

## **ZONING BOOK**

**City of Lowell, Massachusetts**

**Adopted by the Lowell City Council December 7, 2004.**

This document includes all approved amendments through May 25, 2010.

- 4.2.2 Definition of Uses
- 4.2.3 Mixed-Use
- 4.3 ACCESSORY USES
  - 4.3.1 General
  - 4.3.2 Table of Accessory Uses
  - 4.3.3 Home Occupation – As of Right
  - 4.3.4 Home Occupation – By Special Permit
  - 4.3.5 Special Rules
  - 4.3.6 Temporary Building or Use
  - 4.3.7 Conditions
- 4.4 ACCESSORY STRUCTURES
  - 4.4.1 Conditions
- 4.5 NONCONFORMING USES AND STRUCTURES
  - 4.5.1 Applicability
  - 4.5.2 Nonconforming Uses
  - 4.5.3 Nonconforming Structures
  - 4.5.4 Variance Required
  - 4.5.5 Nonconforming Single and Two Family Residential Structures
  - 4.5.6 Abandonment or Non-Use
  - 4.5.7 Reconstruction After Catastrophe or Demolition
  - 4.5.8 Reversion to Nonconformity
  - 4.5.9 Infectious Invalidity

**ARTICLE V. DIMENSIONAL REQUIREMENTS**

- 5.1 TABLE OF DIMENSIONAL REGULATIONS
  - 5.1.1 Notes to Dimensional Table
  - 5.1.2 Computation of Lot Area
  - 5.1.3 Lot with Multiple Buildings
  - 5.1.4 Grandfathered Lots
  - 5.1.5 Lots in the HRC District
  - 5.1.6 Yards
  - 5.1.7 Projections
  - 5.1.8 Building Bulk
  - 5.1.9 Reduction of Lot
  - 5.1.10 Lot Width
- 5.2 SPECIAL DIMENSIONAL REGULATIONS
  - 5.2.1 Certain Residential Uses
  - 5.2.2 Number of Dwellings on a Lot
  - 5.2.3 Construction Near Wetlands (See also section 5-120 of the Code of Ordinances)
  - 5.2.4 Lots with More than One Frontage
  - 5.2.5 *Reserved.*
  - 5.2.6 Exceptions to Yard Requirements
  - 5.2.7 Exceptions to Height Requirements
  - 5.2.8 Corner Clearance
  - 5.2.9 Frontage Reduction for Large SSF Lots
- 5.3 OPEN SPACE
  - 5.3.1 Landscaped Open Space in Residential Districts
  - 5.3.2 Usable Open Space
  - 5.3.3 *Reserved.*

**ARTICLE VI. GENERAL REGULATIONS**

- 6.1 OFF-STREET PARKING
  - 6.1.1 Intent of Parking Requirements

- 7.6.1 Purpose
- 7.6.2 Applicability
- 7.6.3 Special Permit Procedures
- 7.6.4 Additional Criteria
- 7.6.5 Submittal Requirements
- 7.6.6 Design and Performance Standards
- 7.6.7 Co-Location
- 7.6.8 Maintenance Guarantee
- 7.6.9 Removal of Abandoned Facilities
- 7.7 NARCOTIC DETOXIFICATION AND/OR MAINTENANCE FACILITIES
  - 7.7.1 Purpose
  - 7.7.2 Use
  - 7.7.3 Criteria for Special Permit
  - 7.7.4 Conditions
- 7.8 PRIVATELY DEVELOPED AND/OR OPERATED DORMITORIES
  - 7.8.1 Purpose
  - 7.8.2 Applicability
  - 7.8.3 Conditions

**ARTICLE VIII. SPECIAL RESIDENTIAL REGULATIONS**

- 8.1 CONVERSION OF LARGER BUILDINGS
  - 8.1.1 Purpose
  - 8.1.2 Applicability
  - 8.1.3 Conditions
  - 8.1.4 Variance Required
  - 8.1.5 Downtown Conversions
- 8.2 PLANNED RESIDENTIAL DEVELOPMENT (PRD)
  - 8.2.1 Purpose
  - 8.2.2 Eligibility Requirements
  - 8.2.3 Application
  - 8.2.4 Procedures
  - 8.2.5 Permitted Land Use Activities in a PRD
  - 8.2.6 Dimensional Requirements
  - 8.2.7 Open Space Requirements
  - 8.2.8 Signage and Parking Requirements
  - 8.2.9 Screening Requirements
  - 8.2.10 Conservation Commission
  - 8.2.11 Decision
  - 8.2.12 Variances
  - 8.2.13 Lapse
  - 8.2.14 Additional Restrictions
  - 8.2.15 Applicability of Other Sections of this Ordinance
- 8.3 RESIDENTIAL DEVELOPMENT IN AN HRC DISTRICT
  - 8.3.1 General
  - 8.3.2 Criteria
  - 8.3.3 Burden of Proof
  - 8.3.4 Technical Review

