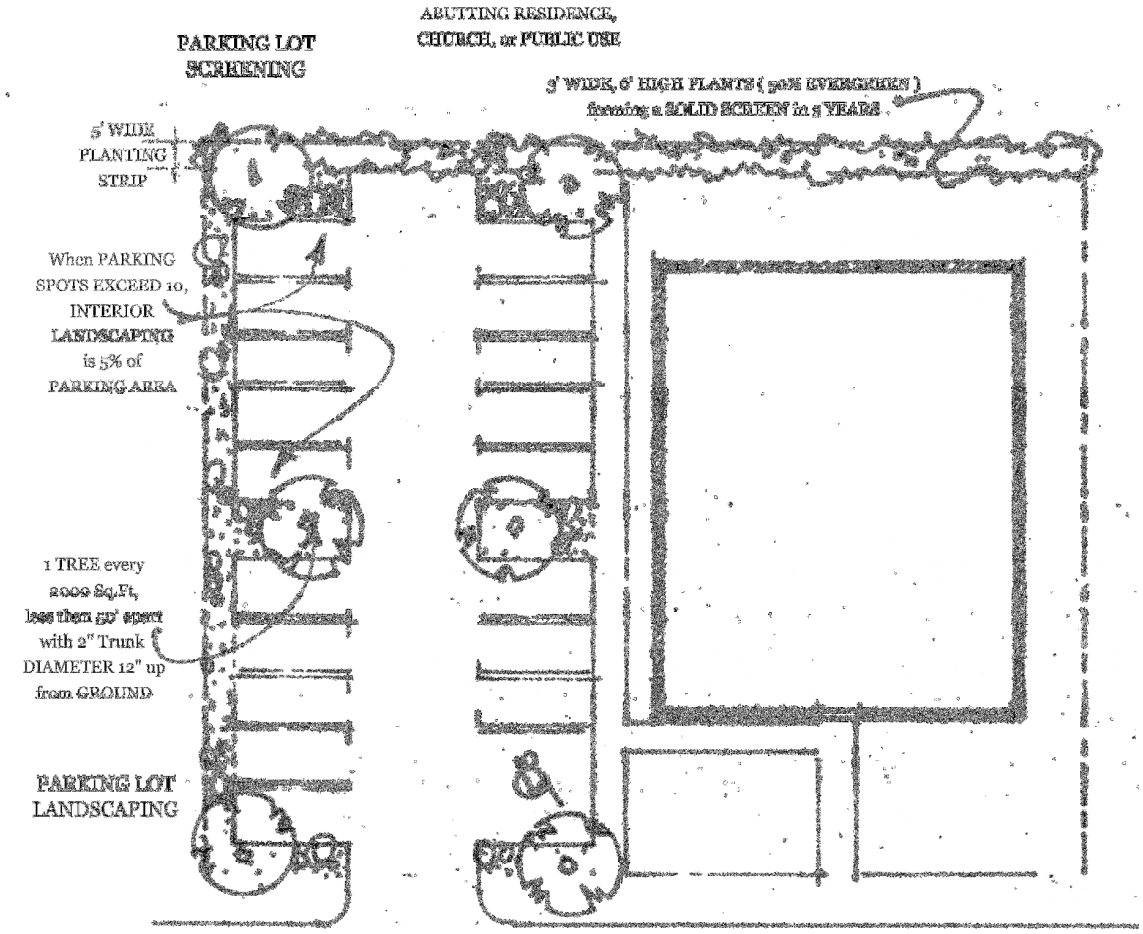
6.1.7 Standards.

1. Required off-street parking facilities may be enclosed in a structure or may be open. If such facilities are open, they shall be graded, surfaced with tar, asphalt, concrete, or other nondusting paving, drained and suitably maintained to the satisfaction of the Building Commissioner and the City Engineer to the extent necessary to avoid the nuisances of dust, erosion or excessive water flow onto public ways or adjoining property.

2. All off-street parking facilities and other impervious surfaces must conform to all applicable provisions of the Massachusetts Department of Environmental Protection Stormwater Management Policy Handbook: Volume I & Stormwater Technical Handbook Volume II, and all other applicable stormwater regulations. Site drainage designs must be approved by the City Engineer. [Ord. 11-13-07]

6.1.8 Screening. Any open parking facility for more than three (3) automobiles shall be screened from abutting residence, church or a publicly accessible open and/or recreational space in a manner which will provide an effective visual screen. Said screen shall be at least five (5) feet in width and shall contain plantings not less than three (3) feet in width nor less than six (6) feet in height. At least fifty (50) percent of the plantings shall be evergreen. A solid fence or wall six (6) feet high may be substituted for all or a portion of the planted screen.. [Ord. 11-29-05, Ord. 5-25-10]

6.1.9 Landscaped Open Space. Where a parking area or single lot contains ten (10) or more off-street parking spaces, there shall be landscaped open space within the perimeter of the parking area or areas in the minimum amount of five (5) percent of the gross parking area. All such landscaped areas shall be computed in addition to the parking space requirements herein. All such landscaped areas shall contain no less than one (1) live shade or ornamental tree for every two thousand (2,000) square feet of parking area. Such trees shall have a minimum trunk diameter of two (2) inches (measured twelve (12) inches above the ground level) and shall not be planted more than fifty (50) feet apart in each contiguous landscaped area.



6.1.10 Table of Dimensional Requirements for Off-Street Parking.

	Minimum Width*	Minimum Length	Min. Setback from Lot Line	Min. Setback from Bldg†*	Max. Curbcut ***	Minimum Access Drive		Minimum Drivelane		
						One Way*	Two Way	45°-60° Angle Park**	61°-75° Angle Park	76°-90° Angle Park
SSF, TSF, TTF, USF	8	18	3	3	15	8	---	---	---	---
UMF, TMF	9	18	3	3	25	8	12	20	22	22
NB, UMU, TMU	9	18	3	5	25	12	20	20	22	22
SMF, SMU, RR	9	18	3	5	25	12	20	20	22	24
DMU	8.5	18	3	5	25	12	20	20	22	24
HRC, INST, OP, PDMI	9	18	3	5	32	12	20	20	22	24
LI, GI	9.5	18	5	5	32	12	20	20	22	24

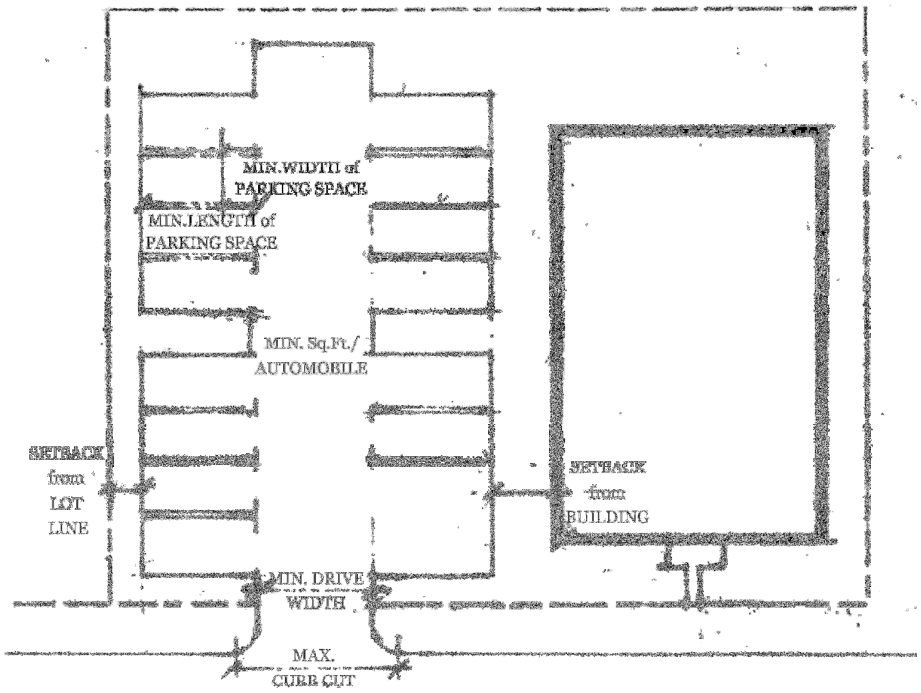
-- Denotes no dimensional requirement.

† This requirement applies to those portions of building walls containing windows or other openings off of habitable or occupiable rooms or spaces at the basement, ground floor, or first story levels. This requirement does not apply to residential garages, carports, or other structures designed and constructed for the primary purpose of housing automobiles on residential properties. This requirement governs open-air parking spaces and driveways or drivelanes.

* In all zones, parking spaces and driveways serving single-family, two-family, and three-family residences may be as narrow as 8'-0" wide and may be setback as little as 3'-0" from a building as defined above and driveways serving residential dwellings containing at least four and not more than six units may be as narrow as 12'-0" wide and may be setback as little as 3'-0" from a building as defined above.

** 45-60 degree angle parking serving residential developments may be accessed by a one-way drivelane with a minimum width of 14 feet. [Ord. 11-29-05]

*** In all zones, curb cuts serving single-family and two-family residences shall have a maximum curb cut of 15 feet, which may be extended to 24 feet by right if all parking facilities serving the structure are paved with a pervious surface. At a minimum the pervious surface, including base material, must accommodate the annual recharge of stormwater for the entire parking facility under pre-development conditions based on soil type. The maximum curb-cut width serving single-family and two-family residences where parking facilities are paved with an impervious surface, may also be extended to 24 feet in width with a special permit if the Zoning Board of Appeals finds that the wider curb cut will not be detrimental to neighborhood character, availability of on-street parking, stormwater management, or municipal infrastructure. [Ord. 11-16-10]



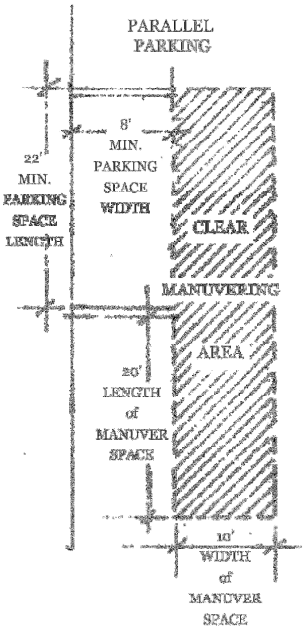
A TYPICAL PARKING LOT

6.1.11 Notes to Table of Dimensional Requirements for Off-Street Parking.

1. Lots used solely for off-street parking in Residential Districts must conform to the above requirements but do not need to meet all dimensional requirements for a building lot as set forth in Section 5.0 of this ordinance. A special permit must be obtained from the Zoning Board of Appeals for any parking lot in a Residential District whose frontage exceeds the minimum frontage required for a building lot in the zone where the lot is located.

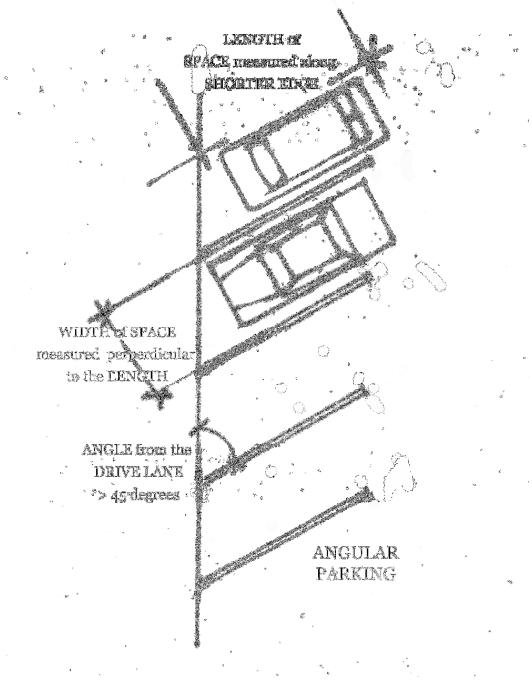
2. The Board of Appeals may grant a special permit modifying the requirements listed in this table in cases of a mechanical garage or in case the Board is satisfied that the parking facility will be used by cars of less than standard size, provided the total number of spaces conforms to Section 6.1.4.

3. Some or all of a project's off street parking requirements may be met using parallel parking spaces in all zones. Parallel parking spaces must be at least 8' wide and 22' long. For each parallel parking space, the adjacent drive



lane must be at least 10' wide and at least 20' of clear maneuvering area must be provided in front of the space in the drive lane adjacent to the space.

4. Angle parking spaces may be used to satisfy some or all of a project's off-street parking requirements. Angle parking spaces must conform to the dimensions outlined in the Table for the zone where they are located. The length of an angle parking space is measured along the shorter side and the width is measured perpendicular to the angle of the space. The angle of a parking space must be between 45° and 90° from the drive lane providing access to that space, unless it is a parallel parking space.



5. Off-street parking requirements for single-family and two-family residential buildings may be satisfied by stacking spaces behind one another in a driveway. Off-street parking requirements for residential buildings may be satisfied by locating one surface parking space in front of a garage serving the same dwelling unit. In no other circumstance may all or part of the minimum parking requirements be satisfied in such a manner as to require moving a car parked in any one space to enable a car parking in any other space to enter or exit that space. When a common driveway is shared by two or more property owners or when stacked spaces are used at a two-family property, no parking requirements may be satisfied in such a manner as to require moving a car owned or used by the owner or occupant of one property to enable a car owned or used by the owner or occupant of another property to enter or exit the parking area. [Ord. 5-25-10]

6. Minimum width of entry drive right-of-way for access to subdivision or multifamily development shall be thirty-five (35) feet. The pavement width shall comply with the standards for access drive[s] enumerated in section 6.1.10. [Ord. 5-25-10]

7. The minimum setback from the property line requirement listed in table 6.1.10 applies to all parking spaces and all driveways and paved areas used to access those spaces, except for the location where a driveway enters a lot or a common driveway subject to the provisions of section 6.7.4.

8. The maximum curbcut width is measured at the curbline.

9. Some or all of the parking requirements for residential dwellings may be satisfied within enclosed residential garages. Required parking spaces located within residential garages must include a clear area at least 11'-0" in width and 21'-0" in length and conform to all applicable provisions of the State Building Code.

6.1.12 Prohibition. Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or servicing of any kind, and any lighting that is provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property.

SECTION 6.2 LOADING REQUIREMENTS

6.2.1 Intent of Loading Requirements. It is the intention of this Section 6.2 that all buildings and uses requiring the delivery of goods as part of their function be provided eventually with necessary space for off-street loading.

6.2.2 Applicability. No application for a permit for the erection of a new building, the substantial alteration of an existing building or the development of a land use shall be approved, unless it includes a plan for off-street loading facilities required to comply with the regulations set forth in this article.

6.2.3 Special Regulations.

1. Where a building existing on the effective date of this ordinance is altered or extended in such a way as to increase the gross floor area by five thousand (5,000) square feet or more, only the additional gross floor area shall be counted in computing the off-street loading requirements.

2. Where a building or land area is used by two (2) or more activities that fall into different classes of use under Section 4.2, the facilities required shall be the sum of the requirements for the individual establishments.

3. Where the computation of required loading bays results in a fractional number, only the fraction of one-half or more shall be counted as one (1).

6.2.4 Table of Loading Requirements. Off-street loading facilities shall be provided for the following specified uses:

	Number of Bays Required for New Structure By Gross Floor Area of Structure (in thousands of square feet)					
	Under 5	*5--50*	*51--100*	*101--150*	*151--300*	*Over 300 (for each additional 150)*
Retail trade Wholesale and storage Transportation terminal Manufacturing Public utility	0	1	2	3	4	1
Consumer services Office building Hotel, motel, dormitory Recreation Research laboratory	0	1	1	2	3	1
Institution	0	0	1	1	2	1

6.2.5 Special Requirements.

1. The following requirements shall apply to an HRC. District:

Manufacturing or warehousing: Buildings used for manufacturing or warehousing shall have one (1) bay for each one hundred fifty thousand (150,000) square feet or portion thereof.

Office: One (1) bay shall be required for buildings containing from five (5) to one hundred fifty thousand (150,000) square feet of gross floor area. Two (2) bays shall be required for buildings containing up to six hundred thousand (600,000) square feet.

6.2.6 Location and Layout of Loading Facilities.

1. Each required loading bay shall be no less than ten (10) feet in width, thirty-five (35) feet in length and twelve (12) feet in height, such requirements to be exclusive of drives and maneuvering space, and all required bays, drives and maneuvering space shall be located entirely on the lot with immediate and direct ingress to the building intended to be served. A bay need not be enclosed in a structure provided any yard used as a loading bay shall not infringe on front, side and rear yard requirements in this chapter. All such facilities shall be designed with appropriate means of vehicular access to a street or alley as well as maneuvering area, and no driveways or curb cuts shall exceed twenty-five (25) feet in width except in Industrial Districts.

2. Required off-street loading bays may be enclosed in a structure and must be so enclosed if located within fifty (50) feet of a Residential District where the use involves regular night operation, such as that of a bakery, restaurant, hotel, bottling plant or similar uses. Any lighting provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property.

3. All accessory driveways and entranceways shall be graded, surfaced, drained and suitably maintained to the satisfaction of the Building Commissioner to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways.

4. Loading facilities shall not be reduced in total extent or usability after their installation, except when such reduction is in conformity with the requirements of this article. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance or unreasonable impediment to traffic.

SECTION 6.3 SIGNS

6.3.1 Applicability. No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure, except as specifically permitted in this Section.

6.3.2 Permitted Sign Types. The following types of signs are permitted as set forth in Section 6.3.4, the Table of Sign Regulations.

1. *Address Sign:* One (1) sign displaying the street number or name of the occupant of the premises or both.

A. Such sign may include identification of an accessory professional office or customary home occupation (as defined herein).

B. Such sign may be attached to the building or may be on a rod or post not more than four (4) feet high, and at least three (3) feet in from street line.

C. Such sign may not exceed two (2) square feet in area.

D. Sign must be stationary and not contain any motorized moving parts.

2. *Awning Sign:* A sign painted on or attached to a moveable metallic frame, of the hinged roll or folding type, which may have a covering either combustible or incombustible [noncombustible].

A. Such sign must be painted on or attached flat against the surface of, but not extending beyond or attached to the underside.

B. Letters shall not exceed ten (10) inches in height.

C. A minimum clearance above sidewalk level of seven (7) feet must be allowed for pedestrian clearance.

3. *Billboard:* An off-premises sign controlled by the outdoor advertising board, which is used for the display of printed or painted advertising matter. No off-premises billboard, sign or advertising device shall be erected or maintained unless the height, setback and illumination requirements set forth herein are met and unless a permit therefore has been granted by the outdoor advertising authority in accordance with G.L. c. 93, ss. 29 through 33, as from time to time amended, and such permit is valid and outstanding.

4. *Community Directory Sign:* An accessory bulletin or announcement board describing the location of event of a community service organization, institution, or public facility.

A. Such sign shall not exceed twenty (20) square feet in total area.

B. One (1) such sign for each property is allowed, unless the street frontage of said institution exceeds one hundred (100) feet, then one (1) sign for each hundred (100) feet is allowed but in no event more than three (3) such signs.

C. No such sign may be located nearer to a street line than one-half of the depth of the required front yard.

5. *Contractor Sign:* An off-premises sign identifying the contractor's name, address and other pertinent information.

A. Such sign may not exceed twenty (20) square feet.

B. Such sign may be maintained on the building or structure only for the interim of construction and not exceeding fifteen (15) days following the completion of said construction.

C. Failure to remove said sign within time period stated shall be removed by the Building Commissioner at the expense of the owner.

6. Election *Signs:* A sign designed to influence the action of voters for (i) the passage or defeat of a measure; or (ii) the election of a candidate for nomination or election to public office at a national, state or other local election. An election sign is permitted if it is stationary, unlighted, temporary, and is not attached to a utility pole, fence, tree or other vegetation, or upon a public right-of-way or attached to any structure (except that such sign may be displayed in a window).

7. *"For Sale" or "For Rent" Signs:* An on-premises sign advertising the property being sold or rented.

A. Such signs shall not exceed six (6) square feet.

B. Such signs shall advertise only the property on which the sign is located.

C. A maximum of two (2) such signs may be maintained on the property being sold or rented.

8. *Freestanding Sign:* A self supporting sign in a fixed location and not attached to any building or structure.

A. Such sign shall have no more than two (2) faces.

B. The area of each face shall not exceed thirty (30) square feet unless there are three (3) or more uses on the lot, then the area of each face shall not exceed fifty (50) square feet.

C. The top of such sign may not exceed a height of twenty (20) feet above grade.

D. A lot with a frontage of three hundred (300) feet or more may have two (2) such signs.

E. Such signs shall be erected so as to not obstruct free ingress or egress to or from any building or public right-of-way.

F. Such signs shall be constructed entirely of noncombustible materials.

G. There must be no exposed connecting wires.

9. *Illuminated Sign:* A sign that is artificially illuminated by means of electricity, gas, oil, or fluorescent paint.

A. Permits must be obtained for the erection of illuminated signs within the limitations set forth in this article for the location, size and type of sign or outdoor display.

B. All electrically-illuminated signs shall conform to the requirements of the Massachusetts State Electrical Code.

C. All illumination must be a continuous external light, that is indirect and installed in a manner which will prevent direct light from shining onto any street or adjacent property. (Spot, track, overhang, or wall lamps are acceptable).

