

1926

CITY OF LOWELL

AN ORDINANCE REGULATING AND RESTRICTING THE USE OF BUILDINGS AND PREMISES, THE HEIGHT AND BULK OF BUILDINGS AND THE OCCUPANCY OF LOTS IN THE CITY OF LOWELL AND FOR SAID PURPOSES DIVIDING THE CITY INTO DISTRICTS.

BE IT ORDAINED by the City Council of the City of Lowell, as follows:

DEFINITIONS

SECTION 1. For the purposes of this ordinance certain terms used are herein defined; words not defined herein shall be construed as defined or used in the Building Ordinance of the City of Lowell.

Building Area of: The maximum horizontal projected area of a building, including covered porches but excluding cornices not more than 18 inches wide, steps and terraces.

Court, Inner: An open space other than a yard, and not extending through its full required width to a street, yard or outer court.

Court, Outer: An open space other than a yard and extending through its full required width to a street, yard or another outer court.

Dwellings: Any house or building or portion thereof, which is occupied in whole or in part as the home or residence of one or more persons, either permanently or transiently, excluding hotels.

Lot: Land in a single or joint ownership, occupied or to be occupied by a building and its accessory buildings, and including the open spaces required under this ordinance.

Set-back: The minimum horizontal distance between the street line and the front line of the building, excluding steps, uncovered porches and covered but unenclosed entrance porches on the first story which do not exceed a total area of 50 square feet.

Story, half: A story which is situated in a sloping roof, the area of which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it and which does not contain an independent apartment. A half story shall not be counted as a story for the purpose of determining yard dimensions.

Yard, Rear: A space, unoccupied except by a building of accessory use as hereinafter permitted, extending for the full width of the lot between the extreme rear line of a building and the rear lot line.

Yard, Side: An open, unoccupied space on a lot occupied by a building, extending for the full length of the building between the building and the side lot line.

ESTABLISHMENT OF USE DISTRICTS

SECTION 2. In order to regulate and restrict the location of trades, industries and other uses, and the location of buildings designed, erected, altered or occupied for specified uses, the City of Lowell is hereby divided into the following classes of use districts:

- Single Residence Districts
- General Residence Districts
- Local Business Districts
- General Business Districts
- Industrial Districts

which are hereby established as shown upon the Zoning Map filed Feb. 3, 1925, in the Office of the City Clerk and now located in office of Building Commissioner.

Except as hereinafter provided no building shall be erected or altered nor shall any building or premises be used for any purpose other than a use permitted in the use district in which such building or premises is located.

SINGLE RESIDENCE DISTRICTS

SECTION 3. In a single residence district no building or premises shall be erected, altered or used except for one or more of the following uses:

- (1) Single-family detached dwelling.
- (2) Club, except clubs the chief activity of which is a service customarily carried on as a business and clubs with more than five sleeping rooms.
- (3) Church.
- (4) Educational use.
- (5) Farm, garden or nursery.
- (6) Municipal recreational use.
- (7) Railroad local passenger station.
- (8) Accessory use customarily incident to any of the above permitted uses. The term "accessory use" shall not include:

(a) Any use injurious or offensive to the neighborhood.

(b) Garage space for more than three automobiles or for more than one commercial automobile. (See, however, Sec. 17, Par. 6.)

(c) Any use, except signs, located upon that half of the lot nearest the street line or lines, or within 10 feet of such part of an adjacent lot, unless it is either 50 feet from the nearest street or in the same building to which the use is accessory.

(d) Signs except those pertaining to the lease, sale or use of a lot or building on which placed, and not exceeding a total area of eight square feet; on a lot occupied by a dwelling there shall not be more than one such sign pertaining to the use thereof or bearing the name or occupation of an occupant for each family housed and no such sign shall exceed one square foot in area. (For temporary uses or buildings, aviation fields, cemeteries, hospitals, sanitarium and philanthropic uses, see Sec. 17, Par. 4, 5.)

GENERAL RESIDENCE DISTRICTS

SECTION 4. In a general residence district no building or premises shall be erected, altered or used except for one or more of the following uses:

- (1) Any use permitted in a single residence district.
- (2) Dwellings, including lodging house.
- (3) Club, except those the chief activity of which is a service customarily carried on as a business.

(4) Hotel, provided it conforms to all the requirements of this ordinance for a dwelling.

(5) Telephone exchange office.

(6) Accessory use customarily incident to any of the above uses. The term "accessory use" shall be construed as in Sec. 3, cemeteries, hospitals, sanitarium and philanthropic uses, (see Sec. 17, Par. 4, 5.)

(For temporary uses of buildings, aviation fields.)

LOCAL BUSINESS DISTRICTS

SECTION 5. In a local business district no building or premises shall be erected, altered or used for any use prohibited in a general business district as provided in Section 6, for any use injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise, or for any use except one or more of the following:

(1) Any use permitted in a residence district.

(2) Hotel.

(3) Fire station.

(4) Office or bank.

(5) Place of amusement or assembly.

(6) Garage in which the business of repairing is not conducted and in which not more than one commercial automobile is stored. (For other garages and filling stations, see Sec. 17, Par. 6.)

(7) Any other retail business or service not involving any manufacture on the premises except as permitted in paragraph 8 of this section.