**ARTICLE IX. OVERLAY DISTRICTS**

- 9.1 FLOOD PLAIN OVERLAY DISTRICT (FPOD)
  - 9.1.1 Purpose
  - 9.1.2 Location
  - 9.1.3 Applicability
  - 9.1.4 Definitions

- 10.2.7 Review
- 10.2.8 Decision
- 10.3 HAMILTON CANAL DISTRICT FORM-BASED CODE (HCD-FBC)

**ARTICLE XI. ADMINISTRATION AND PROCEDURES**

- 11.1 ADMINISTRATION
  - 11.1.1 Permits
  - 11.1.2 Plans
  - 11.1.3 Enforcement
  - 11.1.4 Penalties
  - 11.1.5 Right of Entry
  - 11.1.6 Noncriminal Disposition
  - 11.1.7 Notification of Application for Building Permits
- 11.2 BOARD OF APPEALS
  - 11.2.1 Establishment
  - 11.2.2 Powers
  - 11.2.3 Variance Prerequisites
  - 11.2.4 Plans
  - 11.2.5 Repetitive Petitions
  - 11.2.6 Withdrawal of Applications
  - 11.2.7 Regulations
  - 11.2.8 Fees
  - 11.2.9 Notification of Application before the ZBA
- 11.3 SPECIAL PERMITS
  - 11.3.1 Special Permit Granting Authority
  - 11.3.2 Criteria
    - 11.3.2a Criteria for Special Permits in the Table of Uses
  - 11.3.3 Procedures
  - 11.3.4 Conditions
  - 11.3.5 Plans
  - 11.3.6 Regulations
  - 11.3.7 Fees
  - 11.3.8 Lapse
  - 11.3.9 Notification of Application Before the Planning Board or ZBA
- 11.4 SITE PLAN REVIEW
  - 11.4.1 Purpose
  - 11.4.2 Applicability
  - 11.4.3 Exemptions
  - 11.4.4 Procedures
  - 11.4.5 Pre-Application Scoping
  - 11.4.6 Application
  - 11.4.7 Narratives
  - 11.4.8 Review by Other Agencies
  - 11.4.9 Waiver of Technical Compliance
  - 11.4.10 Decision
  - 11.4.11 Effect
  - 11.4.12 Lapse
  - 11.4.13 Regulations
  - 11.4.14 Fee
  - 11.4.15 Appeal
  - 11.4.16 Notification of Application for Site Plan Review

**ARTICLE XII: TABLE OF USES**

- 12.1. Residential Uses

## **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. 40A and 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.

**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 within 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.

**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

**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:

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.

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]

**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.

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.

## 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;

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

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]

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.

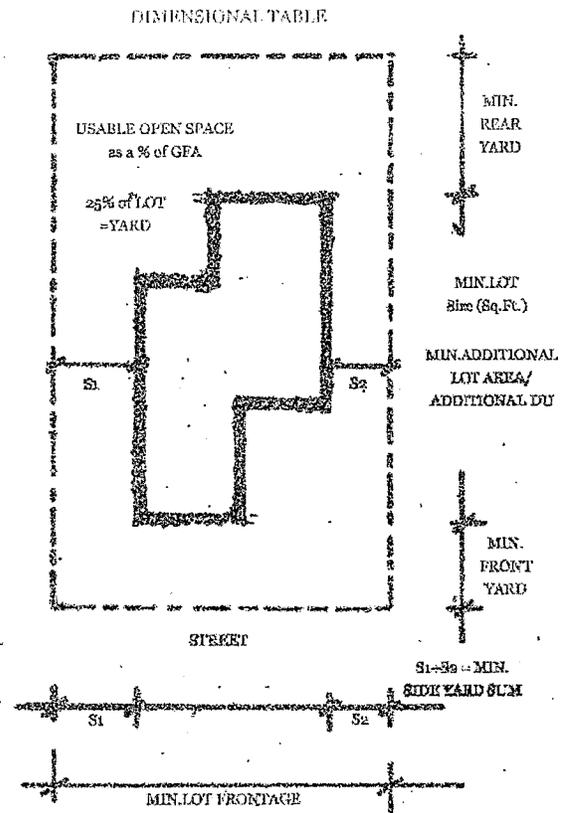
2. A portion of the façade of a primary building on a lot, including its front door, must be located between the minimum and maximum front yard setbacks listed. Where multiple primary buildings on a lot are built within the maximum front yard setback, each must have a front door on the street-facing 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]



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.