D. Internally-illuminated signs will require a special permit by the special permit granting authority.

E. No form of illumination that is flashing, moving, animated or intermittent shall be allowed.

F. There must be no exposed connecting wires.

10. *Individual Letters or Symbols:* Which are attached to an awning, marquee, a roof, building surface, wall, or signboard.

A. The area to be computed is that of the smallest rectangle or other geometric shape which encompasses all of the letters or symbols.

B. These letters or symbols shall not project more than twelve (12) inches from the building surface.

C. Letters and symbols shall not obscure architectural features of the building (including but not limited to cornices, lintels, transoms) to which the letters and symbols are attached.

D. Such letters and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached.

E. Sign size: Letters or symbols shall have an aggregate area not exceeding two (2) square feet for each foot of building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one (1) street, the aggregate sign area facing each street frontage shall be calculated separately. Signs shall not be permitted on building walls not parallel or within forty-five (45) degrees of parallel to the street, except directional signs such as for entrances or parking each not exceeding three (3) square feet in area.

11. *Marquee Signs:* A sign painted on, attached to, or consisting of an interchangeable copy reader, on a permanent overhanging shelter which projects from the face of a building.

A. Such sign may be painted on or attached flat against the surface of, but not extending beyond or attached to the underside.

B. Letters or symbols shall not exceed sixteen (16) inches in height.

C. A minimum clearance above sidewalk level of ten (10) feet must be allowed for pedestrian clearance.

12. *Moving Signs:* Signs that change or rearrange characters, letters, or illustrations, including time or temperature indicators and gasoline pricing signs with changeable characters, except as specifically prohibited herein. [Ord. 07-13-04]

13. *Painted Signs:* A permanent mural or message painted directly onto a building surface or the surface of a wall or retaining wall not part of any building. A special permit is required from the special permit granting authority.

14. *Projecting Signs:* A permanent sign that is hung at a ninety-degree angle from the face of and affixed to a building or structure and extends twelve (12) inches or beyond the building wall, structure of parts thereof.

A. If flat, each face shall not exceed sixteen (16) square feet.

B. The total area of a three-dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape (rectangle, triangle, parallelogram, circle, etc.) and computing its area which shall not exceed nine (9) square feet.

C. Such sign must be hung at right angles, and shall not project beyond a vertical plane of two (2) feet inside the curbline.

D. The bottom of said sign shall allow a ten-foot pedestrian clearance from sidewalk level.

E. The top of the sign may be suspended in line with one (1) of the following, whichever is the most successful application of scale, linear continuity and visibility as determined by the Building Commissioner: suspended between the bottom of sills of the first level of windows above the first story and the top of the doors or windows of the first story; or the lowest point of the roof of a one-story building.

F. An additional permit is required from the city council to erect signs which overhang a public way.

G. All signs overhanging a public way must be covered by an insurance policy naming the City of Lowell as coinsured and for such amounts as shall be established by the city.

15. *Public Service Sign:* A sign located for the purpose of providing directions towards or indication of a use not readily visible from a public street (e.g., restrooms, telephone, etc.).

A. Such signs that are necessary for public safety and convenience shall not exceed four (4) square feet.

B. Such signs may bear no advertising.

C. Such signs are not included in computing total sign area allowed.

16. *Roof Sign:* A sign erected, constructed, or maintained above the roof of a building.
Roof signs are prohibited except by special permit by the special permit granting authority.

A. Permit may be granted if it is the only feasible form of signing for that establishment.

B. Such signs shall be constructed entirely of or other approved noncombustible materials except as provided in Section 1408.5 of the State Building Code.

C. All wiring and tubing shall be kept free and insulated therefrom.

D. Such signs shall be set back at least three (3) feet from the face of the outside wall.

17. *Temporary Sign:* A sign intended to be used for a period of no more than thirty (30) days. Temporary signs pertaining to special sales or events may be displayed in no more than thirty (30) percent of the window area.

A. No permit is required for temporary signs.

B. Temporary banner signs which overhang a public way must be covered by an insurance policy naming the City of Lowell as coinsured and for such amounts as shall be established by the city.

18. *Wall sign:* A sign which is attached parallel on the exterior surface of a building or structure.

A. A wall sign shall not project more than fifteen (15) inches from the building surface.

B. The sign shall not obscure architectural features of the building (including but not limited to cornices, lintels, transoms) to which the sign is attached.

C. Such signs shall not exceed above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.

D. Sign Size: Signs or advertising devices, attached to the building shall have an aggregate area not exceeding two (2) square feet for each lineal foot of the building face parallel or substantially parallel to a street lot line. Where a lot fronts on more than one (1) street, the aggregate sign area facing each street frontage shall be calculated separately. Signs shall not be permitted on building walls not parallel or within forty-five (45) degrees of parallel to the street, except for entrances or parking each not exceeding three (3) square feet in area.

19. *Window Sign:* A permanent nonilluminated sign painted on the inside glass of a window.

A. The total area of a window sign shall not exceed thirty (30) percent of the total glass area.

B. Contents of such sign shall advertise only an on-premise use.

C. Window signs on ground floor levels shall be included in calculating the total area of signs on the building frontage.

20. *Request for Permit Sign*: A sign required under Section 11.3.9 or Section 11.1.7 of this ordinance must meet the following standards. The sign shall be located in such a way as to be fully visible and legible from the right-of-way upon which said property or proposed use fronts. The sign shall be placed on the property at five hundred (500) foot intervals. If the property in question has less than five hundred (500) feet of frontage, one sign shall suffice. Where property does not front on an existing right-of-way, said sign shall be placed in a location to be fully visible and legible from the right-of-way of the nearest street or road. [Ord 10/31/06]

A. The sign shall read as follows:
NOTICE: REQUEST FOR PERMIT
Address of Property:
Type of Permit: (building permit, special permit, site plan review, subdivision or variance)
Specific information about the project: (type of use, number of units, size of commercial space, etc.)
Proposed Use of Property:
Date, Time and Place of a Public Hearing or Date in which Building Permit may be issued.

B. The sign shall include a copy of the site plan or plot plan submitted with the permit application.

C. The sign shall include the words: "for additional information, contact the City of Lowell at:", with a phone number and e-mail address as follows:

a. For building permits, the e-mail and phone number for the Inspectional Services Department
b. For ZBA applications, the e-mail and phone number for the Inspectional Services Department
c. For Planning applications, the e-mail and phone number for the Planning Board administrator
d. For Historic Board applications, the e-mail and phone number for the Historic Board administrator."

D. Said sign shall be of wood or metal. Size of said sign shall be determined by the Building Commissioner. The applicant shall notify the City of Lowell in writing that the sign has been erected and where located.

E. The sign shall contain no additional advertisement or words other than that which is specified herein. Said sign shall remain posted until three weeks after a building permit has been issued for the project. The sign shall be removed within ten (10) calendar days from when the project receives its occupancy permit, by the applicant at his expense. If any sign remains posted longer than this ten-day period, the petitioner shall be deemed in violation of this ordinance."

21. *Recreational Advertising Sign:* A sign located on structures and fences within and associated with community sporting events at a public or private outdoor recreational area.

A. Such signs are only to remain posted during the duration of the sports season that uses the recreational area, and shall not remain posted for greater than six months in any year.
B. Such signs may be affixed to fences and buildings facing into a recreation area, but must conform to all other provisions of Section 6.3.5(9).
C. Such signs may include registered Trademarks that would otherwise be in violation of Section 6.3.3 (5).
D. Such signs must be of a durable material, and be affixed in such a way as to not blow or rattle

in wind. [Ord. 4-3-07]

6.3.3 Special Requirements.

1. Corner buildings. If a building fronts two (2) or more streets, the sign area for each street frontage shall be computed separately.

2. Setback requirements. Unless otherwise specified in this Ordinance, signs are exempt from setback requirements.

3. Sublevel storefront. If the first floor of a building is substantially above street grade and the basement is only partially below street grade, separate occupants of each level may each have one-half the square feet of signage allowed if it were a single ground floor use.

4. Supports and brackets for a sign shall not extend needlessly above the cornice line of the building to which the sign is attached.

5. Trademarks that are registered for a specific commodity may occupy no more than ten (10) percent of the sign area, except that said commodity is the major business conducted on the premises, then there shall be no such restriction.

6.3.4 Table of Sign Regulations.

Sign Type	SSF, TSF, TTF, USF	TMF, SMF, UMF	TMU, SMU	NB, RR, OP, INST, HRC	LI, GI	DMU, UMU
Accessory	Y	Y	Y	Y	Y	SP
Address	Y	Y	Y	Y	Y	SP
Awning	N	N	Y	Y	Y	SP
Billboard	N	N	N	N	SP	N
Community directory	Y	Y	Y	Y	Y	SP
Contractor	Y	Y	Y	Y	Y	SP
Election	Y	Y	Y	Y	Y	Y
For sale/rent	Y	Y	Y	Y	Y	SP
Freestanding	N	N	Y	Y	Y	SP
Illuminated	N	N	SP	Y	Y	SP
Internally illuminated	N	N	N	SP	SP	SP
Individual letters	N	N	Y	Y	Y	SP
Marquee	N	N	Y	Y	Y	SP
Moving	N	N	N	SP	SP	SP
Painted wall	N	N	SP	SP	SP	SP
Permanent	Y	Y	Y	Y	Y	SP
Projecting	N	N	SP	SP	SP	SP
Public service	N	N	Y	Y	Y	SP
Recreational Advertising*	Y	Y	Y	Y	Y	Y
Request for Permit Sign*	Y	Y	Y	Y	Y	Y
Roof	N	N	SP	SP	SP	SP
Temporary	Y	Y	Y	Y	Y	SP
Wall	N	N	Y	Y	Y	SP
Window	N	N	Y	Y	Y	SP
Any other sign	N	SP	SP	SP	SP	SP

* [Ord 4-3-07]

6.3.5 Prohibited Signs. No person may erect the following signs:

1. A sign which flashes, rotates, or has a motorized moving part that is visible from a public street.

2. Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety in the opinion of the Building Commissioner by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads.

3. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway or which obstructs a window, door or other opening for providing light or air or interferes with proper function of the building.

4. Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment; or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.

5. Signs which make use of words such as STOP, LOOK, DANGER, etc., or any phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.

6. String lights used in connection with commercial premises for commercial purposes other than Christmas decorations.

7. Spinners, and streamers except as specified in temporary sign section.

8. Any sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold. Such signs shall be removed at owner's expense.

9. Any sign affixed to a fence, utility pole or structure, or tree, shrub, rock or other natural objects.

6.3.6 Variance. An application for variance may be filed with the board of appeals as allowed in Section 11.2 of this ordinance.

6.3.7 Special Permit. Certain signs require a special permit, as set forth in Section 6.3.4. The special permit granting authority shall be the Board of Appeals. Prior to the grant of any special permit, the Division of Planning and Development may provide a written recommendation to the Board. Where the locus is within an historic district subject to the approval of the Historic Board, said approval shall constitute a special permit hereunder and no further special permit shall be required.

6.3.8 Maintenance. Each sign shall be maintained in a secure and safe condition. If the Building Commissioner is of the opinion that a sign is not secure, safe or in good state of repair, it shall give written notice of this fact to the person responsible for the maintenance of the sign. If the defect in the sign is not corrected within the time permitted by the Building Commissioner, the Building Commissioner may revoke the permit to maintain the sign and may remove the sign and keep possession of same until the owner pays the cost of removal.

6.3.9 Energy Shortage. In the event of an energy shortage, the city is authorized in its discretion to order all signs in city consuming electricity, gas, oil or other energy, to cease consumption in whole or in part during such hours as for such period as designated.

6.3.10 Nonconforming Signs. Any sign or other advertising (billboard) devices heretofore legally erected may continue to be maintained; provided, however, that no such sign or other advertising device shall be permitted if it is enlarged and provided further, any such sign or other advertising device which has deteriorated to such an extent that the cost of restoration would exceed thirty-five (35) percent of the replacement cost of the sign or other advertising device at the time of the restoration shall not be repaired or rebuilt or altered. Any exemption provided in this section shall terminate with respect to any sign or other advertising device which:

1. Shall have been abandoned as set forth in this Ordinance.

2. Shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the building commissioner.

SECTION 6.4 ILLUMINATION

In a Residential District no outdoor floodlighting or decorative lighting, except lighting primarily designed to illuminate walks, driveways, doorways, outdoor living areas or outdoor recreational facilities, and except temporary lighting in use for no longer than a four-week period in any calendar year, shall be permitted. Any permanent lighting permitted by the preceding sentence shall be continuous, indirect and installed in a manner that will prevent direct light from shining onto any street or adjacent property or the night sky.

SECTION 6.5 LANDSCAPING

Where a lot located in a Nonresidential District is situated on the boundary of a Residential District, the lot line(s) with the Residential District(s) shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. No part of any building or structure or paved space intended for or used as a parking area may be located within the buffer area. Planted buffer areas along property lines with Residential Districts or uses shall be at least ten feet in depth. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting.

SECTION 6.6 REFUSE CONTAINERS

All refuse containers subject to the provisions of section 10-74 of the Code of Ordinances of the City of Lowell must comply with all applicable provisions. All refuse containers for uses other than single family homes shall also meet the following conditions, which may only be waived with a special permit granted by the Planning Board:

1. Refuse containers should not be visible from the street.

2. Refuse containers shall be set back from the front property line at least as far as the primary structure on the property. No refuse container shall be located in the front yard.

3. Refuse containers shall be enclosed or screened by a structure constructed out of the same or similar materials to the primary structure on the property. The enclosure shall screen the containers from view from the public way and protect the containers from raccoons, rodents, and other pests.

4. Outdoor refuse containers shall not be stored within ten feet of exterior windows or doors that open directly onto habitable space within housing units on the basement, ground, or first floors of buildings containing housing.

SECTION 6.7 DRIVEWAY REGULATIONS

6.7.1 General. For the purpose of promoting the safety of the residents of the City, an application for a building permit for a residential structure shall include a plan, at a scale of 1" = 20 ft., showing the driveway serving the premises, and showing existing and proposed topography at one (1) ft. contour intervals. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles. The Building Commissioner shall not issue a building permit for the principal structure on the premises unless all of the preceding conditions have been met. [Ord. 4-3-07]

6.7.2 Maximum Distance. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of two hundred (200) feet, unless the Planning Board grants a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

6.7.3 Grade. The grade of each driveway where it intersects with the public way shall not exceed six percent (6%) for a distance of 30 feet from the travel surface of the public way unless the Planning Board shall grant a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

6.7.4 Common Driveways. Common driveways serving two or more residential lots are permitted only if both property owners hold an easement granting them full rights of passage over the entire area of the abutting lot over which the common driveway is located.

ARTICLE VII. SPECIAL REGULATIONS

SECTION 7.1 STATEMENT OF PURPOSE.

In the development and execution of this Section, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized within this Section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area (i.e., not more than 2 such uses within 500 feet of each other which would create such adverse effects).

SECTION 7.2 ADULT ENTERTAINMENT ESTABLISHMENTS

7.2.1 Conditions. No adult entertainment establishment shall be within:

1. seven hundred fifty (750) feet of another presently existing or permitted Adult Entertainment Establishment [Ord. 07-13-04]; or

2. five hundred (500) feet of the following zoning districts: SSF, SMF, TSF, TTF, TMF, USF, UMF; or

3. five hundred (500) feet of a public or private elementary school, middle school, secondary school, or any school or college serving a student population where any of the student population is under eighteen years of age.

SECTION 7.3 BODY ART ESTABLISHMENTS

7.3.1 Conditions. No Body Art Establishment shall be within:

1. seven hundred fifty (750) feet of another presently existing or permitted Body Art Establishment; or

2. five hundred (500) feet of the following zoning districts: SSF, SMF, TSF, TTF, TMF, USF, UMF; or

3. five hundred (500) feet of a public or private elementary school, middle school, secondary school, or any school or college serving a student population where any of the student population is under eighteen years of age.

SECTION 7.4 MASSAGE THERAPY ESTABLISHMENTS

7.4.1 Required Affiliation. Massage therapy establishments, not otherwise exempt, must be affiliated with and be physically located at the same site as the following, and only the following, listed salon and professions:

1. Salons for hair, nails, or tanning;

2. Licensed professions engaging in the practice of medicine, chiropractic, osteopathy, or physical therapy;

3. Health and fitness clubs.

SECTION 7.5 REMOVAL OF MATERIAL

7.5.1 General. No person shall remove any soil, loam, sand or gravel from any land not in public use in any part of the city, without first obtaining written permission therefore from the Board of Appeals after a public hearing, except as provided herein

7.5.2 Criteria. Before granting any such permit, the Board of Appeals shall give due consideration to:

1. The location of the place from which it is proposed to remove soil, loam, sand or gravel;

2. The general character of the neighborhood surrounding such location;

3. The effect of the proposed removal in such neighborhoods; for example, the amount of noise, dust and vibration likely to result from the proposed removal; the extent, depth and contour of the location and surrounding neighborhood from which such removal is proposed; the general safety of the public on the public ways giving access to and in the immediate vicinity of such location; and the use of which such location has been put prior to the application for a permit, and to which it may be put after the expiration of the permit.

7.5.3 Conditions. As a part of and as set forth in any such permit, the Board of Appeals may impose such reasonable restrictions and conditions on the exercise of the permit as it deems to be in the public interest including but not limited to the following:

1. The duration of time from which the permit may be exercised;

2. The extent, depth and contour of the area of removal;

3. The grade of the slope of the banks of the area of removal and the specification of showing and reinforcement of the banks of any excavation;

4. The proximity of such removal to any public way;

5. The hours of the day during which such removal may be permitted;

6. The hours of the day during which the material may be trucked away from the location of removal;

7. The conditions under which the removal trucks may be operated;

8. The replacement of topsoil and the replanting of the area of removal and screening the same from public view.

7.5.4 Time Limit. No permit for removal of material granted by the board of appeals shall be valid for a period in excess of six (6) months from its date of issue.

7.5.5 Exemption. This section shall not apply to the removal of soil, loam, sand or gravel incidental to and reasonably required in connection with the construction of the premises of any buildings or roads for which a permit has been issued by the Building Commissioner.

SECTION 7.6 TELECOMMUNICATIONS FACILITIES

7.6.1 Purpose. This Section is enacted in order to establish general regulations for the siting of telecommunications facilities and to enhance and fulfill the following goals:

1. Preserve the authority of the City of Lowell to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities.

2. Reduce adverse impacts such facilities may create, including, but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to personal property, and prosperity through reasonable protection of property values.

3. Provide for co-location and minimal impact siting options through an assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the City of Lowell.

4. Permit the construction of new telecommunications facilities only when all other reasonable opportunities have been exhausted, and encourage the configuration of new facilities to minimize the adverse visual impact.

5. Require co-location of antennas, to the highest extent possible, in order to reduce the cumulative negative impacts upon the City of Lowell.

6. Provide for the removal of abandoned telecommunications facilities.

7. Preserve the authority of the Building Department of the City of Lowell to conduct an inventory of existing telecommunications facilities as necessary.

7.6.2 Applicability. Telecommunications facilities shall not be considered infrastructure, public services, or utilities, as defined or used elsewhere in the City's Ordinances and Regulations. Siting for telecommunication facilities is a use of land, and is regulated by this Section 7.6 and the Schedule of Principal Uses.

1. This Section shall not govern the siting or construction of any tower, or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

7.6.3 Special Permit Procedures. Telecommunications facilities shall require a special permit from the Zoning Board of Appeals. In addition, site plan approval is required for the construction of all freestanding telecommunications towers. The special permit and site plan applications must be in accordance with the following regulations as set forth by the FCC:

1. The local regulations shall not unreasonably discriminate among providers of functionally equivalent service.

2. The local regulations shall not prohibit or have the effect of prohibiting the provision of personal wireless services. This also prohibits moratoriums on accepting applications, or at least a moratorium that is of indefinite length.

3. Requests for such facilities must be acted upon within a reasonable period of time. The time taken to act on an application will be considered reasonable as long as it is no longer than the time the local government usually takes to act on the other requests of comparable magnitude that have nothing to do with telecommunications facilities.

4. Any decision to deny a request for such a facility must be in writing and supported by substantial evidence in a written record.

5. The local regulations cannot adopt regulations based on the environmental effects of radio frequency emissions where the facilities comply with FCC emissions regulations.

7.6.4 Additional Criteria. In addition to the criteria for consideration specified herein, the standards and requirements of this Section shall be considered by the Zoning Board of Appeals and Planning Board.

7.6.5 Submittal Requirements. In addition to the application materials required under Section 11.3.5, the applicant for a telecommunications facility shall provide the following with a special permit application:

1. Scaled elevation perspective of the proposed telecommunications tower and associated structures.

2. Radio frequency coverage for the proposed antenna and for existing antenna that provide coverage to the City of Lowell and vicinity and which are operated by the applicant.

3. Engineering information detailing the minimum and optimal height and coverage required for the facility.

4. For new telecommunications towers, information prepared by a qualified and licensed professional engineer documenting the capacity of the telecommunications tower, which shall include the maximum number of antennas it can support.

5. An inventory of existing telecommunications towers and tall structures that are within five miles of the proposed tower location, including specific information about the location, height, and design of each telecommunications tower or structure, as well as the economic and telecommunications towers or structures.

6. Written evidence demonstrating that none of the existing structures or telecommunications towers inventoried can accommodate the applicant's proposed antenna. This shall consist of:

A. Substantial evidence that the installation of the proposed antenna and associated equipment would exceed the structural capacity of the existing structures or telecommunications towers inventoried, as documented by a qualified and licensed professional engineer, and that the structure or telecommunications tower cannot, at a reasonable cost, be reinforced, modified, or replaced to accommodate the antenna and equipment.

B. Substantial evidence as approved by the Planning Board and documented by a qualified and licensed professional engineer, that the proposed antenna on the inventoried structures or telecommunications towers, or that the antenna already on an existing structure would cause interference with the applicant's proposed antenna.

C. Substantial evidence, as approved by the Planning Board, that the existing structures or telecommunications towers inventoried are not of sufficient height to meet the applicant's engineering requirements and that the structure or telecommunications towers cannot, at a reasonable cost, be extended or replaced to meet the required height.

D. Substantial evidence, as approved by the Planning Board, that the fees, costs, or contractual provisions required by the owner in order to share existing inventoried structures or telecommunications towers are unreasonable. One time costs exceeding the costs of a new telecommunications tower development are presumed to be unreasonable.

E. Substantial evidence, as approved by the Planning Board, that the applicant can demonstrate other limiting factors that render existing structures or telecommunications towers unsuitable.

7. For new telecommunications towers, a written commitment from the applicant that allows for the maximum allowance of co-location on the telecommunications tower. This commitment shall become a Condition of Approval. This commitment shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such a commitment is

evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the City of Lowell, and grounds for denial.

8. A visual impact analysis prepared by a qualified professional that includes photosimulations of the proposed telecommunications facility that at a minimum simulate the views of the facility from habitable structures on abutting properties and from the closest public roads.

9. A surety estimate equal to 115% for the cost of the removal of the telecommunications facility. The surety can be in the form of a passbook account or a letter of credit.

10. For new telecommunications towers, proof that the proposed tower complies with regulations administered by the Federal Aviation Administration (FAA).

7.6.6 Design and Performance Standards.

1. *Telecommunications Tower Color:* Telecommunications towers shall either maintain a galvanized steel finish, subject to any applicable standards of the Federal Aviation Administration (FAA), or to be painted a neutral color as approved by the Planning Board, so as to reduce visual obtrusiveness.

2. *Design of Accessory Structures:* The design of accessory structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the telecommunications facility with the natural setting and built environment. All accessory structures shall also be subject to all other Site Plan Review Regulation requirements.

3. *Telecommunications Tower Lighting:* Telecommunications towers shall not be artificially lit, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Board shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

4. *Signs:* Telecommunications towers shall not contain any permanent or temporary signs as defined in this ordinance, writing, symbols, or any graphic representation of any kind, with the exception of safety warning signs or equipment information signs. All signs must be kept to a minimum as approved by the Planning Board.

5. *Telecommunication Facility Setbacks:* The following requirements shall supersede any less stringent standards found elsewhere in City Ordinances and Regulations:

A. Telecommunications towers shall have a minimum front, side, and rear yard setback equal to the height of the tower.

B. Telecommunications tower guys and accessory structures shall satisfy the minimum setback requirements of the underlying Zoning District.

6. *Security Fencing:* The perimeter of telecommunication facilities shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing controls, such as barb wire.

7. *Landscaping:* A minimum of 10% of the site must be landscaped with vegetation meeting the requirements listed in the Appendix of the Lowell Subdivision Ordinance. The proposed landscaping must adequately screen the site as approved by the Planning Board.

8. *Height:* The height of each tower shall be reviewed and approved by the Zoning Board of Appeals. The maximum height of a telecommunications tower shall be 199 feet. This standard shall supersede any more stringent standards found elsewhere in the City Ordinances or Regulations.

7.6.7 Co-Location.

1. *Design for Co-Location:* All telecommunications towers shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the telecommunications tower is over 100 feet in height, or for at least one additional user if the tower is over 60 feet in height.

2. *Review Procedure for Co-Location:* The co-location of additional antennas on an existing telecommunications tower shall require a Special Permit. With the Special Permit review process, the ZBA may limit the number of users to be located on a tower. Co-Location shall not require a site plan except if any one of the following are met:

A. An additional equipment building is proposed.

B. The additional antennas require an increase in the height or bulk of the telecommunications tower structure.

C. The additional antennas and any associated accessory structures require the removal of trees or understory vegetation.

3. *Co-Location Requirements:* A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Planning Board finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building which will meet the needs of the tower due to one or more of the following reasons:

A. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.

C. Existing or approved towers and buildings within the area cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

D. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

7.6.8 Maintenance Guarantee. Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is incapable or unwilling to remove the facility in accordance with Section 7.6.9.

7.6.9 Removal of Abandoned Facilities.

1. *Abandoned by Lack of Operation:* A telecommunications facility shall be considered abandoned and be removed by the owner of the facility if it is not operated for a continuous period of 12 months. If the owner of

the facility does not remove the facility upon the Planning Officer's order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further notice.

2. *Abandonment by Neglect:* A telecommunication facility shall be maintained in compliance with the standards contained in the Building Code adopted by the City of Lowell. If, upon inspection by the City, it is concluded that any part of a facility fails to comply with the Building Code and the facility constitutes a danger to persons of property, then upon notice provided to the owner of the facility, the owner shall bring the facility into compliance with the Building Code. If the owner fails to bring the facility into compliance within the time frame determined by the Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further action.

SECTION 7.7 NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES

7.7.1 Purpose. Subject to the provisions of this Zoning Ordinance, Chapter 40A of the Massachusetts General Laws, and provisions of the Rehabilitation Act and the Americans With Disabilities Act, the City of Lowell zoning ordinance will not prohibit the location of a facility for narcotic detoxification or narcotic maintenance within the City of Lowell, but will instead regulate such facilities. A Narcotic Detoxification and/or Maintenance Facility should provide medical support, security, drug testing with oversight by a physician and standards that meet or exceed state regulations under 105 CMR 162. Facilities should not compete to provide streamlined care to patients and should not provide a location for patients to wait for treatment in the vicinity of children. Therefore, to ensure these facilities are located in such a way as to not pose a direct threat to the health or safety of the participants in the rehabilitation treatment or the public at large, the provisions of this section will apply to all such facilities.

7.7.2 Use. A Narcotic Detoxification and/or Maintenance Facility will be treated as an institutional health care facility subject to the provisions of this Section 7.7 and as well as Section 12.3(k) of this Ordinance.

7.7.3 Special Permit. Where a Special Permit is required for a Narcotic Detoxification and/or Maintenance Facility, the Zoning Board of Appeals shall consider the provisions of Section 11.3.2 of the Ordinance, as well as the ability for the facility to:

a. Meet a demonstrated need
b. Provide a secure indoor waiting area for clients
c. Provide an adequate pick up/drop off area
d. Provide adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals
e. Adequately address issues of traffic demand, parking, and queuing, especially at peak periods at the facility, and its impact on neighboring uses. The Zoning Board of Appeals may require the applicant to provide a traffic study, at the applicant's expense, to establish the impacts of the peak traffic demand.

7.7.4 Conditions. A Narcotic Detoxification and/or Maintenance Facility shall not be located:

1. Within five thousand (5000) feet of another Narcotic Detoxification and/or Maintenance Facility, or,

2. Within seven hundred fifty (750) feet of a public or private elementary school, middle school, secondary school

[Ord. 4-18-06]

SECTION 7.8 PRIVATELY DEVELOPED AND/OR OPERATED DORMITORIES

7.8.1 Purpose. The purpose of this provision shall be to promote the development of privately owned and/or operated student housing to serve college and university uses without being owned or operated by the college or university, to serve student population needs without impacting neighborhood character or social structures and to increase the economic impact of students in the community without further impacting housing availability for non-student residents of the City of Lowell.

7.8.2 Applicability. Dormitories developed and/or operated by private for-profit organizations must meet a standard substantially similar to those typically provided by the primary institution it serves.

7.8.3 Conditions. Dormitories developed and/or operated by private for-profit organizations must provide the following minimum performance standards. Such standards shall be reviewed and approved by the Planning board as a part of a public hearing for a Site Plan Review, and shall, at a minimum, include the following:

a. On-site management staff that shall include:
    1. A minimum of one on-site security guard at all times when the building is occupied
    2. Property management on-site or on-call 24 hours a day
    3. A full-time live-in community assistant, professionally trained to provide support services programming and oversight of student conduct
    4. One student resident assistant provided for the first 50 students and an additional assistant per each additional 50 students or portion thereof, working for the community assistant and assisting with programming and oversight of student conduct.

b. Designation of a single on-site staff member as the community liaison with direct interaction with institutional security and city police. The on-site liaison may be the community assistant or property manager.

c. A clearly delineated and advertised policy that defines resident responsibilities and behavioral expectations as well as response to policy infractions shall be submitted to the Planning Board for review and approval. The approved policy shall be posted in the building, provided to all residents, and provided to institutional security and the city police. The policy shall indicate that policy infractions shall be reported to the institution.

d. Where buildings are located such that students must walk further than 2,000 linear feet from the nearest campus academic building of the institution for which the building serves, the owner must provide to the City a transportation demand management plan that indicates that the owner or the institution provide regular shuttle bus service between the dormitory and the institution. Linear distance shall be measured along public or private ways where the residents are granted access, including pedestrian pathways, from the primary entrance of the proposed dormitory to the primary entrance of the nearest academic building. For the purposes of this section, a campus academic building shall be any building that is primarily used for teaching classes and/or research, is adjacent to other such academic buildings, is located on the contiguous campus, and does not include student housing, or sports/recreational facilities.

[Ord. 11-24-09]

7.9 WIND ENERGY FACILITIES

7.9.1 Purpose. The purpose of this provision is to encourage development and operation of wind energy facilities in appropriate locations, and to establish standards for the placement, design, construction, monitoring, modification and removal of wind energy facilities that protects public health and safety, minimize impacts on scenic, natural and historic resources of the city and to provide adequate financial assurance for decommissioning.

7.9.2 Applicability. This section applies to wind energy facilities proposed to be constructed after the effective date of this section. The provisions herein apply to building integrated wind facilities, stand alone wind facilities, and physical modifications to existing wind facilities that materially alter the type, configuration, or size of such facilities or other equipment. The provisions set forth in this section shall take precedence over all other sections when considering applications related to the construction, operation, and/or repair of wind energy facilities.

1. Small wind energy facilities shall be permitted or authorized by special permit as an accessory use and shall be located on the same lot the primary use to which it is accessory is located, as set forth in the Article XIII, Table of Accessory Uses.

2. Large wind energy facilities shall be permitted or authorized by special permit as set forth in Article XII, the Table of Uses.

3. No wind energy facility shall be erected, constructed, installed or modified as provided in this section without first obtaining a building permit from the Building Commissioner. All such wind energy facilities shall meet all technical and design standards as set forth in this section.

7.9.3 General Requirements for all Wind Energy Facilities

1. Proof of Liability Insurance: The applicant shall be required to provide evidence of liability insurance in an amount, and for duration, sufficient to cover loss or damage to persons and property occasioned by the failure of the facility.

2. Financial Surety: The applicant for all wind energy facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the facility, of an amount equal to 125 percent of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for Cost of Living Adjustment.

3. Site Control: At the time of its application for a special permit or site plan review, the applicant shall submit documentation of actual or prospective control by fee, easement, or lease of the project site sufficient to allow for installation and operation of the proposed facility. Documentation shall also include proof of control over setback areas, if required. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

4. Utility Connections: Reasonable efforts shall be made to locate utility connections from the wind energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider, but must be appropriately screened from view from public ways and from abutting residential properties.

5. Utility Notification: No wind energy facility shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned

generator. Off-grid systems shall be exempt from this requirement.

7.9.4 Wind Energy Facility Lighting & Signage

1. Lighting: Wind towers shall not be artificially lit, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If lighting is required, the Planning Board shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

2. Signs: Wind energy facilities shall not contain any permanent or temporary signs as defined in this ordinance, writing, symbols, or any graphic representation of any kind, with the exception of safety warning signs or equipment information signs. All signs must be kept to a minimum as approved by the Planning Board.

3. Advertising: Wind turbines shall not be used for displaying any advertising. Wind facilities may provide reasonable identification and contact information of the manufacturer or operator of the wind energy facility, as approved by the planning board.

7.9.5 Wind Facility Site Standards

All wind facilities shall be located, constructed, and operated in such a way so as to minimize to the extent feasible any visual, safety, and environmental impacts. It shall be demonstrated that proposed wind facilities have sited and constructed to minimize the following impacts:

1. Visual impact on surrounding neighborhoods, and to the extent feasible mitigate aesthetic impacts on scenic, natural and historic resources of the city;

2. Nuisance impacts on surrounding properties and neighborhood such as noise, and shadow flicker; and

3. Prevent serious hazards to people and property such as ice throw, facility failure, and prevent unauthorized access to the facility and accessory structures.

A. Small Wind Facilities

1. Height: freestanding wind facilities shall be no taller than 125 feet above the current grade of the land, measured from the base to the tip of the blade at its highest point.

2. Parcel Boundary Setback: wind facilities shall be set back a minimum distance equal to 75% of the overall blade tip height of the wind turbine from the nearest property line. A setback from a lot line shall not be required when the abutting owner(s) grants an easement to the owner of the wind energy facility. In a case where the applicant is also the owner of the abutting property, the setback shall be measured from the furthest lot line of the abutting property.

3. Habitable Structure Setback: wind turbines shall be set back a distance equal to the overall blade tip height of the wind turbine from the nearest habitable structure, and public ways. Structures on same property may be exempted from this provision with permission of the property owner.

B. Large Wind Energy Facilities:

1. Height: Large wind energy facilities shall be no higher than 300 feet above the current grade of the

land, measured from a facility's base to the tip of the blade at its highest point.

2. Parcel Boundary Setback: Large wind facilities shall be set back a distance equal to 75 % the overall blade tip height of the wind turbine from the nearest property line. A setback from a lot line shall not be required when the abutting owner(s) grants an easement to the owner of the wind energy facility. In a case where the applicant is also the owner of the abutting property, the setback shall be measured from the furthest lot line of the abutting property.

3. Habitable Structure Setback: Large wind facilities shall be set back a distance equal to 1.2 times the overall blade tip height of the wind turbine from the nearest existing residential or commercial structure. Structures on same property are exempt from this provision.

C. Waiver of Dimensional Requirements: height and set back requirements may be waived with a special permit from the Planning Board where the applicant is able to demonstrate that site specific situations, construction, and operational techniques adequately prevent safety hazards and nuisance. Proposed facilities seeking a special permit to reduce set back standards are subject to Section 4.5.1 (Additional Review Criteria).

7.9.6 Design of Facilities and Accessory Structures

The design of accessory structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the wind tower with the natural setting and built environment.

1. Wind energy facilities should be of a simple design with the smallest overall profile feasible. The proposed facility location, design, and site layout shall be developed to minimize aesthetic impacts to the surrounding neighborhood.

2. Equipment elements seen against the sky should be white, grey or very light cool colors. Elements on or near the ground should be black or dark green. All accessory structures shall also be subject to all provisions of the zoning ordinance.

7.9.7 Facility Security

1. The perimeter of large wind facilities shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anti-climbing controls.

2. Wind facilities and accessory structures shall be adequately secured to prevent public access, and shall include signage indicating safety hazards. At a minimum, the proposed facility shall include climbing features designed to be inaccessible to the public and all electrical equipment must be locked.

7.9.8 Landscape & Open Space

1. All accessory structures shall be screened from public and adjoining private property by means of planting or maintenance of trees of a species common to the area, spaced to minimize visual intrusion, and provide an opaque year-round visual buffer. Tree plantings shall also be used to mitigate visual and noise impacts on adjoining properties were possible. New tree plantings shall meet standards outlined in Section 6.5 of the zoning ordinance.

2. Impervious surfaces shall be reduced to the greatest extent feasible and all site development must conform to all applicable provisions of the Massachusetts Department of Environmental Protection

Stormwater Management Policy Handbook: Volume I & Stormwater Technical Handbook Volume II, and all other applicable stormwater regulations. Site drainage designs must be approved by the City Engineer.

3. Wind energy facilities shall be designed to minimize tree removal, cut and fill, wetland vegetation displaced, and fragmentation of open space areas.

7.9.9 Noise Impacts

The wind energy facility shall comply with all applicable provisions of the City of Lowell's noise ordinance (Code of City of Lowell, Section 204) and the Massachusetts Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10) in effect on April 27, 2009, unless the applicant provides written confirmation from DEP and the Planning Board that those provisions are not applicable to the proposed facility.

A noise source will be considered to be violating the DEP noise regulation (310 CMR 7.10) if the source,

1. Increases the broadband sound level by more than 10 dB(A) above ambient, or

2. Produce a "pure tone" condition – when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by 3 decibels or more.

Measurement of noise impacts under the Code of City of Lowell, Section 204, and DEP regulations must be made at the nearest property line to the facility and at the property line of the nearest adjoining parcel containing a habitable structure.

7.9.10 Wind Energy Facility and Site Maintenance

The applicant shall submit a plan detailing procedures for the operational maintenance of the wind energy facility. Applicants must also provide a maintenance plan for access roads and storm water controls for ground mounted wind energy facilities.

The applicant shall maintain the wind energy facility in good condition, including but not limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to ensure access for emergency apparatus.

7.9.11 Historic Board Review

Where the locus of a proposed wind facility is within a design review district of the Lowell Historic Board as approved by the Lowell City Council, the proposed facility is subject to review and approval by the Lowell Historic Board.

7.9.12 Site Plan Approval

For all proposed ground mounted wind facilities the project proposal must seek Site Plan Approval from the Planning Board subject provisions enumerated Section 11.4 of this ordinance. Proposed ground mounted wind energy facilities must demonstrate that the proposed location, site development, and facility materials, design and construction adequately address design standards (Section 6.4) and (Section 11.4.10) of the zoning ordinance.

7.9.13 Additional Review Criteria for Ground Mounted Facilities

In addition to the review criteria listed under section 11.3.2, the board shall consider the following criteria for special permit review of small wind energy facilities.

1. Proposed facilities comply with design and dimensional criteria and standards included in this section of the zoning ordinance (Section 7.9).

2. Wind energy facilities shall be sited in a manner that minimizes nuisance impacts such as shadowing

or flicker, and noise. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

3. Proposed facilities shall prevent serious hazards to people and property such as ice throw, facility failure, and prevent unauthorized access to the facility and accessory structures.

7.9.14 Additional Review Criteria for Building Mounted Facilities

In addition to the review criteria listed under section 11.3.2, the board shall consider the following criteria for special permit review of small wind energy facilities.

1. The design and placement of Building-mounted wind energy facilities should be integrated into the architecture of the building to which it is mounted.

2. The wind energy facility shall be proportional in height to the building to which it is mounted, in the opinion of the Planning Board.

3. The Planning Board may require that a qualified and licensed professional engineer document that the structure upon which the proposed wind energy facility is to be mounted shall have the structural integrity to carry the weight and wind loads of the wind energy conversion system and have minimal vibration impacts on the structure.

7.9.15 Additional Submittal Requirements

In addition to the application materials required under Section 11.4.6, the applicant for a wind energy facility shall provide the following with a site plan review and special permit application:

1. An area plan shall be provided in addition to the project site plan to include the following information:
    i. Property lines and physical dimensions of the site parcel and adjacent parcels within 300 feet of the site parcel;
    ii. Outline of all existing buildings, identifying current use of each structure, located on the site parcel and within 500 feet of proposed facility, distance shall be shown from the wind energy facility to the closest buildings shown;
    iii. Location of all existing and proposed roads, either public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the proposed facility.

2. Documentation detailing the wind energy facility's manufacturer and model, rotor diameter, tower height, tower type, and foundation type and dimensions.

3. Drawings of the wind energy facility tower and tower foundation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

4. One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all national Electrical Code compliant disconnects and overcurrent devices.

5. For new wind energy facilities, proof that the proposed facility complies with regulations administered by the Federal Aviation Administration (FAA).

6. Scaled elevation of the proposed wind energy facility and associated structures, as well as existing vegetation and structures and proposed vegetation.

7. A visual impact analysis prepared by a qualified professional that includes photo simulations of the proposed wind energy facility that at a minimum simulate the views of the facility from habitable structures on abutting properties and from nearby public ways from which the facility will be visible.

8. Shadow study showing potential flicker impacts on adjacent parcels and habitable structures within 500 feet of the facility, and if necessary a mitigation plan to reduce these potential impacts.

9. Description of preventative measures used to minimize risk of ice throw from the proposed facility blades prepared by a certified engineer.

10. Assessment of noise impacts developed by a qualified engineer, demonstrating standards set in 7.9.10 are adequately met.

11. Operational and maintenance plan as required herein.

12. A surety estimate equal to 125% for the cost of the removal of the wind energy facility, as estimated by a certified engineer. The surety can be in the form of a passbook account or a letter of credit.

13. Proof of liability insurance for the proposed wind energy facility.

14. Documentation illustrating communication to the utility of the proposed wind facility.

15. The Planning Board may request additional studies deemed necessary to determine the proposed wind energy facility meets criteria and standards included in this section of the zoning ordinance.

7.9.16 Removal of Abandoned Facilities

1. Abandoned by Lack of Operation: A wind energy facility shall be considered abandoned and be removed by the owner of the facility if it is not operated for a continuous period of 12 months. If the owner of the facility does not remove the facility upon the Zoning Officer order, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further notice.