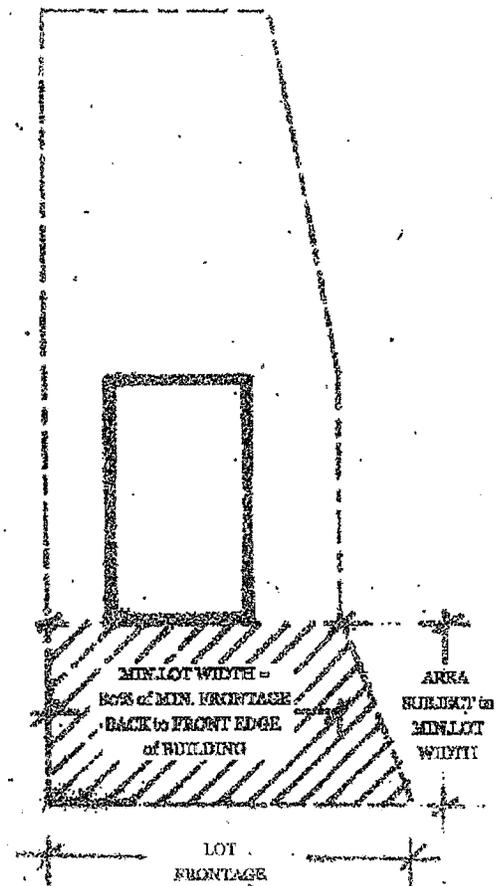
**5.1.8 Building Bulk.**

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.



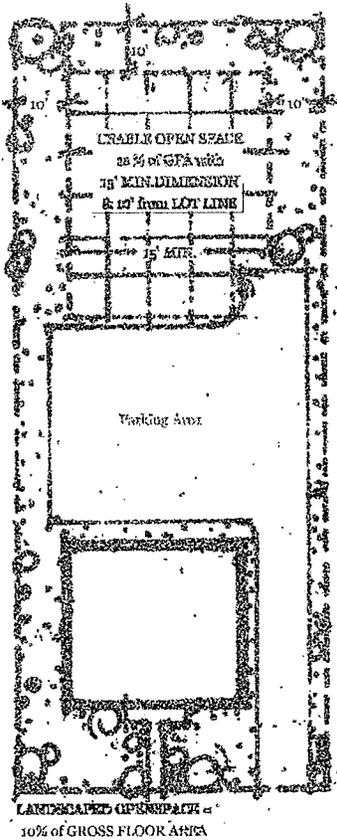
**SECTION 5.2 SPECIAL DIMENSIONAL REGULATIONS**

**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]

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.

## 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.

	Zone	Min. Parking Req.	Notes	Shared Parking Chart					
				Weekdays 8AM-5PM	Weekdays 6PM- 12AM	Weekdays 12AM- 6AM	Weekends 8AM- 5PM	Weekends 6PM- 12AM	Weekends 12AM- 6AM
<b>i. Non-family accommodations:</b>									
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
<b>2. CONVERSION OF DWELLING STRUCTURE</b>									
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							
	All other permitted zones	.75 spaces per bedroom or 2 spaces per du, whichever is greater [Ord. 4-18-06]		60	100	100	80	100	100
<b>3. INSTITUTIONAL, RECREATIONAL &amp; EDUCATIONAL USES</b>									
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

	Zone	Min. Parking Req.	Notes	Shared Parking Chart						
				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 or beverage service	Where Permitted	Queue for ten cars per drive-up window	Plus parking required for any indoor service area							
2. Retail or consumer service operation	Where Permitted	Queue for five cars per drive up window	Plus parking required for any indoor service or office area							

	Zone	Min. Parking Req.	Notes	Shared Parking Chart					
				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
<b>7. UTILITIES, TELECOMMUNICATIONS, AND PUBLIC SERVICE USES</b>									
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
<b>8. OFFICE AND LABORATORY USES</b>									
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

	Zone	Min. Parking Req.	Notes	Shared Parking Chart						
				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
<b>10. ARTIST USES</b>										
a. Artist Live/Work Space	DMU	1 space per du								
	All other permitted zones	2 spaces per du			80	100	100	80	100	100
b. Art/Craft Studio	Where Permitted	1 space per 1000 sq ft			100	75	10	100	75	10

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 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]

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. 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).

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.

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.

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

## 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.

## **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]

## **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.

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.

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.

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 or 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

## 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

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 where 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

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.

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

1. Meteorological towers under 100 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]

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.

**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.

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

## 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.

*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

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;

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.

### 9.6.2 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 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.

**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.

**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

- 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).

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 Agent and/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

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

- 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.

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

- 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]

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 ratio 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:

## 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

- 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]

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.

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

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 24, 2009.