2. Abandonment by Neglect: A wind energy facility shall be maintained in compliance with the standards contained in the Building Code adopted by the City of Lowell. If, upon inspection by the City, it is concluded that any part of a facility fails to comply with the Building Code and the facility constitutes a danger to persons of property, then upon notice provided to the owner of the facility, the owner shall bring the facility into compliance with the Building Code. If the owner fails to bring the facility into compliance within the time frame determined by the Code Enforcement Officer, then the Planning Board shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within 90 days of receipt of the declaration of abandonment by the Planning Board. If the abandoned facility is not removed within 90 days, the City may use the security to pay for this action without further action.

7.9.17 Temporary Meteorological Towers

A building permit is required for the construction of Temporary Meteorological Towers. Meteorological Towers

are exempt from special permit or site plan approval and are allowed as follows:

1. Meteorological towers under100 feet in height are permitted within the same zoning districts as small wind energy facilities as listed in Article 13 of this Ordinance.

2. Meteorological towers over 100 feet in height are permitted within the same zoning districts as large wind energy facilities as listed in Article 12 of this Ordinance.

If the purpose of the Meteorological Tower is to test for wind energy potential in anticipation of constructing a wind energy facility requiring a special permit, the project proponent may wish to request a pre-application session with the Planning Board as a preliminary review of the anticipated wind energy facility.

[Ord. 5-25-10]

ARTICLE VIII SPECIAL RESIDENTIAL REGULATIONS

SECTION 8.1 CONVERSION OF EXISTING BUILDINGS

8.1.1 Purpose. The purpose of this provision shall be to promote the preservation of significant historic buildings and neighborhood landmarks, thereby enhancing the community's appearance and extending our common architectural legacy for future generations. The intent of this provision shall be to enable such buildings to be adapted to new use requirements, while exerting strict control over the preservation of all exterior features. This provision is designed to encourage the adaptive reuse of such buildings where such reuse would more effectively promote, preserve, and enhance the architectural character of the surrounding neighborhood than would the redevelopment of the site following the demolition of these landmark structures.

8.1.2 Applicability.

1. In all residential and mixed-use districts, any large existing structure, having been constructed more than sixty years ago and either:
    a. historically part of a mill complex, or,
    b. used for religious or educational purposes (including churches, convents, schools, rectories, and parish halls or centers), or,
    c. used as a fire station,

may, together with the original attached accessory structures, be altered so as to contain two (2) or more dwelling units by special permit granted by the Planning Board provided the following requirements are met. [Ord. 11-13-07]

2. In SMF, SMU, TMF, TMU, NB, UMF, UMU, DMU, and INST Districts, any large existing residential structure, having been constructed more than sixty years ago, may, together with the original attached accessory structures, be altered as to contain two (2) or more dwelling units provided any required special use permits are obtained and the following requirements are met.

3. Projects located within the boundaries of the Artist Overlay District need not meet the conditions outlined below but are subject to the requirements of section 9.2.5.

8.1.3 Conditions.

1. The minimum lot area per dwelling unit (as defined in section 5.1.2.2) required by the underlying zoning district in section 5.1 is provided. In the SSF and TSF districts a minimum lot area of 3000 square feet per dwelling unit must be provided.

2. At least two (2) parking spaces per dwelling unit are provided on the lot. Where the lot does not provide sufficient area to accommodate parking, parking may be provided on another lot located within 400 feet of the primary entrance to the structure by special permit. Any off-site parking area must be owned by the same party or parties as the lot with the building being converted. All parking areas must conform to all applicable landscaping, screening, dimensional, and other requirements established herein.

3. The exterior design of the structure is not substantially altered.

4. The minimum floor areas shall be seven hundred fifty (750) square feet for studio or one-bedroom units, and nine hundred (900) square feet for units with two or more bedrooms.

5. The original building area is not increased more than ten (10) percent of its gross floor area. Additions and alterations made to comply with the requirements of the Americans with Disabilities Act are not subject to this limit.

6. Usable open space requirements are met.

7. Existing buildings being converted under the terms of this section are not subject to the minimum setbacks, maximum building height, or maximum number of stories requirements listed in Section 5.1. Additions or alterations to the existing structures are subject to the height and setback requirements of the underlying zone.

8. Existing buildings on existing lots that are deficient in frontage may be converted under the terms of this section without a variance, but existing lots which meet or exceed the minimum required frontage may not be subdivided in such a manner as to leave the existing building on a lot that lacks the minimum required frontage.

9. If any of the thresholds outlined in Section 11.4.2 are met and the project is not subject to the exemptions provided under Section 11.4.3, site plan review and approval by the Planning Board must be obtained along with the required special permit.

10. The Planning Board may grant a special permit to waive the minimum lot area per dwelling unit and/or usable open space requirements if the proposed project complies with all other requirements of this section 8.1.3, does not require any variances, and the Board finds that adequate public recreational opportunities exist in the neighborhood to serve the residents of the project and the proposed project will not detract from the health, safety, and welfare of the occupants and owners of surrounding properties.

8.1.4 Variance Required. In the event that conversion is proposed and the conditions set forth above cannot be met, a variance is required from the Board of Appeals. Such variance shall be in addition to and must be advertised separately from any special permits otherwise required.

8.1.5 Downtown conversions: Conversion of structures in the DMU district that would otherwise be allowed by the regulations of the Zoning Ordinance need not receive the Special Permit through this Section 8.1. [Ord. 11-13-07]

SECTION 8.2 PLANNED RESIDENTIAL DEVELOPMENT (PRD)

8.2.1 Purpose. In a Planned Residential Development (PRD) the dimensional requirements of individual lots are relaxed in exchange for a set-aside of passive open space and active recreational areas for common or public use within the overall development parcel. The PRD also clusters building sites thereby minimizing the amounts of roadway, utilities, and other infrastructure that must be developed and ultimately maintained by the City of Lowell for a given number of building sites. The overall density of the development remains consistent with or below the density of existing City zones. This approach requires a special permit to be granted by the approval of a comprehensive development plan by the Lowell City Council, along with subdivision approval by the Lowell Planning Board. The PRD requirements set forth in this Section govern the project with the approval of the comprehensive plan. Permits for projects that do not conform to the existing zoning cannot be issued without this approval. PRD is a land use permitted only by special permit in the zones designated in the Table of Uses, Section 4.2. Therefore, approval of a planned development comprehensive plan and authorization to utilize the dimensional and other requirements permitted for Planned Residential Developments does not constitute a zoning amendment as defined in Chapter 40A of the Massachusetts General Laws.

8.2.2 Eligibility Requirements. To be eligible for a special permit for a PRD, the following specifications must be met:

1. The development site must contain not less than five (5) contiguous acres of land. The applicant must provide proof of ownership or an option to purchase all of these lands at the time of application. The applicant must have ownership of all of these lands in order to execute any special permit rights should they be granted.

2. The development site must not be defined in such a manner as to completely encircle any parcel not owned by the applicant or leave any such parcel without access.

3. The applicant must have a comprehensive development plan for the entire development site, to include all facilities necessary to comply with applicable sanitary, building, and public safety codes and ordinances of the City of Lowell and Commonwealth of Massachusetts, and must be designed, constructed, and maintained in accordance with the statutes, regulations, and ordinances of the City of Lowell and the Commonwealth of Massachusetts.

4. Such a comprehensive development plan must be submitted to the City Council for its approval and must be in accordance with the stated or implied development objectives as identified in approved planning reports and studies of the City of Lowell and Regional Planning Agency. Said submission must be made along with formal submission of all documents required for subdivision approval under the provisions of the Subdivision Control Law, G.L. c. 41, ss. 81K-81GG and the City of Lowell's Subdivision of Land Regulations. Such approval is required prior to the issuance of a building permit for any lot to be governed by the requirements established for a planned residential development.

5. The City Council must be satisfied that adequate financing exists for applicant to complete the proposed development. The Planning Board shall require that a performance bond be established in the manner outlined in the City of Lowell's Subdivision of Land Regulations to insure that the proposed work is completed.

8.2.3 Application. In order to establish a PRD, the applicant must submit a comprehensive development plan for approval by the Lowell City Council to obtain a special permit. The PRD special permit must be obtained before the Lowell Planning Board may approve a definitive subdivision plan showing a PRD. In addition to all the requirements of a preliminary subdivision plan, the comprehensive development plan must include the following information:

1. A legal description and map of the area proposed for a planned development, showing existing land uses and zoning boundaries.

2. Proof of title to or agreement or option to purchase all property located within the proposed planned development area.

3. A site plan for a typical building lot for each proposed type of use (single family residence, two family residence, etc.) illustrating how the building(s), required parking, and landscaping will be placed on a typical lot.

4. Perspective sketches, elevations and/or renderings showing proposed streetscapes and building designs.

5. Plans indicating dedicated recreational and conservation open space areas and a proposal for how they will be administered including drafts of any covenants or deed restrictions that may be used to preserve the open space.

6. Locations of abutting and nearby conservation and other open space areas that may be enhanced or augmented by the open space proposed in the planned development.

7. Plans and other documentation as necessary to indicate any facilities to be owned or used in common by the residents of the planned development, including, but not limited, to recreation facilities, social halls, meeting rooms, community centers, recycling centers, and trash storage areas.

8. Evidence of the applicant's financial ability to complete the development as planned.

9. A written notarized statement by the legal applicant stating that the comprehensive plan submitted will be adhered to and will not be modified without prior approval of the Planning Board.

8.2.4 Procedures. Prior to approval, a public hearing on the proposed planned development must be held before the Lowell City Council. All advertising and notification requirements for a special permit public hearing must be met for this public hearing. Such notice must conform to all of the requirements set forth in G.L. c. 40A, s. 9.

1. In addition, the applicant must submit six (6) complete copies of the application to the Planning Board within seven (7) days of submission of said application to the City Council. The Planning Board must submit a written recommendation on the application to the City Council within thirty (30) days of receipt of a complete application. The recommendation must include specific findings as to whether the development plan meets all the established requirements for a planned residential development and as to the appropriateness of the development plan for the site where it is proposed.

2. The applicant must also comply with the provisions of section 11.3.3.

8.2.5 Permitted Land Use Activities in a PRD. The following land use activities may be proposed in a planned residential development comprehensive plan submitted to the City Council for special permit review. The City Council will not grant a special permit if other land-use activities are proposed within the plan.

1. Single-family residential;

2. Two family residential, provided such lot is not with an underlying zoning district that prohibits two-family dwellings;

3. Places of worship;

4. Public or private elementary or secondary schools;

5. Municipal park or recreational facility;

6. Licensed child care facility or kindergarten;

7. Library or museum;

8. Nonprofit recreational facility;

9. Nonprofit community center;

10. Public utility or service equipment facilities;

11. Telecommunications facilities, in conformance with all of the requirements of Section 7.6.

8.2.6 Dimensional Requirements. The following dimensional requirements govern the layout of individual lots within a PRD for which comprehensive plan approval has been obtained from the City Council. The applicable dimensional requirements shall be those set forth in the table below or, 70% of the requirement for the underlying district, whichever is larger. The provisions of section 5.1.2 shall apply to the calculation of lot area for lots within a PRD.

	Planned Residential Development
Min. Lot Area (SF)	4250 (single family) 5500 (two family & all other uses)
Max. F.A.R.	1.0
Max. Density of Planned Development (Units/Acre)	15
Min. Frontage (ft)	45
Min. Front Setback (ft)	15
Min. Side Setback (ft)	5 (sum of 20)
Min. Rear Setback (ft)	20
Max. Height	35
Max. No. of Stories	2.5
Min. Parking Space (ft)	8.5 x18
Min. Parking setback from prop. Line (ft)	3
Min parking setback from building* (ft)	3
Off-street parking spaces per dwelling unit	2

8.2.7 Open Space Requirements. In any PRD, 25% of the land area of the overall development site must be set aside for active recreation and/or passive open space to be allocated as outlined in this section.

1. To satisfy this requirement, the required open space must include at least one recreational parcel equal to the lesser of one-fifth of the total required open space or one acre of contiguous land area available for active recreational use. This recreational open space area may take the form of a playing field or large open area, a linear exercise path or trail, or some combination of the two so long as the land is contiguous. Areas within utility easements may not be used to satisfy this requirement.

2. The required open space area must also include at least one conservation parcel equal to the lesser of two-fifths of the total required open space or two acres of contiguous land area for permanent conservation. This land shall not be significantly disturbed during construction. Designated wetlands areas may be used to satisfy no more than ten percent (10%) of this requirement. Areas within utility easements may not be used to satisfy this requirement. Flood plain areas that are outside designated wetlands areas may be used to satisfy this requirement.

3. If specifically approved by the City Council, planting areas in excess of ten feet wide (including sidewalks) along streets and boulevards or landscaped islands within rights-of-way may be used to satisfy no more than one-fifth of the total open space requirement for a planned development.

4. The remaining required open space may be any combination of recreational or conservation land, as described in subparagraphs 1 and 2 of this section, but shall be in contiguous parcels equal to the lesser of five percent (5%) of the total development area or one-half acre.

5. All open space parcels must be preserved as open space through one of the following mechanisms, subject to the approval of the Lowell City Council:

A. Acceptance by the City of Lowell or the Commonwealth of Massachusetts as protected open space for conservation, recreation, or park purposes, after obtaining all approvals that may be required. Common ownership by a homeowners association with restrictions in the master deed requiring that these lands remain as protected open space in perpetuity.

B. Transfer of ownership or all development rights to a local or regional nonprofit entity dedicated to and having a proven track record with the ownership and maintenance of park and conservation lands. This transfer must include deed restrictions protecting the open space in perpetuity.

C. In the case of open space located within a public right-of-way only, acceptance by the City of Lowell as part of a right-of-way for a public way.

6. The dedicated open space parcel(s) within the planned development may be expanded but cannot be reduced.

8.2.8 Signage and Parking Requirements.

1. Signage shall be regulated in the same manner as the SSF, TSF, USF, and TTF Residence Districts.

2. Off-street parking facilities shall be provided for all uses in the same quantities and manner as required in SSF, TSF, USF, and TTF Residence Districts.

8.2.9 Screening Requirements. Any trash storage area or dumpster used by more than two dwelling units must be adequately screened from abutting properties, open space areas, and public ways.

1. Off-street open-air parking for more than three vehicles must be screened from abutting properties as outlined in Section 6.1 of this ordinance.

8.2.10 Conservation Commission. No review and approval authority granted to the Lowell Conservation Commission by the City of Lowell or the Commonwealth of Massachusetts shall be limited or constrained by the approval of a planned development comprehensive plan.

8.2.11 Decision. A special permit shall not be granted if the PRD does not meet the open space requirements and eligibility requirements specified in this ordinance. A special permit shall not be granted for a PRD if more than 10% of the lots do not meet the dimensional requirements specified in Section 8.2.6 of this Section.

8.2.12 Variances. Post development, following acceptance by the City of Lowell of all public ways and public infrastructure in the development, individual property owners may request variances from dimensional requirements in the same manner as any other property owner in the City of Lowell.

8.2.13 Lapse. A special permit granted by the City Council for a PRD shall lapse within two (2) years of approval if substantial construction thereof has not commenced, except for good cause, by such date.

8.2.14 Additional Restrictions. The City Council may, in appropriate cases as it determines, impose further conditions, safeguards, of restrictions upon the development or parts thereof as condition to granting the special permit and approval of a comprehensive plan for a planned residential development.

8.2.15 Applicability of Other Sections of this Ordinance. The approval of a PRD does not waive or compromise the applicability of any other Section of this ordinance unless specifically noted above. In the event of a conflict or

inconsistency between the provisions of the PRD sections set forth above and other sections of this ordinance, the PRD provisions shall govern.

SECTION 8.3 RESIDENTIAL DEVELOPMENT IN AN HRC DISTRICT

8.3.1 General. Certain residential developments may be permitted by special permit granted by the Zoning Board of Appeals in the HRC District, as set forth in the Table of Uses, Article XII.

8.3.2 Criteria. In addition to the criteria set forth in Section 11.3, the ZBA shall consider the following:

1. The Applicant shall demonstrate that the combination of the direct net municipal fiscal impact of the proposed residential development and the quantifiable added value that the proposed development brings to adjacent commercial or industrial properties equals or exceeds the direct net municipal fiscal impact of the potential "highest and best use" industrial or commercial development of the same site.

2. In making this determination, the ZBA shall consider fiscal impacts upon:

Public education
Transportation infrastructure (including roadway construction, maintenance, and traffic control)
Water and sewer infrastructure
Public safety
Solid waste disposal
Other public works
General municipal services

8.3.3. Burden of Proof. The burden of proof shall be upon the Applicant to demonstrate that the requisite finding may be made by the ZBA. In order to meet this burden, the ZBA may require the Applicant to engage a qualified economic analyst.

8.3.4 Technical Review. Where the Applicant has been required to submit an economic analysis, the ZBA may establish an escrow account, pursuant to G.L. c. 44, s. 53G, and require the Applicant to fund same. The ZBA may use such funds to engage a technical consultant to perform a peer review.

ARTICLE IX. OVERLAY DISTRICTS

SECTION 9.1 FLOOD PLAIN OVERLAY DISTRICT (FPOD)

9.1.1 Purpose. The purposes of the Flood Plain Overlay District (FPOD) are to:

1. Ensure public safety through reducing the threat to life and personal injury;

2. Eliminate new hazards to emergency response officials;

3. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding;

4. Avoid the loss of utility services which, if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;

5. Eliminate costs associated with the response and cleanup of flooding conditions;

6. Reduce damage to public and private property resulting from flooding waters.

9.1.2 Location. The FPOD includes all special flood hazard areas within the City of Lowell designated as Zone A and AE on the Middlesex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRM that are wholly or partially within the City of Lowell are panel numbers 25017C0117E, 25017C0119E, 25017C0136E, 25017C0137E, 25017C0138E, 25017C0139E, 25017C0141E, 25017C0143E, 25017C0144E, 25017C0251E 25017C0252E, 25017C0256E and 25017C0257E dated June 4, 2010. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS report are incorporated herein by reference and are on file with the City Clerk, Planning Board, Building Commissioner and Conservation Commission. [Ord. 5-25-10]

9.1.3 Applicability. The FPOD is herein established as an overlay district. All development, including structural and nonstructural activities, whether permitted by right or by special permit must be in compliance with G.L. c. 131, s. 40 and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains. The FPOD regulations shall supersede other requirements of this chapter where more stringent standards are imposed. All development in the district must also be in compliance with all applicable wetlands protection regulations, inland wetlands restrictions, and minimum requirements for the subsurface disposal of sanitary sewage as promulgated and enforced by the Massachusetts Department of Environmental Protection or their successor agenc(ies). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations. [Ord. 5-25-10]

9.1.4 Definitions. For the purposes of this Section 9.1, the following definitions shall apply:

Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, VO or V1-30, VE or V.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Development: Any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District: The FPOD.

Federal Emergency Management Agency (FEMA); Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard.

FIRM: An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. [Ord. 5-25-10]

Floodproofed: Watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.

Flood Hazard Boundary Map (FHBM): An official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or AE. [Ord. 5-25-10]

Flood Insurance Study: An examination evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevation, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Floodway: See "Regulatory Floodway".

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, however, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance Program.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction: For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later. For floodplain management purposes "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

100-Year Flood: See "Base Flood".

Regulatory 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.

Special Flood Hazard Area: An area having special flood and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, V, V1-30, VE. [Ord. 5-25-10]

Structure: For floodplain management purposes a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Structure: For insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value.

ZONE A1-A30 and ZONE AE: The 100-year floodplain where the base flood elevation has been determined.

ZONE AH and ZONE AO: The 100-year floodplain with flood depths of 1 to 3 feet.

ZONE A99: Areas to be protected from the 100-year flood by Federal flood protection system under construction. Base flood elevations have not been determined.

9.1.5 Floodway Data.

1. In Zones A, the best available Federal, State, Local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE, along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. [Ord. 5-25-10]

3. In Zones AE, along watercourses that have a regulatory floodways designated on the City of Lowell FIRM or Flood Boundary Floodway Map (FIRM) encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. [Ord. 5-25-10]

9.1.6 Procedures; Building Commissioner. The following procedures shall apply to all development in the FPOD:

1. Prior to any development a permit shall be obtained from the Building Commissioner and a "request for determination" of applicability of G.L. c. 131, s. 40 shall be sent to the Lowell Conservation Commission. There shall be established a routing procedure which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, City Engineer, and City Clerk for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.

2. Prior to the issuance of any necessary permit the Building Commissioner and/or the Conservation Commission shall:

A. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, G.L. c. 131, s. 40, and 310 CMR 10.00, as amended;

B. Review subdivision proposals and other proposed new development, including manufactured home parks or subdivision, to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that (I) all such proposals are consistent with the need to

minimize flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards;

C. Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data;

D. Require new and replacement water supply systems located within flood-prone areas to be designed to minimize or eliminate infiltration of flood waters into the systems;

E. Require new and replacement sanitary sewage systems located within flood-prone areas to be designed to minimize or eliminate infiltration of flood waters into the systems.

9.1.7 Procedures; Conservation Commission. Prior to any alteration or relocation of a watercourse where an Order of Conditions has been issued, the Conservation Commission shall, at the applicant's expense, notify adjacent communities, the Massachusetts Division of Water Resources as the state coordinating agency, and the Federal Insurance Administration. Said notification shall be by mailing a copy of the Order of Conditions to each of the aforementioned by certified mail, return receipt requested; and

1. Make a determination that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

2. That prior to the issuance of any building permit in a floodplain that fourteen (14) days' public notice be given the application by the department of code and inspections.

3. The application for permit shall contain plans, certified by a registered land surveyor and/or engineer, of the proposed construction or development and a plot plan locating the proposed building and existing buildings on the premises on which it is to be situated or is situated. All plans shall show existing and proposed finished ground contours at two-foot intervals. Contours shall be delineated within two hundred (200) feet of the proposed construction or development.

9.1.8 Minimum Conditions. For "substantial improvements" of existing residential and nonresidential structures and all new construction, the following minimum conditions shall be met:

1. The lowest floor, including basement or cellar, shall be elevated to or above the base flood elevation (the 100-year flood elevation designated on the FIRM) or in the case of nonresidential structures be floodproofed watertight to the base flood level.

2. Furnaces and utilities are protected from the effects of flooding.

3. The structure will withstand the effects of flooding. The ground level extending twenty-five (25) feet outward from any building or structure in the FPOD shall be raised as necessary so that no part of the ground level area so defined, shall be below the elevation shown on the FIRM as defined herein. Embankments subject to possible scouring by floodwaters shall be properly stabilized and protected to prevent erosion by floodwaters.

4. Other lands in the district will not be adversely affected by the proposed development, through increased height or velocity of future floods.

5. The containment of sewage, safety of gas, electric fuel and other utilities from breaking, leaking, short-circuiting, grounding, igniting, electrocuting, or any other dangers due to flooding, will be adequately protected.

6. Where watertight floodproofing of a structure is permitted, a registered professional engineer or architect shall certify to the building commissioner that the methods used are adequate to withstand the flood depths,

pressures and velocities, impact and uplift, and other factors associated with the 100-year flood are all in accordance with the State Building Code requirements.

7. A registered engineer and/or architect shall certify to the building commissioner that the above minimum conditions are satisfied in the design proposal.

8. A registered land surveyor or engineer shall certify to the building commissioner that all minimum elevations required by this FPOD, have been complied with after construction.

9. Within Zones AH and AO on the FIRM, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures shall be provided. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.

9.1.9 FIRM Elevations. Within Zones AE where base flood elevations are provided on the FIRM elevations shall be determined by interpolation between the nearest elevations shown on the FIRM. [Ord. 5-25-10]

1. Within Zone A where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the building commissioner for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of the State Building Code and this FPOD.

2. Interpretations as to elevations or locations within the FIRM shall be made by the building commissioner.

9.1.10. Floodway. In the "floodway" the following provisions shall apply:

1. No encroachments, including but not limited to fill, new construction, substantial improvements and other developments shall be permitted unless certification by a registered professional engineer or architect is provided by the applicant demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the 100-year flood.

2. Any encroachment meeting the above standard shall comply with all other provisions of the FPOD.

9.1.11 Denial. In the event the building commissioner denies an applicant a building permit under the FPOD, the building commissioner's decision shall be in writing stating the reasons why said building permit was denied, and shall render his decision within five (5) days of submission of the completed application by the applicant and that further said decision shall be sent to the applicant's address by certified mail and copies of said decision should be submitted to the offices of the city clerk, Planning Board and city solicitor.

9.1.12. Permitted Uses. The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged, provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;

2. Forestry and nursery uses;

3. Outdoor recreational uses, including fishing, boating, play areas, etc.;

4. Conservation of water, plants, wildlife;

5. Wildlife management areas, food, bicycle, and/or horse paths;

6. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;

7. Buildings lawfully existing prior to the adoption of these provisions.

9.1.13. Variance from FPOD Regulations. Any person desiring a variance from any FPOD regulations as set forth in Section 9.1, shall submit an application to the Board of Appeals in accordance with the requirements set forth by G.L. c. 40A, s. 10. The application shall also contain plans as required herein.

1. Copies of the complete application with plans for variance shall also be sent or delivered forthwith by the applicant, to the building commissioner, board of health, commissioner of public works, (engineering division), Planning Board and conservation commission for their recommendations to the Board of Appeals.

2. No building permit shall be issued by the department of code and inspections if there is an appeal from the building commissioner's denial until and unless the Board of Appeals has granted a variance under these regulations and restrictions.

3. The Board of Appeals may grant a variance from the FPOD under this section only if it finds that the proposed development and/or construction will not adversely affect the public health or safety, or endanger the health, safety or welfare of the occupants of the land in the FPOD all in accordance with G.L. c. 40A, s. 10, and the State Building Code requirements. In its consideration of any application for a variance under this section, but without limiting the generality of the foregoing, the Board of Appeals shall absolutely not relax the minimum conditions stated in the variance policy attached hereto and made a part hereof.

9.1.14 Variance Policy. FIA regards the 100-year frequency flood standard as essential to assure reasonable protection to future construction. At the same time, variances from this standard may be authorized in particular cases, primarily within areas that are almost entirely developed. However, since the use of such a variance results in expensive actuarial flood insurance rates, it may subject the property owner to a financial penalty that over the years could be far in excess of the one-time cost of elevating. The likelihood cannot be overemphasized; actuarial flood insurance rates increase sharply for each foot a structure falls short of the 100-year level. FIA does not set forth absolute criteria for granting variances. The community, after examining the applicant's hardships, will approve or disapprove a request. While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond the one-half acre, the justification for a variance issuance should significantly decrease. In all circumstances, FIA may review a community's justification for granting a variance and, if the community's evidence of unusual hardship or just and sufficient cause is found wanting through a pattern of variance issuances inconsistent with the objectives of sound floodplain management, we may institute suspensive action. Procedures for the granting of variances by a community are as follows:

1. Variances shall not be issued by a community for any new construction, substantial improvement, or other development in a designated floodway which would result in any increase in flood heights within the community during the recurrence of the 100-year flood discharge.

2. Variances may be issued by a community, without regard to the procedures set forth herein, for the reconstruction or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places.

3. Variances may be issued by a community, in conformance with the procedures set forth herein, for new construction to be erected on a lot of one-half acre or less in size, contiguous to and surrounded on all sides by lots with existing structures constructed below the flood protection elevation.

4. Variances shall not be issued by a community except upon (I) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the variance issuance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

5. Variances may only be issued upon a determination that the variance shall be the minimum necessary to afford relief.

6. A community must notify the applicant that the issuance of a variance to locate a structure at an elevation below the 100-year flood level will result in increased actuarial rates for flood insurance coverage.

7. A community must (i) include, within its annual report submitted to the administrator, the number of variances issued, and (ii) maintain a record of all variances granted, including justification for their issuance.

9.1.15. Health Regulations in the FPOD. The Board of Health, in reviewing all proposed water and sewer facilities to be located in the FPOD, shall require that:

1. New and replacement water supply systems and connections therewith, shall be designed to minimize or eliminate infiltration of flood waters into the systems.

2. New and replacement sewage systems and connections therewith shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

3. Backwater valves shall be installed in all new sewer connections below base flood elevation.

9.1.16. Federal Flood Insurance Study. For the purpose of clarification of any section contained in the FPOD, reference shall be made to the U.S. Department of Housing and Urban Development, Federal Insurance Administration, Flood Insurance Study pamphlet, which study is herein incorporated and attached hereto. Reference to this pamphlet shall be made for clarification whenever possible.

SECTION 9.2 ARTIST OVERLAY DISTRICT (AOD)

9.2.1 Purpose. The Artist Overlay District (AOD) is established for the purpose of encouraging artists, to both live and work in the downtown area thereby promoting a venue for and encouraging further concentration of art, cultural and entertainment attractions in the downtown area.

9.2.2 Location. The AOD is shown on the Zoning Map.

9.2.3 Special Permit Required. The use of a building or structure for Artist Live/Work Space for art use by an artist shall require a special permit from the Zoning Board of Appeals.

9.2.4 Criteria. In addition to the criteria for consideration specified under Section 11.3, the standards and requirements of this Article and the Site Plan Review Regulations shall be considered by the Zoning Board of Appeals and Planning Board.

9.2.5 Conversion of Existing Buildings. Within the AOD, any existing building more than sixty (60) years old may be converted to artist live/work or residential use, containing two (2) or more dwelling units provided the following requirements are met:

1. Any special permit otherwise required herein is obtained.

2. Parking spaces as required by this zoning ordinance are provided.

3. The minimum floor areas shall be seven hundred fifty (750) square feet for studio or one-bedroom units and nine hundred (900) square feet for units with two or more bedrooms; provided, however, that where the applicant demonstrates that the project is consistent with established planning and policy goals of the City of Lowell, as many as fifty percent (50%) of the units in any one project may be smaller than these minimums by special permit. The petition for said special permit must be advertised separately from any special permits required otherwise herein.

4. All dimensional requirements of the underlying zone are met.

9.2.6 Penthouse units. The Floor Area Ratio in the DMU district may be increased to 4.5 for an Artist Live/Work Space or residential project within the Artist Overlay District, to allow for construction of penthouse units, by special permit. [Ord. 11-29-05]

SECTION 9.3 ***Reserved.***
SECTION 9.4 NEIGHBORHOOD CHARACTER SPECIAL PERMIT

9.4.1 Any project in the TTF, TMF, TMU, UMF or UMU zoning districts where construction, exterior alteration, conversion or expansion of a structure or structures creates two (2) or more new dwelling units on a lot where at least one (1) dwelling unit existed on the effective date of this provision, whether or not such structure has been or will be subsequently demolished, shall require the following:

1. A special permit from the Planning Board, subject to the provisions of Section 11.3.2 and the provisions of Section 11.3.2a of this ordinance

2. Site plan review, subject to the provisions of Section 11.4 of this ordinance.

The Planning Board must make a specific finding that such a project will enhance the character of the existing neighborhood.

[Ord. 4-18-06]

SECTION 9.5 PRIORITY DEVELOPMENT SITES

9.5.1 Purpose. The Lowell City Council has adopted the provisions of Massachusetts General Law Chapter 43D and established Priority Development Sites as shown on the City of Lowell Massachusetts Zoning Map. The purpose of these districts is to promote commercial, industrial, and mixed-use economic development projects on sites that have been identified as priority site for such development.

9.5.2 Applicability. The provisions of this section 9.5 apply to all locations shown on the City of Lowell Massachusetts Zoning Map as having been designated by the Lowell City Council as Priority Development Sites. Unless specifically noted in this section 9.5, all provisions of this Zoning Ordinance apply to projects located within a Priority Development Site.

9.5.3 Special Permit and Site Plan Review Decisions. All Special Permit or Site Plan Review decisions by the Lowell Planning Board or Lowell Zoning Board of Appeals on projects located within the boundaries of a Priority Development Site shall be issued within 180 calendar days after the filing of a complete application with the appropriate body as specified in this Zoning Ordinance. Decisions may include approval, approval with conditions, or denial of the proposed project.

9.5.4 Concurrent Filings. For projects located within a Priority Development Site that require Site Plan Approval by the Lowell Planning Board and a special permit or variance from the Lowell Zoning Board of Appeals, applications to both Boards may be filed concurrently.

[Ord. 8-28-07]

SECTION 9.6 DOWNTOWN LOWELL SMART GROWTH OVERLAY DISTRICT

9.6.1 Purpose

The purpose of this Section 9.6 is to establish the Downtown Lowell Smart Growth Overlay District (SGOD), to encourage smart growth in accordance with the purposes of G.L. Chapter 40R.

9.6.2 Definitions

For purposes of this Section 9.6, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section 9.6.2. To the extent that there is any conflict between the definitions set forth in this section 9.6.2 or the Enabling Laws, the terms of the Enabling Laws shall govern.

MONITORING AGENT: The City of Lowell's Division of Planning and Development (DPD). Pursuant to Section 9.6.6(2), the role of the Administrative Agency is to review and implement the Affordability requirements affecting Projects under this Section 9.6.

AFFORDABLE HOMEOWNERSHIP UNIT: An Affordable Housing unit required to be sold to an Eligible Household.

AFFORDABLE HOUSING: housing that is affordable to and occupied by Eligible Households.

AFFORDABLE HOUSING RESTRICTION: a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 9.6.6 of this Zoning Ordinance.

AFFORDABLE RENTAL UNIT: An Affordable Housing unit required to be rented to an Eligible Household.

APPLICANT: The individual or entity that submits a Project for Plan Approval, provided that such individual or entity owns the Project site or has been authorized to submit the Project for Plan Approval by such owner.

ARTIST: A person regularly engaged in and who derives a substantial portion of his/her annual income from art or creative work either written, composed, created or executed for a "one of a kind, limited" production exclusive of any piece or performance created or executed for industry oriented distribution or related production.

ARTIST LIVE/WORK UNIT PROJECT: A Project with four (4) or more artist live/work dwelling units.

ARTIST LIVE/WORK UNIT: The use of all or a portion of a building for both art use and the habitation of artists.

ART USE: The production for art or creative work either written, composed, created or executed for a "one of a king limited" production exclusive of any piece or performance created or executed for industry oriented distribution or related production. Such use may include the fine and applied arts including painting or other like picture, traditional and fine crafts, sculpture, writing, creating film, creating animation, the composition of music, choreography and the performing arts.

AS OF RIGHT PROJECT: A Project permitted under Section 9.6.5 and subject to Plan Approval by the PAA pursuant to Sections 9.6.10 through 9.6.14 of this Zoning Ordinance**.**

DEPARTMENT OR DHCD: The Massachusetts Department of Housing and Community Development.

DWELLING UNIT: Any room or suite of rooms forming a habitable unit for one (1) family with its own cooking and food storage equipment and its own bathing and toilet facilities and its own living, sleeping and eating areas wholly within such room or suite of rooms.

ELIGIBLE HOUSEHOLD: An individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

ENABLING LAWS: G.L. Chapter 40R and 760 CMR 59.00.

FAMILY: An individual, or two (2) or more individuals related by blood, marriage, or adoption living together, or not more than three (3) individuals not related by blood, marriage, or adoption living together.

FINISHED UNITS: A unit constructed to be suitable for year-round use, embodying walls, floors, and ceilings, a kitchen or kitchen area and at least one enclosed bathroom.

MIXED-USE DEVELOPMENT PROJECT: A Project containing a mix of residential uses and non-residential uses, as allowed in Section 9.6.5 (6), and subject to all applicable provisions of this Section 9.6.

MULTI-FAMILY Residential Use: A dwelling containing four (4) or more dwelling units.

PAA REGULATIONS: The rules and regulations of the PAA adopted pursuant to the Enabling Laws and this Section 9.6.

PLAN APPROVAL: Standards and procedures which Projects in the Downtown Lowell Smart Growth Overlay District must meet pursuant to Sections 9.6.10 through 9.6.14 and the Enabling Laws.

PLAN APPROVAL AUTHORITY (PAA): The local approval authority authorized under Section 9.6.10(2) to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD. For the Downtown Lowell SGOD the Plan Approval Authority shall be the Lowell Historic Board.

PROJECT: A Residential Project, Artist Live/Work Unit Project or Mixed-use Development Project undertaken within the SGOD in accordance with the requirements of this Section 9.6. A project can include more than one building. A project can include new buildings, conversion of buildings to residential or mixed-use, or a combination of both. A project may include conversion of a portion of a building or mill complex, as long as the remainder of the building or complex does not include uses not allowed by the SGOD, unless such uses are legal pre-existing non-conforming uses or the Applicant has elected to seek development of the remainder of the building or complex under the underlying zoning as provided in Section 9.6.4(2). A project may be phased, according to the regulations of Section 9.6.10(4) and 9.6.6(10). Portions of a project may be separately owned and financed, and may be developed in separate sequential phases in accordance with Section 9.6.6(10). Compliance of the project with the requirements of this Section 9.6 shall be determined for each separately owned or financed component rather than on a project-wide basis. The compliance or non-compliance of any one separately owned or financed project component shall not affect the compliance of any other separately owned or financed project component.

RESIDENTIAL PROJECT: A project that consists solely of residential, parking, and accessory uses, as further defined in Section 9.6.5(1).

SMART GROWTH OVERLAY DISTRICT (SGOD): The SGOD, as indicated on the zoning map, is an overlay district that allows for development of residential, mixed-use and/or artist live/work unit. Projects under this Section 9.6 as an elective alternative to the regulations under the underlying zoning. The SGOD is authorized under G.L. Chapter 40R.

9.6.3 Establishment of District

The Downtown Lowell Smart Growth Overlay District, hereinafter referred to as the "SGOD," is an overlay district having a land area of approximately 2.5 acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map for the City of Lowell.

9.6.4 Application of the District

1. Application. An Applicant may seek development of a Project located within the SGOD in accordance with the provisions of the Enabling Laws and this Section 9.6. In such case, notwithstanding anything to the contrary in the Zoning Ordinance, such application shall not be subject to any other provisions of the Zoning Ordinance, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

2. Underlying Zoning. The SGOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section 9.6. Within the boundaries of the SGOD, a developer may elect either to develop a Project in accordance with the requirements of the SGOD, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s).

3. Administration, Enforcement, and Appeals. The provisions of this Section 9.6 shall be administered by the Building Commissioner, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 9.6.10 through 9.6.14 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section 9.6 shall be governed by the applicable provisions of G. L. Chapter 40A.

9.6.5 Permitted Uses

The following uses are permitted as-of-right for Projects within the SGOD. Any use not specifically identified as allowed under this Section 9.6.5 is deemed prohibited.

1. Residential Projects. A Residential Project within the SGOD may include:

    a. Multi-Family Residential Use

b. Parking accessory to the above permitted use, including surface, garage-under, and structured parking (e.g., parking garages); and

c. Accessory uses customarily incidental to the above permitted use.

Provided that (b) and (c) above are subject to all the requirements of this section 9.6

2 Non-Residential Uses . Non-residential uses, developed separate from a Mixed-use Development Project under the SGOD, shall be developed subject to the regulations of the underlying zoning, and shall not be subject to the limitations or allowed to use the bonuses established in this Section 9.6.

3. Accessory Uses. The following accessory uses are allowed in the SGOD in addition to the accessory uses referred to in Sections 9.6.5(1) and 9.6.5(5):

a. The renting of rooms or board by a resident owner to not more than two (2) non-transient roomers or boarders
b. Provision of a garage or parking space for occupants, employees, customers, or visitors
c. Temporary building or use incidental to a building development
d. Home occupation, per section 4.3.3 of the Lowell Zoning Ordinance effective January 1, 2008
e. Home occupation per section 4.3.4 (subject to Special Permit) of the Lowell Zoning Ordinance effective January 1, 2008.

4. Artist Live/Work Unit Projects. Any existing building more than sixty (60) years old within the SGOD that is also within the Artist Overlay District may be converted, as of right, to Artist Live/Work Unit, but such unit will be subject to the affordability restrictions of residential units set forth in Section 9.6.6, and the dimensional requirements of Section 9.6.7(1) and 9.6.7(2).

5. Mixed-use Development Projects. A Mixed-use Development Project within the SGOD shall include Multi-Family Residential Use(and or Artist Live/Work Unit provided that the minimum allowable as-of-right density requirements for residential use specified in Section 9.6.7(1) shall apply to the residential portion of any Mixed-use Development Project, and shall also include one or more of the following non-residential uses:

a. Business or professional office
b. Retail operation
c. Service business
d. Restaurant
e. Bar, saloon, or other establishment where alcoholic beverages are sold and consumed, but which is not licensed to prepare or serve food, with or without an entertainment license
f. Art / Craft studio
g. Medical, dental center or clinic, including laboratories incidental thereto
h. Other health care facility
i. Laboratories or research facilities, limited to those without any manufacturing and without activities injurious to the surrounding area or other uses within the building by nature of dust, noise, smoke and/or odors
j. Licensed child care facility
k. Library or museum open to the public or connected with a permitted educational use and not conducted as a gainful business.
l. Commercial recreational facility, indoor. If food or beverages are to be served or consumed, the establishment must also conform to the applicable district and use requirements listed herein.
m. Community center operated by an educational, non-profit, public, or religious institution or organization not conducted as a gainful business.

n. Municipal facility, excluding facilities operated by the City of Lowell's Department of Public Works, Lowell Water Utility, or Lowell Wastewater Utility

Mixed use Development Projects may also include parking accessory to any of the above permitted uses, subject to the regulations of Section 9.6.8. Mixed use Development Projects may also include accessory uses customarily incidental to any of the above permitted uses.

6. Conversion of Buildings. Existing buildings may be converted for uses listed above consistent with the provisions of Section 9.6.7(2) and the design standards as described in section 9.6.14.

9.6.6 Housing and Housing Affordability

1. Number of Affordable Housing Units. For all Projects containing residential units, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

2. Monitoring Agent. The Monitoring Agent shall be, the City of Lowell's Division of Planning and Development. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the City Manager or DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the City Manager. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGOD, and on a continuing basis thereafter, as the case may be:

a. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
b. income eligibility of households applying for Affordable Housing is properly and reliably determined;
c. the housing marketing and resident selection plan conform to all requirements and are properly administered;
d. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
e. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

3. Submission Requirements. As part of any application for Plan Approval for a Project within the SGOD submitted under Sections 9.6.10 through 9.6.14, the Applicant must submit the following documents to the PAA and the Monitoring Agent:

a. Evidence that the Project complies with the cost and eligibility requirements of Section 9.6.6(4):

b. Project plans that demonstrate compliance with the requirements of Section 9.6.6 (5); and

c. A draft form of Affordable Housing Restriction that satisfies the requirements of Section 9.6.6 (6).