ARTICLE XII: TABLE OF USES

District Type: Districts:	Suburban				Traditional Neighborhood					Urban				Special Purpose			Industrial	
	SSF	SMF	SMU	RR	TSF	TTF	TMF	TMU	NB	USF	UMF	UMU	DMU	HRC	INST	OP	LI	GI
<b>12.1 RESIDENTIAL USES [Ord. 11-13-07]</b>																		
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	Y	SP
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]																		
<b>12.2. CONVERSION OF DWELLING STRUCTURE</b>																		
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







## INDEX

ZONING (Appendix A)	Section
(Note-References herein are to sections of the zoning ordinance as codified in Appendix A)	
Accessory structures.....	4.4
Accessory uses .....	4.3
Adult entertainment establishments.....	7.2
Advertising signs. See herein: Signs	
Agreements	
Effect of code on .....	1.6
Amendments	
Alteration, enlargement, etc. of nonconforming use	4.5
Appeals, See herein: Board of Appeals	
Applicability of provisions .....	1.4
Existing buildings, uses, etc.....	5.1.4
See herein: Lowell Zoning Ordinance	
Area	
Lots. See herein that subject	
Yards and open spaces. See herein that subject	
Artist Overlay District.....	9.2
Conversion of Existing Buildings .....	9.2.5
Criteria for Consideration .....	9.2.4
Special Permit Required .....	9.2.3
Board of appeals.....	11.2
Body art establishments.....	7.3
Boundaries of districts.....	3.3.1
Buildings	
Applicability to existing buildings, uses .....	5.1.4
Building bulk.....	5.1.8
Conversion of buildings.....	8.1
Existing Buildings in the Artist District.....	9.2.5
Nonconforming, See herein: Nonconforming Uses, Etc.	
Right of entry.....	11.1.5
Temporary.....	4.3.6
Changes	
Alteration, enlargement, etc.	
Nonconforming use.....	4.5
Code. See also herein: Lowell Zoning Ordinance	
Definitions for interpreting .....	2.0
Commercial Districts.....	3.1.2
Compliance	
Permits and licenses to comply with provisions.....	11.1.1
Construction	
Permit requirement. See herein: Licenses and Permits	
Conversion of existing buildings.....	8.1
In Artist Overlay District.....	9.2.5
Covenants	
Effect of code on .....	1.6
Definitions, words and phrases.....	2.0
Dimensional requirements	
Building bulk.....	5.1.8
District regulations .....	5.2
Height exceptions .....	5.2.7
Lot area and width.....	5.1.2, 5.1.10
Table of dimensional requirements.....	5.1
Yards and open space .....	5.1.6, 5.3
Districts	
Boundaries.....	3.3.1
Dimensional requirements .....	5.1, 5.2
District Uses .....	12.0
Enumerated.....	3.1
Established.....	3.1
Floodplain district regulations. See herein that subject	
Table of use regulations .....	12.0
Driveway regulations.....	6.7
Enforcement of provisions .....	11.1.3
Floodplain district regulations	
Applicability .....	9.1.3
Board of appeals .....	11.2
Variances granted by .....	11.2.2
Definitions .....	9.1.4, 2.0
Federal flood insurance study.....	9.1.16
Floodplain district	
Development regulations .....	9.1.12
Variances.....	9.1.13-14
Health regulations	
Floodplain district requirements .....	9.1.15
Height regulations	
Height exceptions .....	5.2.7
Industrial Districts.....	3.1.3
Illumination .....	6.4
Inspector	
Right of entry .....	11.1.5
Insurance	
Federal flood insurance study.....	9.1.16
Interim Planning Overlay District (IPOD).....	9.3
Licenses and permits	
Applications for permit	
Filing of plans, specifications, etc.....	11.1.1
Compliance with provisions .....	11.1.1
Special permits .....	11.3
Landscaping.....	6.5
Landscaped open space.....	5.3.1
Parking lots.....	6.1.9
Loading, See herein: Off-Street Parking and Loading	
Lots	
Lot area and with.....	5.1
Lot frontage.....	5.1
Lots in the IPHR district .....	5.1.5
Reduction of lot area .....	5.1.9
Lowell Zoning Ordinance	
Amendment procedure .....	1.7
Applicability .....	1.4
Definitions for interpreting.....	2.0
Effect on covenants, agreements, etc.....	1.6
Enforcement.....	11.1.3
Interpretation and application.....	1.5
Penalty for violation.....	11.1.4
Permits and licenses to comply with .....	11.1.1
Proceedings to prevent, correct, violations .....	11.1.4
Purposes .....	1.2
Title cited .....	1.1
Violations.....	11.1.3
Map. See herein: Zoning Map	
Massage therapy establishments .....	7.4
Nonconforming use	
Nonconforming uses, buildings, etc. ....	4.5
Office Districts.....	3.1.3
Official map. See herein: Zoning Map	
Off-street parking and loading	
Dimensional requirements for off-street parking.....	6.1.10
Intent and application of loading requirements .....	6.2.1
Intent and application of parking requirements .....	6.1.1
Location and layout of loading facilities .....	6.2.6