These documents in combination, to be submitted with an application for Plan Approval shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

4. Cost and Eligibility Requirements. Affordable Housing shall comply with the following requirements:

a. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

b. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

c. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

Prior to the granting of any Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the City of Lowell.

Applicants and Project owners may convert units from Affordable Rental Units to Affordable Homeownership Units or from Affordable Homeownership Units to Affordable Rental Units if the units meet all the requirements in the above Section 9.6.6 (4).

5. Design and Construction. Units of Affordable Housing shall be Finished Units, as defined in this Section 9.6. Units of Affordable Housing shall be dispersed throughout the residential portions of the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall be at least proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

6. Affordable Housing Restriction. Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate Registry of Deeds or District Registry of the Land Court and which contains the following:

a. specification of the term of the Affordable Housing Restriction which shall be no less than thirty years;

b. the name and address of the Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;

c. a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of

bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.

d. reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;

e. a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

f. reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;

g. a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Monitoring Agent;

h. provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by Monitoring Agent;

i. provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agentand/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

j. provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

k. provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Monitoring Agent, in a form specified by that agent certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and

l. a requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

7. Costs of Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Project Applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

8. Age Restrictions. Nothing in this Section 9.6. shall permit the imposition of restrictions on age upon all Projects throughout the entire SGOD. However, the PAA may, in its review of a submission under Section 9.6.10 through Section 9.6.14, allow a specific Project within the SGOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in

compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable Housing units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

9. DPD Review and Local Preference. The DPD shall review the affordable housing marketing plan, including plans for any project phasing, and provide recommendation to the PAA as to its consistency with the requirements of this section 9.6.6. The DPD may require a project to include a local preference for individuals and/or families that currently reside in or work in Lowell. The marketing plan shall include provisions by which local preference will be waived for any unit for which no income eligible local applicants apply.

10. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 9.6.6 shall not be waived.

9.6.7 Dimensional Requirements

1. Table of Requirements. Notwithstanding anything to the contrary in this Zoning Ordinance, the dimensional requirements applicable to Projects in the SGOD are as follows:

Height Limit:	7 stories
	95 feet
Maximum FAR	5.0
Minimum Frontage	none
Minimum Lot Area	none
Maximum Dwelling Units Per Acre	101

2. Building Conversions. The maximum dwelling unit per acre requirement shall not apply for conversion of existing structures built over sixty years ago. For conversion of existing structures built over sixty years ago, total units allowed under a given SGOD district shall be calculated by dividing the total square footage of building floor area within the residential portion of the Project, including common areas, by 1100 square feet.

3. Access. Projects on lots with less than twenty-five (25) feet of frontage must establish to the PAA that they have provided adequate access to the Project. Easements across other lots may be used to provide adequate access.

4. Average Unit Size. For all Projects, the average floor area of residential and artist live/work units (excluding all common areas) must be greater than 750 square feet.

5. Maximum Non-Residential Use. No mixed-use project within the SGOD shall be allowed to develop a non-residential component that, when the development potential of the remainder of the district is calculated, would preclude the district as a whole from having at least 101 residential units, including those completed and those allowed to be built, under the SGOD regulations.

9.6.8 Parking Requirements

No permit shall be issued for the erection of a new structure, the enlargement of an existing structure or the development of a land use under this Section 9.6, unless the plans show the specific location and size of the off-street parking required in compliance with the regulations set forth in this section and the means of access to such space from public streets. In the event of the enlargement of an existing structure, the regulations set forth in this section shall apply to both the existing area added to the existing structure and the existing structure. The parking requirements applicable for Projects within the SGOD are as follows.

1. Number of Parking Spaces. Residential Projects within the SGOD shall be required to provide at least one (1) parking space per unit. Non-residential Projects shall be required to provide one (1) parking space per 1000 square feet of non-residential use. Mixed use Projects shall be required to provide parking to meet both residential and non-residential parking requirements. Shared parking regulations shall not apply in the SGOD. Except as specified in 9.6.8 (2) all parking shall be provided on the same lot as a Project or on a lot owned or leased to the developer of the Project within 400 feet of the Project.

2. Exemptions. For residential uses in the SGOD, all parking requirements may be met by leasing spaces in publicly-owned off-street parking facilities located within one thousand five hundred (1,500) feet of an entrance to the use. All non-residential uses in the SGOD district are exempt from the listed parking requirements if a publicly-owned off-street parking facility is located within one thousand five hundred (1,500) feet of an entrance to the use.

3. Maximums. Projects shall provide no more parking on-site than is required unless specifically approved by the PAA. For the purpose of calculating maximum parking, the PAA will be allowed to count areas not striped for parking that could be used to park cars.

4. Unbundling of Parking. Applicants need not provide individual parking spaces bundled with individual units, and will be allowed to sell or lease units with less than the required parking provided that the total parking provided for the project meets the requirements of this Section 9.6.8, and the entrance to the use is within 1500 feet of a publicly-owned off-street parking facility.

5. Location of Parking. Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

6. Fractional Calculations. Where the computation of required parking spaces results in a fractional number, such number shall be counted as one (1).

7. Continuance of Parking. Required off-street parking facilities which after development are later designated as and accepted by the city for off-street parking purposes shall be deemed to continue to serve the uses or structures to meet the requirements for which they were originally provided.

8. Standards for parking areas. Required off-street parking facilities may be enclosed in a structure or may be open. If such facilities are open, they shall be graded, surfaced with tar, asphalt, concrete, porous pavers, or other nondusting paving, drained and suitably maintained to the satisfaction of the Building Commissioner and the City Engineer to the extent necessary to avoid the nuisances of dust, erosion or excessive water flow onto public ways or adjoining property. All off-street parking facilities must conform to all applicable provisions of the Stormwater Management Standards issued by the Massachusetts Department of Environmental Protection. Site drainage designs must be approved by the City Engineer.

9. Landscaped Open Space. Where a parking area or single lot contains ten (10) or more off-street parking spaces, there shall be landscaped open space within the perimeter of the parking area or areas in the minimum amount of five (5) percent of the gross parking area. All such landscaped areas shall be computed in addition to the parking space requirements herein. All such landscaped areas shall contain no less than one (1) live shade or ornamental tree for every two thousand (2,000) square feet of parking area. Such trees shall have a minimum trunk diameter of two (2) inches

(measured twelve (12) inches above the ground level) and shall not be planted more than fifty (50) feet apart in each contiguous landscaped area.

10. Dimensional Requirements for Off-Street Parking. The following dimensions shall apply for off-street parking within the SGOD that is required to meet the parking requirements of this Section 9.6.8:

Space dimensions:	8.5 feet by 18 feet minimum
Minimum setback from lot line:	3 feet
Minimum setback from building:	5 feet
Maximum curbcut:	25 feet
Minimum access drive:	12 feet (one way) or 20 feet (two way)
Minimum drivelane:	24 feet for perpendicular parking
	22 feet for angle parking between 60 and 90 degrees
	20 feet for angle parking between 45 and 60 degrees.

11. Prohibition. Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or servicing of any kind, and any lighting that is provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property.

9.6.9 Other Applicable Regulations of Zoning

1. Temporary Building or Use. The commissioner of buildings may grant a permit for a temporary building or use incidental to a building development, which does not comply with the provisions of this ordinance, where reasonably required for such development. Such permit may be issued for an initial period of not more than one (1) year. In the case of a building, the application shall be accompanied by a bond and bill of sale to the city, effective in case the building is not removed prior to the expiration of the permit. Permits may be renewed by the commissioner of buildings for successive periods of not more than one (1) year each, not to exceed a total of three (3) years.

2. Wetlands. This regulation shall not limit the review of development under the Wetlands Regulations of Section 5-120 of the Code of Ordinances for the City of Lowell.

3. Loading Requirements. All buildings and uses requiring the delivery of goods as a part of their function must meet the loading requirements of Section 6.2 of the Lowell Zoning Ordinance in effect as of January 1, 2008, except that conversions of buildings built more than sixty years ago into residential, live/work and/or mixed-use projects under the regulations of the SGOD need not meet the regulations of Section 6.2 if the PAA determines that existing loading facilities may be reused to adequately meet the loading needs of the Project.

4. Signs. Signs are subject to the approval of the PAA, based upon the design standards in Section 9.6.14. Furthermore, the following are prohibited in the SGOD.

a. A sign which flashes, rotates, or has a motorized moving part that is visible from a public street.

b. Any electronic readerboard or internally illuminated signs.

c. Any sign which, by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety in by obstructing the vision of drivers, or detracting from the visibility of any traffic sign or control device on public streets and roads.

d. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exitway or which obstructs a window, door or other opening for providing light or air or interferes with proper function of the building.

e. Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment; or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.

f. Signs which make use of words such as "STOP", "LOOK", "DANGER", etc., or any phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.

g. String lights used in connection with commercial premises for commercial purposes other than Christmas decorations.

h. Spinners, and streamers except as specified in temporary sign section.

i. Any sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold. Such signs shall be removed at owner's expense.

j. Any sign affixed to a fence, utility pole or structure, or tree, shrub, rock or other natural objects.

5. Illumination. Site illumination shall be subject to the regulations of Section 6.4 of the Lowell Zoning Ordinance in effect as of January 1, 2008.

6. Refuse and Recycling. All refuse containers are subject to the provisions of Section 10-74 of the Code of Ordinances of the City of Lowell. All refuse containers must not be visible from the street, may not be located in front of properties, and shall be enclosed or screened by a structure constructed out of the same or similar materials to the primary structure on the property. The enclosure shall screen the containers from view from the public way and protect the containers from raccoons, rodents, and other pests. Outdoor refuse containers shall not be stored within ten feet of exterior windows or doors that open directly onto habitable space within housing units on the basement, ground, or first floors of buildings containing housing. All residential and mixed-use projects in the SGOD must provide for on-site recycling storage and private removal of trash and recycling on a schedule that ensures that refuse and recycling containers do not overflow.

7. Flood Plain Development. When a Project in the SGOD is also within the Flood Plain Overlay District, the regulations of the Flood Plain Overlay District in Section 9.1 of the Lowell Zoning Ordinance in effect as of January 1, 2008 shall apply to this Project.

8. Telecommunication Facilities. Co-located telecommunication facilities may be developed at residential or mixed-use project sites within the SGOD, subject to the regulations, including special permit requirements, of Section 7.6 of the Lowell Zoning Ordinance in effect as of January 1, 2008.

9.6.10 Plan Approval of Projects: General Provisions

1. Plan Approval. An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 9.6.10 through 9.6.14. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. All Projects in the SGOD shall be subject to the Plan Approval process.

2. Plan Approval Authority (PAA). The Lowell Historic Board, as created under Chapter 566 of the Acts of 1983 shall be the Plan Approval Authority, and it is authorized to conduct the Plan Approval process for the purposes of reviewing Project applications and issuing Plan Approval decisions within the SGOD. For any project within the Downtown Lowell Historic District, this approval shall occur concurrently with the review of the Project for consistency with the standards for the District.

3. PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development.

4. Project Phasing. An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full buildout of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of Section 9.6.12(3). Applicants may submit Projects that are in schematic form for all but the first phase, with approval conditional upon full buildout plans being provided for review and approval of the PAA before construction of those phases.

9.6.11 Plan Approval Procedures

1. Pre-application. Prior to the submittal of a Plan Approval submission, a "Concept Plan" may be submitted to help guide the development of the definitive submission for Project buildout and individual elements thereof. Such Concept Plan should include overall building envelope areas; open space and natural resource areas; and general site improvements, groupings of buildings, and proposed land uses. The Concept Plan is intended to be used as a tool for both the Applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGOD.

2. Required Submittals. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA, along with application fees which shall be as set forth in the PAA Regulations. The application shall be accompanied by such plans and documents as may be required and set forth in the PAA Regulations. For any Project that is subject to the Affordability requirements of Section 9.6.6, the application shall be accompanied by all materials required under Section 9.6.6(3). All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the PAA.

3. Filing. An application for Plan Approval shall be filed by the Applicant with the City Clerk. A copy of the application, including the date of filing certified by the City Clerk, as well as the required number of copies of the application, shall be filed forthwith by the Applicant with the PAA.

4. Circulation to Other Boards and Departments. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Planning Board, City Engineer, Building Commissioner, Division of Planning and Development, and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within 15 days of its receipt of a copy of the plan and application for approval.

5. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits

for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

9.6.12 Plan Approval Decisions

1. Plan Approval. Plan Approval shall be granted where the PAA finds that:

   a. the Applicant has submitted the required fees and information as set forth in the PAA Regulations; and

   b. the Project as described in the application meets all of the requirements and standards set forth in this Section 9.6 and the PAA Regulations; and

For a Project subject to the Affordability requirements of Section 9.6.6, compliance with condition (2) above shall include written confirmation by the Monitoring Agent that all requirements of that Section have been satisfied to the extent feasible. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 9.6 and the design guidelines, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

2. Plan Disapproval. A Plan Approval application may be disapproved only where the PAA finds that:

   a. the Applicant has not submitted the required fees and information as set forth in the Regulations; or

   b. the Project as described in the application does not meet all of the requirements and standards set forth in this Section 9.6 and the PAA Regulations,.

3. Project Phasing. The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant. For Projects that are approved and developed in phases, the PAA shall assure the required number of Affordable Housing Units in the Project, as follows.

   a. If a project develops less than the required percentage of Affordable Housing in early phases, the PAA may, to assure the number of Affordable Housing Units in the Project, require the use of security devices referenced in GL Chapter 41 Section 81U, or the withholding of certificates of occupancy until proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing Units in the Project, or establish another means of assurance satisfactory to the PAA. In such instances no Density Bonus Payment will be received by the City until such proportionality has been achieved by the issuance of occupancy permits for Affordable Housing Units in the Project.

   b. Otherwise, the proportion of Affordable Housing Units to market rate units shall be such that, for each phase, the total built Affordable Housing Units meet or exceed the percentage required, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

4. Form of Decision. The PAA shall issue to the Applicant a copy of its decision containing the name and

address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the Registry of Deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the Applicant. This decision may be filed concurrently with a Historic Board permit approval under the regulations of the Lowell Historic Board.

5. Validity of Decision. A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such Approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project with respect to the time for commencement of phases after the initial phase.

9.6.13 Change in Plans After Approval by PAA

1. Minor Change. After Plan Approval, an Applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA**.** The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the City Clerk.

2. Major Change. Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 9.6.10 through 9.6.12.

9.6.14 Design Standards

1. Adoption of Design Standards. Any Project undergoing the Plan Approval process shall be subject to the Design Review Standards for the Downtown Lowell Historic District in effect as of January 1, 2008.

2. Purpose. The Design Standards are adopted to ensure that the physical character of Projects within the SGOD:

a. will be complementary to nearby buildings and structures;

b. will be consistent with the 2003 City of Lowell Comprehensive Master Plan, and the goals and plans of the Lowell National Historical Park;

c. will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of downtown Lowell.

9.6.15 Administration

1. Administrative Process. Development under this ordinance will be subject to the administrative regulations of the Zoning Ordinance under Section 11.1 of the Zoning Ordinance effective January 1, 2008.

2. Variances. Variances may be granted subject to the regulations for variances under Section 11.2 of the Zoning Ordinance effective January 1, 2008.

3. Special Permits. Where this Section 9.6 or any zoning section referenced in this Section 9.6 specifically requires a special permit, such permits will be subject to the administrative regulations of Section 11.3 of the Zoning Ordinance effective January 1, 2008. Projects undergoing review through this Section 9.6 that are allowed within the SGOD shall not be subject to the Special Permit requirements.

4. Site Plan Review. No Project developed under this section 9.6 shall be subject to the Site Plan Review regulations of Section 11.4 of the ordinance.

9.6.16 Severability

If any provision of this Section 9.6 is found to be invalid by a court of competent jurisdiction, the remainder of Section 9.6 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 9.6 shall not affect the validity of the remainder of the City of Lowell Zoning Ordinance.

[Ord. 8/26/08]

ARTICLE X. SPECIAL DISTRICTS

[Ord. 02-24-09]

SECTION 10.1 ***Reserved.***

SECTION 10.2 PLANNED DEVELOPMENT-MEDICAL/INSTITUTIONAL (PD-MI)

10.2.1 Purpose. The purpose of the Planned Development - Medical/Institutional (PD-MI) District is to promote the economical and efficient use of land, an improved level of physical amenities, appropriate and harmonious physical development, creative and imaginative design and the overall improvement of the urban environment for the welfare of the entire community. More specifically, this article is intended to promote and encourage the planned and orderly development and expansion of educational institutions and acute medical facilities.

10.2.2 Minimum Requirements. To qualify for PD-MI zoning, the following specifications must be satisfied:

1. The institution must be an existing licensed acute care hospital facility providing medical care and treatment to the sick, aged or crippled.

2. Any PD-MI zone shall contain not less than five (5) contiguous acres, adjacent to or including land owned by the institution.

3. The institution shall have a comprehensive development plan for the entire zone, to include all sanitary facilities as required by the health and building codes of the city, and shall be designed, constructed and maintained in accordance with the statutes, ordinances and regulations of the city and the Commonwealth of Massachusetts.

4. Such a comprehensive development plan must be submitted to the Planning Board for its approval and be in accord with the stated or implied development objectives as listed in approved planning reports and studies of the city. Such approval is required prior to the issuance of a permit to build.

5. The Planning Board shall be satisfied that adequate financing exists for the development.

10.2.3 Use Regulations. The following uses are to be allowed in the PD-MI zone:

1. *Primary Uses*: An acute hospital care facility which provides accommodations and services for the observation, diagnosis and care of individuals suffering from illness, injury, deformity or abnormality, or from any condition requiring obstetrical, medical or surgical services. This Section requires that the facility must be capable of providing such services for a minimum of fifty (50) individuals for period of not less than twenty-four (24) hours.

2. *Accessory Uses:* Except as specified below, commercial uses are to be excluded from PD-MI zones. The limitations on accessory uses contained in Section 4.2 and Article XIII shall not apply in the PD-MI zone. The following accessory uses will be permitted accessory uses: Gift shops oriented to hospital patients and visitors; Cafeteria and food service principally designed to serve hospital, educational or other institutional patients, residents, employees, students and visitors; Bookstores and other retail facilities principally oriented to patients, residents, occupants, students, staff and faculty of medical and educational institutions; Educational or medical research facilities, either publicly or privately financed; Professional services necessary to provide complete medical or educational facilities for the exclusive use and in connection with the primary use; Dormitories and residences for students, nurses and other staff members of the institution; Parking structures for the accommodation of patients, employees, visitors and students of the institution; Development of open spaces for passive and active recreation, and gymnasiums and sports facilities as elements of the education or rehabilitation program of the institution; Long term care facilities including, without limitation, any or all of the

following: skilled nursing facilities, intermediate care facilities and resident care facilities, or similar facilities as may be defined and regulated by the Commonwealth of Massachusetts; Assisted living facilities, including without limitation, assisted living residences, or similar facilities; Senior housing facilities including, without limitation, facilities providing continuing care; Ambulatory Surgery Facility; Ambulatory Care Health Facility; Medical Office Building; Any other use which is ancillary, or ordinarily incident to, any of the foregoing primary or accessory uses.

10.2.4 Development Standards. The development shall harmonize with existing adjacent land uses and not interfere with the privacy and amenity of adjacent properties. To achieve these objectives, the following standards shall be met:

1. Dimensional Requirements. More than one building may be located on a single lot within the PD-MI zone. The setback from exterior lot lines of any building shall be equal to the height of the building. There shall be no requirement for setbacks for any interior lot lines within the PD-MI zone (i.e. lot lines separating individual lots within the PD-MI zone.) The maximum height shall be 100 feet or 8 stories. The maximum floor area ration shall be 4.0. There shall be no minimum frontage requirement in the PD-MI zone. Parking areas shall be set back ten (10) feet from any building and five (5) feet from any external lot line.

2. Screening: All undesirable visual elements may be properly screened including, but not limited to the following:

A. Trash storage - solid screening required;

B. Open storage – solid screening required;

C. Utility equipment and structures - solid screening required;;

D. Parking - as required in Section 6.1.8.

3. Landscaping: Five (5) percent of required parking areas shall be used for landscaping. Such landscaping shall be distributed evenly throughout the entire parking area. This landscaping requirement is in addition to the parking requirement.

4. Access. All structures may have vehicular access to a public street.

5. Parking. The parking requirements for all uses within the PD-MI zone shall be one (1) stall for each one thousand (1,000) square feet of gross floor area for all lawful uses within the zone. There shall be a minimum of 300 square feet of paved area per parking space for all parking areas located within the PD-MI zone. The provisions of Section 6.1.4 shall not apply to parking areas located within the PD-MI zone.

6. A minimum of one loading bay shall be required for any building in the PD-MI zone containing in excess of 150,000 square feet of gross floor area. Loading areas shall be designed so as to adequately accommodate anticipated deliveries and so as to be appropriately screened from abutting Residential Districts. The provisions of Sections 6.2.2, 6.2.3, and 6.2.4 shall not apply in the PD-MI zone.

10.2.5 Subdivision of Land. Land within this district may be subdivided, but consistent with the original approved plan, so long as each separate lot within the PD-MI District meets the setback, floor area ratio, parking and landscaping requirements applicable to the PD-MI District as a whole. Any land so subdivided need not meet the minimal lot area otherwise set forth in the Zoning Ordinance, nor shall there be any required setbacks between lots in the PD-MI zone.

10.2.6 Rezoning Procedure. Application for a zone change to a PD-MI zone shall be made in accordance with G.L. c. 40A, s. 5. Prior to the granting of a PD-MI zone change, the applicant shall submit to the Planning Board, with copies to the Inspectional Services Department, the following:

1. Description and map of the area to be rezoned, showing existing land use and zoning;

2. Proof of title to or agreement to purchase all property in the area;

3. A Comprehensive plan for the proposed PD-MI zone detailing proposed uses and showing perspectives, elevations and renderings to explain the physical aspects of the plan. The plan shall include existing as well as proposed buildings and other improvements. Architectural plans of proposed individual buildings shall also be included;

4. A plan for utilities, transportation and safety facilities for project area;

5. Proof of availability of financing for project;

6. A written notarized statement by the legal applicant stating that such comprehensive plan will be adhered to and will not be modified without prior approval of the Planning Board;

10.2.7 Review. An application shall be considered "not submitted" until all the items outlined above are in the hands of the Planning Board. The Planning Board, thereafter, shall hold a public hearing as set forth in G.L. c. 40A, s. 5, as amended. The applicant is required to notify organized and recognized citizen groups in adjacent areas to the proposed development, if any, at the time of original application and after amendment, if enacted. Applicant shall execute any time extensions requested by the Planning Board in order to fully evaluate the plan and zoning ordinance.

10.2.8 Decision. Upon complete submission of the material set forth herein, the Planning Board shall formally act on the Comprehensive Plan. The Planning Board shall make its report and recommendation on the proposed PD-MI zone change to the City Council pursuant to G.L. c. 40A, s. 5. Thereafter, upon approval of the zone change by the City council the applicant shall then follow regular procedures to obtain a building permit as detailed in this Ordinance and in accordance with other applicable legal requirements. Detailed site plans and architectural plans will be submitted in accordance with zoning and subdivision laws, to the extent applicable.

SECTION 10.3 HAMILTON CANAL DISTRICT FORM-BASED CODE (HCD-FBC) [Ord. 02-24-09]

A complete copy of the approved Section 10.3 of the Zoning Ordinance is available from the City Clerk or available on-line at www.lowellma.gov as a separate file.

ARTICLE XI. ADMINISTRATION AND PROCEDURES

SECTION 11.1 ADMINISTRATION

11.1.1 Permits. This ordinance shall be administered by the Building Commissioner, who may delegate the responsibilities set forth hereunder to members of the Inspectional Services Department. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use unless in compliance with then-applicable zoning, and after all necessary permits have been received under federal, state, or local law.

11.1.2 Plans. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. For the purpose of constructing accessory buildings and structures to residential uses and the addition of unroofed decks to residential uses, mortgage survey plans are sufficient for determining compliance with zoning requirements provided that the mortgage survey plan shows the proposed construction and setbacks.

11.1.3 Enforcement. The Building Commissioner shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this ordinance and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the City Council. The Building Commissioner may, from time to time, delegate this duty to various members of the Inspectional Services Department.

11.1.4 Penalties. The penalty for violation of any provision of this ordinance, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be Three Hundred dollars ($300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

11.1.5 Right of Entry. The Building Commissioner shall, where such permit so authorizes and after proper identification, have the right to enter any premises for the purpose of inspecting any building or structure, at a reasonable hour and at such times as may be reasonably necessary to enforce this ordinance.

11.1.6 Noncriminal Disposition. Notwithstanding the foregoing, any alleged violation of any of the provisions of this Chapter may, in the sole discretion of the Building Commissioner, be made the subject matter of proceedings initiated by the Building Commissioner pursuant to the provisions of G.L. c. 40, s. 21D, that is, Noncriminal Disposition. If the Building Commissioner so elects to proceed such provision, all the terms and provisions thereof shall govern said action.

11.1.7 Notification of application for Building Permits. Within 24 hours of applying for a building permit under 780 CMR 111.1, the applicant shall post a sign, consistent with the regulations of Article VI, Section 6.3.2 (20) of this ordinance, upon the property to notifying the public of the work to take place. No building permit shall be issued until such a sign has been posted for 14 days. The following are exempt from the regulations under Section 11.1.7: [Ord 10/31/06]

1. Renovation or expansion of existing structures without a change in the specific use as defined in the Table of Use in the Lowell Zoning Ordinance

2. Construction of accessory structures

3. Development in the LI, GI, HRC, OP and RR Zoning Districts, and within the Downtown Historic District.

4. Projects requiring a sign to be posted under the regulations of Section 11.3.9, including:

    A. Projects requiring a special permit, or site plan review from the Lowell Planning Board

    B. Projects requiring a special permit or variance from the Zoning Board of Appeals

C. Projects involving new construction or a change in use that must go before the Lowell Historic Board

D. Projects undergoing a full subdivision review from the Lowell Planning Board provided that such subdivision approval was granted within the past three years. Plans endorsed under the 'Approval Not Required' provision of the subdivision control act are not exempt from the regulations of Section 11.1.7 of this ordinance.

SECTION 11.2 BOARD OF APPEALS.

11.2.1 Establishment. There is hereby established a Board of Appeals of five (5) members and two (2) associate members appointed by the City Manager in accordance with the City Charter.

11.2.2 Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this ordinance. The Board's powers are as follows:

1. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 11.3, or as otherwise specified.

2. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.

3. To hear and decide appeals or petitions for variances from the terms of this ordinance, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances.

11.2.3 Variance Prerequisites. If the application for a variance does not conflict with the foregoing prohibition, variances can only be granted by the Board of Appeals if it finds that owing to circumstances relating to soil conditions, shape or topography of land and especially affecting such land but not affecting generally the zoning district in which the land is located and a literal enforcement of the provisions of the zoning Ordinance would involve substantial hardship to the petitioner or appellant and relief can be granted without substantial detriment to the public good and without nullifying or derogation from the intent and purpose of this zoning Ordinance.

1. The Board of Appeals must find all these prerequisites before it can consider granting a variance. A failure to establish any one (1) of them is fatal.

2. The Board of Appeals is authorized to grant a variance from zoning ordinances only if each of the following jurisdictional conditions precedent exist:

A. Special hardship: "owing to circumstances relating to the soil conditions shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district"

B. Public good: "desirable relief may be granted without substantial detriment to the public good"

C. Intent of zoning satisfied: "without nullifying or substantially derogating from the intent of zoning"

11.2.4 Plans. An applicant for relief before the Board of Appeals shall submit a plan containing the following data:

a. It shall be drawn at a scale of one (1) inch equals twenty (20) feet unless another scale is requested and found suitable by the Board;

b. The plan shall be prepared by a registered land surveyor, professional engineer or architect;

c. The scale, date and north arrow shall be shown;

d. The plan shall be certified by the land surveyor doing the boundary survey and the professional engineer or architect on the location of the building(s) setbacks, and other required dimensions, elevations, and measurements and further that the plan be signed under the penalties of perjury;

e. The corner points of the lot* and the change of direction of lines to be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker, and shall be so marked;

f. Lot* number, dimensions of lot* in feet, size of lot in square feet, and width of abutting streets and ways;

g. Easements within the lot* and abutting thereon;

h. The location of existing and proposed building(s) on the lot;

i. The dimensions of the existing and proposed building(s) in feet;

j. The distance in feet of existing and proposed building(s) from the lot lines;

k. The distance between buildings on the same lot;

l. The percent of the lot* area covered by the building(s);

m. The average finished grade at each building;

n. The elevation above average finished grade of the floor and ceiling of the lowest floor of each building;

o. Topographical lines at one-foot intervals;

p. The use of designation of each building or part thereof, and of each section of open ground, plaza, or useable roof space;

q. Quantities and locations of existing and proposed parking spaces;

r. Height of each building above average finished grade;

s. Number of apartments, hotel rooms, meeting rooms, and restaurant and theater seats;

t. Total square feet of floor space for each use;

u. Dimensions and size in square feet of all landscape and recreation areas, and depiction of materials to be used (grass, five-foot shrubs, etc.).

* Refers also to series of contiguous lots under single ownership.

11.2.5 Repetitive Petitions. No petition for variance which has been unfavorably acted upon by the Board of Appeals shall be considered by the Board of Appeals within two (2) years after the date of such unfavorable action.
[Ord. 07-13-04]

11.2.6 Withdrawal. The granting of leave to withdraw after an application for variance has been advertised for a public hearing before the Board of Appeals, shall be considered as constituting unfavorable action.

11.2.7 Regulations. The Board of Appeals may adopt rules and regulations for the administration of its powers.

11.2.8 Fees. The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

11.2.9 Notification of application before the ZBA. An applicant for relief before the Zoning Board of Appeals shall be subject to the notification requirements of Section 11.3.9 of this ordinance. [Ord 10/31/06]

SECTION 11.3 SPECIAL PERMITS.

11.3.1 Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority. When so designated in this Zoning Ordinance, the Planning Board or City Council of the City of Lowell may act as a Special Permit Granting Authority.

11.3.2 Criteria. Special permits shall be granted by the Special Permit Granting Authority, unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the city or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Ordinance, the determination shall include consideration of each of the following:

1. Social, economic, or community needs which are served by the proposal;
2. Traffic flow and safety, including parking and loading;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structures;
5. Impacts on the natural environment; and
6. Potential fiscal impact, including impact on city services, tax base, and employment.

11.3.2a Criteria for Special Permits in the Table of Uses. For special permits sought under Article XII: Table of Uses of this document, the Special Permit Granting Authority will only grant a special permit to a project that is consistent with the goals of the City of Lowell Comprehensive Master Plan. A narrative must accompany each application and provide significant information to address how the project meets these goals. At minimum, the narrative must answer the following: [Ord 4-18-06] [Ord. 11-13-07]

A. Application to Master Plan:
   1. How does this project adhere to, apply, and promote the goals of the City of Lowell Comprehensive Master Plan? Successful projects should present specific connections between the goals of the Master Plan and the projects themselves.

B. Neighborhood Character:
   2. How does this project protect and enhance the character of the existing neighborhood? Successful projects should reflect the density, the urban design, the setbacks, height, and landscaping elements of surrounding buildings.

3. How does this project provide for social, economic or community needs?
4. Is the project consistent with the character, materials and scale of buildings in the in the vicinity?
5. Does the project minimize the visual intrusion from visible parking, storage and other outdoor service area viewed from public ways and abutting residences?

C. Environmental Issues:

6. Does the project have any negative impacts on the natural environment?
7. Does the project minimize the volume of cut and fill and the extent of stormwater flow and soil erosion from the site? Projects must meet the standards of the MA Department of Environmental Protection Stormwater Management Policy Handbook: Volume I & Stormwater Technical Handbook Volume II.
8. Does the project minimize the contamination of groundwater?
9. Does the project provide for storm water drainage consistent with the local regulations?
10. Does the project minimize obstruction of scenic views?
11. Does the project minimize lighting glare on abutting properties?

D. Traffic, Access and Safety:

12. How does the project address traffic flow and safety, including parking and loading? Does the project provide adequate parking for visitors? Will the project impact an area with significant on-street parking demand? Will the project require the loss of on-street public parking for driveway curb cuts?
13. Does the project provide adequate access to each structure for fire and service equipment and adequate utilities?
14. Does the project provide adequate and safe pedestrian and vehicle access through and around the project?

E. Additional Impacts

15. Are there any substantial impacts on public services and utilities?
16. Does the project have any negative fiscal impact on the city, including impact on city services, schools, tax base, and employment?
17. Does the project comply fully with the Zoning Ordinance, including parking, signage, landscaping, open space requirements, curb cut lengths and driveway widths?

11.3.3 Procedures. Special permit applications shall be governed by the rules and regulations of the special permit granting authority. Whenever an application for a special permit is filed with a special permit granting authority, the applicant shall also file, within five (5) working days of the filing of the completed application with said authority, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Commissioner, Commissioner of Public Works, Police Chief, Fire Chief, Water and Wastewater Utilities, City Engineer, and Planning Board or Zoning Board of Appeals as the case may warrant, for consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant.

11.3.4 Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this ordinance.

11.3.5 Plans. An applicant for a special permit shall submit a plan in conformance with the requirements of Section 11.2.4, herein.

1. The provisions of this Section 11.3.5 shall not apply to applications for special permits to reconstruct, extend, alter, or structurally change a nonconforming single or two family structure. Each special permit granting authority may establish procedures governing such applications by regulation.

11.3.6 Regulations. The special permit granting authority may adopt rules and regulations for the administration of this section.

11.3.7 Fees. The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

11.3.8 Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the City Clerk.

11.3.9 Notification of application before the Planning Board or ZBA. At the time an application is filed for a special permit or site plan review or subdivision approval from the Lowell Planning Board, an application for a special permit or variance from the Zoning Board of Appeals, or an application for a project including new construction or a change in use from the Lowell Historic Board, the applicant shall post a sign, consistent with the regulations of Article VI, Sec. 6.3.2 (20) of this ordinance, upon the property to notify the public of the application. Such sign must be posted at least 14 days before the public hearing. The following are exempt from the regulations under Section 11.3.9: [Ord 10/31/06]

1. Application for Special permit under Section 4.5.5 of the Zoning Ordinance, to expand a non-conforming one or two-family residential structure.

SECTION 11.4 SITE PLAN REVIEW

11.4.1 Purpose. The site plan review process is adopted pursuant to the Home Rule Amendment of the Massachusetts Constitution in order to protect and promote the health, safety, convenience, and general welfare of the inhabitants of the city, and to promote acceptable site planning practices and standards within the City of Lowell. It is also the intent of this review process to ensure compliance with the City of Lowell Zoning Ordinance, the Regulations of the Planning Board, and good zoning practices.

11.4.2 Applicability. The following types of activities and uses on a single lot or on contiguous lots in common ownership require site plan review:

1. Any of the following, as a single proposed development project or a series of development projects within a 12 month period:
   a. Construction of a non-residential structure or structures greater than 10,000 square feet,
   b. Exterior alteration or expansion of a non-residential structure or structures where the area of alteration or expansion exceeds 10,000 square feet, or,
   c. Exterior alteration or expansion of a non-residential structure or structures where the alteration or expansion will exceed 50% of the total gross floor area of the structure or structures upon completion of the project, and where the complete project will be a structure or group of structures greater than 10,000 square feet. [Ord. 4-3-07]

2. Construction, exterior alteration, conversion or expansion of any residential structure or structures with more than three dwelling units, except for subdivisions containing only single family homes approved by the Lowell Planning Board under MGL 41 Section 81 and the City of Lowell's Subdivision of Land Regulations. Single family homes on lots created through the regulations of MGL 41, Section 81P (Approval Not Required Lots) will require site plan review, when more than three units are built on common or contiguous lots. [Ord. 4-3-07]

3. Construction or expansion of any parking lot with more than fourteen spaces or 4,000 square feet of impervious surface.

4. Any commercial construction involving the installation or construction of self-service gasoline pumps or drive-through or drive-up customer service on the premises.

5. Construction, exterior alteration, conversion or expansion of a Privately Developed and/or Operated Dormitory subject to Section 7.8 of this ordinance. [Ord. 11-24-09]

6. Construction of freestanding telecommunications towers under section 7.6.3 of this ordinance. [Ord. 5-25-10]

11.4.3 Exemptions. Any development involving the renovation of an existing building subject to the review and approval of the Lowell Historic Board, where all substantial work is confined within the footprint of the existing building, is exempt from site plan review.

11.4.4 Procedures; Site Plan Review with Required Public Hearing. An application for site plan approval shall be submitted to the Planning Board for its review and decision. The Planning Board shall open a public hearing within sixty-five (65) days from the date of receipt of the application, and notice shall be provided in accordance with the provisions of G.L. c. 40A, s. 11.

1. The Planning Board shall, within thirty (30) days of the close of the public hearing, approve, approve with conditions, or deny approval of the site plan. The decision of the Planning Board shall be upon a majority of the Board as constituted.

2. The Planning Board shall file a written decision with the City Clerk within fourteen (14) days after taking action as set forth above.

11.4.5 Pre-Application Scoping. Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the Board. Waivers may be requested pursuant to section 11.4.9 at such scoping.

11.4.6 Application. An application for site plan approval shall be accompanied by six (6) copies of the site plan which shall be at a scale to be 1" = 20', unless otherwise approved by Planning Board. Additional copies shall be submitted as set forth in Section 11.4.8. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. The site plan shall include the following information, which shall be submitted on the following sheets:

1. Existing Conditions.
   A. Location of all existing natural features, including ponds, brooks, streams, wetlands, elevations and topography, proposed and existing contours.

   B. Owners of record of all abutting lots as of the most current City of Lowell Tax Assessors' records and the approximate locations (may be based on City of Lowell GIS data or aerial photography) of all buildings or structures on abutting lots that are located within 30'-0" of the lot lines of the proposed project site

2. Site Layout.
   A. Location and dimensions of all buildings and other construction;

   B. Internal roadways and accessways to adjacent public roadways, and a profile of same if determined to be necessary by the Planning Board;

   C. Location of snow storage areas and trash dumpster.

   D. Paths of safe emergency egress from all proposed buildings to the public right-of-way.

3. Parking.
   A. Location and dimensions of all parking areas, loading areas, walkways, and

driveways.

4. Landscaping and Lighting.
   A. Location and type of external lighting;

   B. Location, type, dimensions and quantities of landscaping and screening.

5. Utilities.
   A. Location and dimensions of utilities, including water, surface drainage, sewer, fire hydrants and other waste disposal, and a profile of same if determined to be necessary by the Planning Board.

6. Architectural plan.
   A. Architectural plan which shall include the ground floor plan and architectural elevations of all proposed buildings. All residential projects with ten (10) or more units and all non-residential buildings of 10,000 or more square feet must also include one or more architectural rendering(s) sufficient to establish views of the structure or structures from the public way. [Ord. 11-29-05]

11.4.7 Narratives. A zoning evaluation table shall be provided to show how the development meets or fails to meet the requirements of the City of Lowell Zoning Ordinance. Such site plan shall also be accompanied by a brief narrative, as required by the Planning Board, addressing the above site plan requirements and other appropriate concerns in the following defined categories: (a) buildings; (b) parking and loading; (c) traffic flow and circulation; (d) external lighting; (e) landscaping and screening; (f) utilities; (g) snow removal and (h) an environmental impact statement, if required by the Planning Board; otherwise a description of natural area protection and enhancement.

11.4.8 Review by Other Agencies. The applicant shall, within seven (7) days after submission of an application for site plan approval, transmit one (1) copy each of said application and plan to the City Engineer, Board of Health, Conservation Commission, Fire Chief, Police Chief, City Transportation Engineer, Wastewater Utility and the Water Utility, who may at their discretion, investigate the application and report in writing their recommendations to the planning board on a timely basis. The planning board shall not take final action on such application until it has received a report thereon from such officials or entities, or until thirty-five (35) days from the date of such transmittal have elapsed without a submission of said report(s), in which case failure to respond shall be deemed a lack of opposition to the application.

11.4.9 Waiver of Technical Compliance. The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Sections 11.4.6, 11.4.7 or 11.4.8 where the project involves relatively simple development plans.

11.4.10 Decision. Site plan approval may be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these goals. New building construction or other site alteration shall be designed, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

1. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

2. Maximize pedestrian and vehicular safety on the site, to the site, and egressing from it;

3. Minimize obstruction of scenic views from publicly accessible locations;

4. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

5. Minimize glare from headlights and lighting intrusion;

6. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

7. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;

8. Provide adequate access to each structure for fire and service equipment and adequate utilities;

9. Provide stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulation, the Massachusetts Department of Environmental Protection Stormwater Management Policy Handbook: Volume I & Stormwater Technical Handbook Volume II, and all other applicable stormwater regulations. [Ord. 11-13-07]

10. Ensure compliance with the provisions of this Zoning Ordinance, including the parking, signage, landscaping and environmental performance standards.

11.4.11 Effect. No building permit shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board, or unless ninety (90) days lapse from the date of the submittal of the site plan without action by the Planning Board.

1. Where the Planning Board approves a site plan "with conditions", and said site plan accompanies a special permit or variance application, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a variance issued by the Board of Appeals or a Special Permit issued by the specified Special Permit Granting Authority.

2. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

11.4.12 Lapse. Site plan approval shall lapse after two years from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

11.4.13 Regulations. The Planning Board may adopt reasonable regulations for the administration of site plan review.

11.4.14 Fee. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

11.4.15 Appeal. Any decision of the Planning Board pursuant to this Section shall be appealed in accordance with G.L. c. 40A, s. 17 to a court of competent jurisdiction.

11.4.16 Notification of application for site plan review. An applicant for site plan review before the Planning Board shall be subject to the notification requirements of Section 11.3.9 of this ordinance. [Ord 10/31/06]

Attest: the foregoing is a true copy of the Zoning Ordinance of the City of Lowell in effect on December 8, 2004 including all approved amendments through November 16, 2010.

/s/_____
Richard C. Johnson, City Clerk
Lowell, Massachusetts

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ARTICLE XII: TABLE OF USES

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
12.1. RESIDENTIAL USES [Ord. 11-13-07]																		
a. One detached dwelling unit on a lot occupied by not more than one family	Y	SP	SP	N	Y	Y	Y	SP	N	Y	Y	SP	N	N	N	N	N	N
b. Two detached or attached dwelling units on a lot occupied by not more than one family each	N	SP	SP	N	N	Y[+]	Y	SP	N	N*	Y	SP	N	N	N	N	N	N
c. Three (3) dwelling units on one lot (in any combination of single-family detached dwelling units, attached or semi-detached dwelling units, multi-family structures, or as a part of a mixed-use project with other uses allowed in the district, including townhouse developments)	N	SP	SP	N	N	N	PB	PB	PB**	N	Y	PB	SP**	N	PB**	N	N	N
d. Four to six (4-6) dwelling units on one lot (in any combination of single-family detached dwelling units, attached or semi-detached dwelling units, multi-family structures, townhouses, or as a part of a mixed-use project with other uses allowed in the district, including townhouse developments)	N	Y	PB	N	N	N	PB	PB	PB**	N	Y	PB	SP**	N	PB**	N	N	N
e. Seven (7) or more units on one lot (in any combination of single-family detached dwelling units, attached or semi-detached dwelling units, multi-family structures, or as a part of a mixed-use project with other uses allowed in the district, including townhouse developments)	N	Y	PB	N	N	N	N	PB	PB**	N	Y	PB	SP**	SP**	PB**	N	N	N
f. Reserved																		
g. Reserved																		
h. One or two dwelling units in a building with a legal non-residential use on the ground floor.	N	Y	Y	SP	N	Y	Y	Y	Y	SP	Y	Y	SP	SP	SP	SP	SP	N
i. Senior Congregate Housing, including, but not limited to, assisted living facilities.	N	Y	Y	SP	N	SP	Y	Y	SP	SP	Y	Y	SP	SP	SP	N	N	N
j. Trailer.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
k. Non-family accommodations:																		
1. Tourist home, Bed & Breakfast Inn	N	SP	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP	N	Y	N	N	N
2. Boarding or Lodging house, fraternity	N	N	SP	N	N	N	N	SP	SP	N	SP	SP	SP	N	SP	N	N	N
3. Dormitory	N	N	N[++]	N	N	N	N	N[++]	N[++]	N	N	SP	SP	N	Y	N	N	N
4. Hotel	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	SP	N
5. Motel	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	SP	N	SP	SP	N

* Except permitted accessory unit by special permit (see "Accessory Uses" section).
** Townhouse developments are not allowed in the NB, DMU, HRC or INST districts.
[+] See also Section 5.2.2.
[++] [Ord. 11-24-09]

12.2. CONVERSION OF DWELLING STRUCTURE																		
a. Existing single family detached dwelling converted for not more than two families, where all dimensional and other requirements are met, including all applicable provisions of Section 8.1.	N	Y	SP	N	N	Y	Y	SP	SP	SP	Y	SP	SP	N	SP	N	N	N
b. Other dwellings converted for more than two families; where all dimensional and other requirements are met, including all applicable provisions of Section 8.1.	N	SP	SP	N	N	N	SP	SP	SP	N	SP	SP	SP	N	SP	N	N	N
c. Buildings located in historic mill complexes or religious or educational buildings converted for more than two families; where all dimensional and other requirements are met, including all applicable provisions of Section 8.1.	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	N	PB	N	N	N

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
12.3. INSTITUTIONAL, RECREATIONAL & EDUCATIONAL USES																		
a. Use of land or structures for exempt religious purpose.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. Use of land or structures for exempt educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination or by a nonprofit educational corporation.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Nonexempt educational use of land or structures, including, but not limited to, trade, professional or other schools conducted as a gainful business. *This use is allowed in an HRC, OP, LI or GI district by special permit only if the use is affiliated with an office or commercial activity.	N	N	SP	Y	N	N	N	SP	SP	N	N	SP	Y	SP*	Y	SP*	SP*	SP*
d. Licensed child care facility.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
e. Library or museum open to the public or connected with a permitted educational use and not conducted as a gainful business. *This use is allowed in an OP or HRC by special permit only if the use is affiliated with an office or commercial activity.	SP	Y	Y	Y	SP	SP	Y	Y	Y	SP	Y	Y	Y	SP*	Y	SP*	N	N
f. Commercial recreational facility, outdoor	SP	SP	Y	Y	SP	SP	SP	Y	Y	SP	SP	Y	Y	SP	Y	SP	SP	SP
g. Commercial recreational facility, indoor. If food or beverages are to be served or consumed, the establishment must also conform to the applicable district and use requirements listed herein.	N	N	SP	Y	N	N	N	SP	SP	N	N	SP	Y	Y	Y	Y	Y	SP
h. Community center, settlement house, humane society, or other similar facility operated by an educational, non-profit, public, or religious institution or organization not conducted as a gainful business.	SP	SP	Y	Y	SP	SP	SP	Y	Y	SP	SP	Y	Y	N	Y	N	N	N
i. Club or lodge, private.	N	SP	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP	SP	Y	SP	N	N
j. Licensed hospital or other licensed establishment for the care of sick, aged, disabled or convalescent persons.	N	SP	SP	Y	N	SP	SP	SP	SP	N	SP	SP	Y	SP	Y	SP	SP	N
k. Other health care facility.	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	SP	SP	SP	SP	N	N
l. Cemetery.	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP	N	N	N	N	N	N	N
m. Institutional use not listed in any other use category.	N	SP	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP	SP	SP	SP	N	N

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
12.4. RETAIL, RESTAURANT, AND CONSUMER SERVICE USES																		
a. Retail operation with 5,000 square feet or less of gross floor area per establishment	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	SP	SP
b. Retail operation with greater than 5,000 square feet of gross floor area per establishment	N	N	Y	Y	N	N	N	SP	SP	N	N	SP	Y	SP	Y	SP	SP	SP
c. Service Business	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	SP	SP
d. Restaurant, 5000 square feet of less gross floor area per establishment.	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	SP	SP
d1. Take-out restaurant [Ord. 4-3-07]	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	SP	SP
e. Restaurant, exceeding 5,000 square feet of gross floor area.	N	N	Y	Y	N	N	N	SP	SP	N	N	SP	Y	Y	Y	Y	SP	SP
f. Bar, saloon, or other establishment where alcoholic beverages are sold and consumed, but which is not licensed to prepare or serve food, with or without an entertainment license.	N	N	Y	Y	N	N	N	Y	SP	N	N	Y	Y	SP	SP	SP	SP	SP
g(1). Drive-in or drive-through establishment, where motorist does not have to leave his/her car, serving a restaurant, take-out restaurant, food retailer, beverage service establishment, or any other use not listed in 12.4(g)(2) below. [Ord. 11-16-10]	N	N	SP	SP	N	N	N	N	N	N	N	SP	N	SP	N	SP	SP	SP
g(2). Drive-in establishment or drive-through establishment, where motorist does not have to leave his/her car serving a pharmacy, bank, or financial services business. [Ord. 11-16-10]	N	N	SP	SP	N	N	N	SP	N	N	N	SP	N	SP	SP	SP	SP	SP
h. Veterinary establishment, kennel or pet shops or similar establishments	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP
i. Funeral or undertaking establishment.	N	SP	SP	SP	N	N	SP	SP	SP	N	N	SP	SP	Y	N	Y	Y	Y
j. Adult entertainment establishments:	N	N	N	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N
k. Massage Therapy establishments:	N	N	N	SP	N	N	N	N	SP	N	N	N	SP	SP	N	SP	SP	N
l. Body Art Establishments (as defined by Board of Health Regulation):	N	N	SP	SP	N	N	N	SP	N	N	N	SP	SP	N	N	N	SP	N
12.5. OPEN AIR OR DRIVE-IN RETAIL AND SERVICE																		
a. Sales place for flowers, garden supplies, agricultural produce conducted partly or wholly outdoors, commercial green house or nursery not exempt pursuant to G.L. c. 40A, s. 3	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	SP	Y	Y	Y
b. Place for exhibition, lettering or sale of gravestones.	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP
c. Open air or drive-in theater or other open air place of entertainment or athletics conducted for profit.	N	N	SP	SP	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP
d. Open lot storage of new building materials, machinery and new metals but not including junk, scrap metal, rags, waste paper and similar materials provided the area so used is enclosed by a 6 foot high wall or tight fence.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP
e. Open lot storage of used lumber or other building materials, provided that the area so used is surrounded by a 6 foot high wall or tight fence.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP
f. Open lot storage of coal, coke, sand or other similar materials, or such storage in silos or hoppers, provided the area so used is surrounded by a 6 foot high wall or tight fence.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
12.6. AUTOMOTIVE AND RELATED USES																		
a. Automotive Sales, indoor	N	N	SP	Y	N	N	N	SP	N	N	N	SP	N	N	SP	N	Y	Y
b. Automotive Sales, outdoor	N	N	N	SP	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y
c. Automotive service station	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	N	SP	N	SP	Y	Y
d. Automotive repair garage	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	N	SP	N	SP	Y	Y
e. Autobody or paint shops	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y
f. Car washing establishment	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	SP	SP	N	SP	Y	Y
g. Parking lots and structures other than those provided as an accessory use to the principal use being conducted on the lot, in conformance with this zoning code.	N	N	SP	SP	N	N	N	SP	SP	N	N	SP	SP	SP	SP	SP	SP	SP
h. A private parking structure or parking area, used solely for the parking of passenger cars of residents of other lots located within 400 feet or their guests, owned or operated by private individual(s), trust(s), association(s), or corporation(s).	N	SP	SP	SP	N	N	SP	SP	SP	N	SP	SP	SP	N	SP	N	N	N
i. A private parking structure or parking area, used solely for the parking of passenger cars of residents of other lots located within 400 feet or their guests, owned and operated by a registered not-for-profit or public entity and not operated as a gainful business.	N	SP	SP	SP	N	SP	SP	SP	SP	SP	SP	SP	SP	N	SP	N	N	N
i. Lot for stowing towed vehicles	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP
12.7. UTILITIES, TELECOMMUNICATIONS, AND PUBLIC SERVICE USES																		
a. Public utility or service facilities	SP	SP	Y	Y	SP	SP	SP	SP	SP	SP	SP	SP	Y	Y	SP	Y	Y	Y
b. Municipal facility, other than those set forth in subsection c, below	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
c. Municipal service facilities operated by the City of Lowell Department of Public Works, Lowell Water Utility, or Lowell Wastewater Utility.	SP	SP	Y	Y	SP	SP	SP	SP	SP	SP	SP	SP	Y	Y	SP	Y	Y	Y
d. Radio or television studio.	N	N	Y	Y	N	N	N	SP	SP	N	N	SP	Y	Y	Y	Y	Y	Y
e. Radio or television transmission stations (including towers related to said use).	N	N	SP	SP	N	N	N	N	N	N	N	N	SP	Y	Y	Y	Y	Y
f. Telecommunications facilities	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
g. Large Wind Energy Facility [Ord. 5-25-10]	N	N	N	PB	N	N	N	N	N	N	N	N	N	Y	PB	PB	Y	Y
12.8. OFFICE AND LABORATORY USES																		
a. Business or professional office, with a gross floor area of 5000 square feet or less.	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
b. Business or professional office, with a gross floor area greater than 5000 square feet.	N	N	Y	Y	N	N	N	Y	SP	N	N	Y	Y	Y	Y	Y	Y	Y
c. Medical or dental center or clinic, including laboratories incidental thereto.	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	SP	Y	SP	SP	SP
d. Telephone Answering Service/Call Center.	N	N	Y	Y	N	N	N	Y	SP	N	N	Y	Y	Y	Y	Y	Y	Y
e. Laboratories or research facilities, provided any manufacturing is incidental to the operation of the facility, does not exceed fifty percent of the gross floor area of the building and is not injurious to the surrounding area by nature of dust, noise, smoke and odors.	N	N	Y	Y	N	N	N	SP	N	N	N	SP	Y	Y	Y	Y	Y	Y

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
12.9. INDUSTRIAL USES																		
a. Distribution center, parcel delivery center, delivery warehouse	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	Y	Y
b. Self-storage facility.	N	N	N	N	N	N	N	N	N	N	N	N	SP	N	SP	N	Y	Y
c. Steam laundry or dry cleaning plant.	N	N	N	SP	N	N	N	N	N	N	N	N	SP	SP	SP	SP	Y	Y
d. Food and beverage manufacturing, bottling or processing and commissary.	N	N	N	SP	N	N	N	N	N	N	N	N	SP	SP	SP	SP	Y	Y
e. Commercial storage warehouse, cold storage plant, or storage building	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	N	Y	Y
f. Wholesale business, including storage associated with said business	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	N	Y	Y
g. Manufacturing, assembly, reconditioning and processing plant	N	N	N	SP	N	N	N	N	N	N	N	N	SP	SP	SP	SP	Y	Y
h. RR freight terminals, shops and yards.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP
i. Rendering or preparation of grease tallow, fats and oils, manufacture of shortening, table and other food oils but not including garbage, dead animals, offal or refuse reductions.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP
j. Stone cutting, shaping and finishing in completely enclosed buildings.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP
k. Recycling facility	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	Y
l. Dismantling or wrecking of used motor vehicles and storage and sale of the parts provided that open lot storage shall not exceed 12 feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height as the material so stored.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP
m. Truck or bus terminal, yard or building for storage or servicing of trailers, trucks, shipping containers, or buses and parking lot for trucks.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y
n. Processing of sand and gravel and the manufacture of bituminous concrete.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	Y
o. Open lot storage of junk, scrap, rags, paper, junked vehicles and other similar salvage articles provided that open lot storage shall not exceed 12 feet in height and that the area so used shall be enclosed by a tight wall or fence of at least the same height of the material so stored.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP
p. Manufacture, processing, assembly or other industrial operations subject to Building and Health Department Regulations without limit as to category or product except as otherwise listed in this Table, or as hereinafter prohibited, provided that (a) all dust, fumes, odors, smoke or vapor are effectively confined to the premises or so disposed of as to avoid air pollution, and (b) any noise, vibration or flashing are not normally perceptible without instruments at a distance of 500 feet from the premises, but the following are expressly prohibited: (a) Stockyard or abattoir (b) Petroleum refining (c) Smelting of zinc, copper or iron ores (d) Incineration or reduction of garbage, offal or dead animals except as conducted by the City of Lowell (e) Cement, lime or gypsum manufacture (f) Explosives or fireworks manufacture	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP
q. Gravel or material removed	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
r. Contractor Garage	N	N	SP	SP	N	N	N	SP	N	N	N	SP	N	N	N	N	Y	Y
s. Portable Storage Unit or Shipping Container larger than 120 sf (as a primary or accessory use)	N	N	N	SP	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y
12.10. SPECIAL USES																		
a. Planned Unit Development.	N	N	SP	SP	N	N	N	SP	N	N	SP	SP	SP	SP	SP	SP	SP	SP
b. Planned Residential Development.	CC	CC	CC	N	CC	CC	CC	CC	N	CC	CC	CC	N	N	N	N	N	N
12.11. USES PROHIBITED OR NOT COVERED BY TABLE																		
a. A specific principal use or activity prohibited by the "N" designation or not covered in the preceding Table cannot be varied or authorized by the Board of Appeals in any district in which the land or structure is located. An applicant desiring to conduct such a use of activity not authorized will need to apply for amendment to the zoning code in the manner provided for by Chapter 40A, the State Zoning Act.	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
12.12. SCIENTIFIC ACCESSORY USES																		
a. Scientific Uses which are necessary in connection with scientific research, scientific development or related production activities which are permitted in the above tables.	N	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP
12.13. ARTIST USES [Ord. 11-16-10]																		
a. Artist Live/Work Space. *may be permitted by special permit only within the boundaries of the Artist Overlay District created by Section 9.2.	N	N	N	N	N	N	N	N	N	N	SP*	SP*	SP*	N	N	N	SP*	N
b. Art/Craft Studio	N	N	SP	SP	N	N	N	SP	SP	N	N	Y	Y	SP	Y	SP	SP	SP

ARTICLE XIII: TABLE OF ACCESSORY USES

District Type:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
Districts:	**SSF**	**SMF**	**SMU**	**RR**	**TSF**	**TTF**	**TMF**	**TMU**	**NB**	**USF**	**UMF**	**UMU**	**DMU**	**HRC**	**INST**	**OP**	**LI**	**GI**
ACCESSORY USES																		
a. The renting of rooms or the furnishing of table board by a resident owner to not more than two (2) nontransient roomers or boarders	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
b. The renting of rooms or the furnishing of table board to more than two (2) nontransient roomers or boarders as an accessory use	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
c. Provision of a garage or parking space for occupants, employees, customers, or visitors	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
d. In multifamily dwellings, hospitals or hotels with more than thirty (30) sleeping rooms, a newsstand, barbershop, dining room or similar service for occupants thereof	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
e. A parking area, as an accessory use, located within 1000 feet of the primary use and for the parking of passenger cars of employees, customers or guests of commercial or institutional establishments,	N	N	Y	Y	N	N	N	Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y
f. Parking or allowing to stand any motor vehicle and/or motor vehicle attachment (excluding recreational vehicles) having a gross vehicle weight of twelve thousand (12,000) pounds or more, or exceeding 24 feet in length, or having three (3) or more axles, for more than one-half (1/2) hour, on any day, at any time	N	N	N	SP	N	N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP
g. Temporary building or use incidental to a building development	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
h. Home occupation per section 4.3.3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
i. Home occupation per section 4.3.4	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
j. Family day care, small	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N	N	SP	N	N	N
k. Family day care, large	SP	SP	SP	N	SP	SP	SP	SP	N	SP	SP	SP	N	N	SP	N	N	N
l. Adult day care, small	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y	N	N	SP	N	N	N
m. Adult day care, large	SP	SP	SP	N	SP	SP	SP	SP	N	SP	SP	SP	N	N	SP	N	N	N
n. Accessory Dwelling Unit, added to a single family home, subject to minimum lot area per dwelling unit requirements	N	N	N	N	N	N	N	N	N	SP	N	N	N	N	N	N	N	N
o. Common accessory facilities to exclusively serve the residents of an on-site multi-family residential building or complex of buildings, including but not limited to: a management/maintenance office, exercise facility, common meeting area or computer room. [Ord. 11-29-05]	N	N	Y	Y	N	N	N	Y	Y	N	Y	Y	Y	Y	Y	N	N	N
p. Small Wind Energy Facility [Ord. 5-25-10, 11-16-10]	PB	PB	PB	PB	N	N	N	N	N	N	N	N	N	Y	PB	Y	Y	Y
q. Building-Mounted Wind Energy Facility [Ord. 5-25-10, 11-16-10]	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	PB	Y	Y

CODE COMPARATIVE TABLE

The following table is provided for the convenience of those readers who may be familiar with the former Lowell Zoning Code (1987 Codification & 2001 Compilation), by identifying the new location of like content to the former sections. This table has not been formally accepted by the Lowell City Council as part of the Zoning Ordinance. Where any errors or inconsistencies with the actual expressed text in the Zoning Ordinance or its index and table of contents exist, the expressed text, index, or table of contents shall take precedence.

Old Section	Topic	New Section
31-0	Title Cited	1.1
31-1	Definitions	Article II
31-2	Purposes	1.2
31-3	Applicability of Provisions	1.4
31-4	Interpretation & Application	1.5
31-5	Agreements & Covenants	1.6
31-6	Districts Enumerated	3.1
31-7	District Boundaries	3.3.1
31-8	Zoning Map	3.3.1
31-9	Permits & Licenses	11.1.1
31-10	Reasons for Refusal Must be in Writing	Building Code
31-11	Filing of Plans	11.1.2
31-12	Permits Prior to Amendment of Chapter	4.5.1
31-13	Alter, Enlargement of Non-Conforming Uses	4.5
31-14	Certificate of Occupancy	Building Code
31-15	Special Permits	11.3
31-16	Variances	11.2
31-17	Amendment Procedures	1.7
31-18	Applicability to Existing Buildings, Uses, etc.	5.1.4
31-19(a)	Lot Frontage	5.1
31-19(b)	Reduction of Lot Area	5.1.9
31-20	Nonconforming Uses	4.5
31-21	Accessory Uses	4.3, Article XIII
31-22	Signs	6.3
31-23	Illumination	6.4
31-24	Transition Requirements	5.2.5
31-25	Removal of Material	7.4
31-26	Board of Appeals	11.2
31-27	Enforcement of Provisions	11.1.3
31-28	Proceedings Regarding Violations	11.1.3
31.29	Right of Entry	11.1.5
31-30	Penalty for Violations	11.1
31-31	District Uses	4.2
31-32	Table of Use Regulations	Article XII
31-33(a)	Dimensional Regulations	5.1
31-33(b)	Computation of Lot Area	5.1.2(1)
31-33(c)	Lots with Multiple Buildings	5.1.3
31-33(d)	Certain Residential Uses	5.2.1
31-33(e)	S1 & S2 Districts	5.2.2
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Diagrams have been included in this zoning book for illustrative purposes only and have not been formally adopted as part of the Lowell Zoning Ordinance. The diagrams shall not be construed as altering any regulations expressed herein. Where a conflict exists, the expressed regulations in the Zoning Ordinances shall have precedence over the diagrams.