(8) Any manufacturing, industrial or other use on the same premises with and clearly incidental to one of the above uses, provided it does not occupy an area exceeding 50 per cent of the floor area of that part of a building occupied by such use, and provided the major portion of any products manufactured are to be sold at retail on the premises to the consumer.

(9) The manufacture, blending or processing of ice cream, candy, confections, bread, or other food products, provided that the same is done in a building of not more than two stories in height.

GENERAL BUSINESS DISTRICTS

SECTION 6. In a general business district no building or premises shall be erected, altered or used for any of the following specified trades, industries or uses:

(1) Ammonia, bleaching powder or chlorine manufacture or refining.

(2) Asphalt manufacture or refining.

- (3) Blacking or polish manufacture.
- (4) Blast furnace.
- (5) Boiler works.
- (6) Brick, terra cotta or tile manufacture.
- (7) Cement, gypsum, lime or plaster of Paris manufacture.
- (8) Coke manufacture.
- (9) Dextrin, glucose or starch manufacture.
- (10) Creosote manufacture or treatment.
- (11) Disinfectant or insecticide manufacture.
- (12) Distillation of bones, coal or wood or manufacture of any of their by-products.
- (13) Dye manufacture.
- (14) Explosives or fireworks manufacture, or storage in excess of 500 pounds.
- (15) Fat, grease, lard or tallow manufacture, refining or rendering.
- (16) Fertilizer manufacture.
- (17) Flour or grain mill or elevator.
- (18) Gas (fuel or illuminating)manufacture in excess of one thousand cubic feet per day or storage in excess of 10,000 cubic feet.
- (19) Gelatin, glue or size manufacture.
- (20) Glass manufacture.
- (21) Hair manufacture.
- (22) Hot rolling mill.
- (23) Hydrochloric, nitric, picric, sulphuric or sulphurous acid manufacture.
- (24) Incineration, cremation or reduction of dead animals, garbage, offal or refuse unless accumulated and consumed on the same premises, without the emission of odor.
- (25) Iron or Steel forge, foundry or works employing more than three persons.
- (26) Lamp black manufacture.
- (27) Linoleum or oil cloth manufacture.
- (28) Match manufacture.
- (29) Metal or ore reduction or smelting.
- (30) Oil, paint, shellac, turpentine or varnish manufacture.
- (31) Petroleum or other inflammable liquids, production or refining.
- (32) Pyrolyin manufacture, manufacture of articles thereof, or storage in excess of 500 pounds unless in a vault approved by the building commissioner.

- (33) Rock or stone crusher, mill or quarry.
- (34) Rubber manufacture, or treatment involving offensive odor.
- (35) Salt, soda or soda compounds manufacture.
- (36) Shoddy manufacture.
- (37) Slaughtering except as permitted by the health commissioner.
- (38) Sugar refining.
- (39) Stock yards.
- (40) Tanning, curing or storage of raw hides or skins.
- (41) Tar distillation or manufacture.
- (42) Tar roofing or waterproofing manufacture.
- (43) Any other trade, industry or use that is injurious, noxious or offensive to a neighborhood reason of the emission of odor, fumes, dust, smoke, vibration or noise, but not including places of amusement.

(For uses excluded hereunder but to be carried incidentally to uses permitted, see Sec. 17, Par. 7.)

INDUSTRIAL DISTRICTS

SECTION 7. In an industrial district buildings and premises may be used for any purposes not prohibited by law, ordinance or regulation.

NON-CONFORMING USES

SECTION 8. Any lawful use of a building or premises or part thereof existing at the time of the adoption of this ordinance may be continued, although such use does not conform with the above provisions hereof. In the case of a building or part thereof designed and intended for a non-conforming use, such use in a part thereof may be extended throughout the building or part thereof so designed and intended for a non-conforming use, such use in a part thereof may be extended throughout the building or part thereof so designed and intended or changed to any use permitted in a district where such non-conforming use would be permitted and not more objectionable or detrimental to the neighborhood, provided no structural alterations are hereafter made therein, except those required by law, ordinance or regulation.

(For extension of non-conforming uses see Sec. 17, Par. 2.)

In the case of a building which has been damaged by fire, explosion, flood, riot, act of the public enemy or accident of any kind to an extent that the estimated cost of substantial restoration does not exceed 75 per cent of its fair value immediately prior to such damage, any lawful use existing therein immediately prior thereto may be continued after such restoration.

(For non-conforming uses in buildings damaged to a greater extent see Sec. 17, Par. 3.)

ESTABLISHMENT OF BULK DISTRICTS

SECTION 9. In order to regulate and limit the height and bulk of buildings the area of yards and other open spaces, the percentage of lot occupancy and the maximum number of families which may be housed, the City of Lowell is hereby divided into the following classes of bulk districts:

THIRTY-FIVE FOOT DISTRICTS

FORTY FOOT DISTRICTS

SIXTY FOOT DISTRICTS

ONE HUNDRED TWENTY-FIVE FOOT DISTRICTS

which are hereby established as shown upon the Zoning Map filed Feb. 3, 1925, in the Office of the City Clerk and now located in the office of the Building Commissioner. Except as hereinafter provided no building or part thereof shall be erected or altered so as to produce greater heights, smaller yards or less unoccupied area or house more families than herein required for such a building for the bulk district in which it is located.

(For shallow lots and lots on two or more streets or alleys see Sec. 14, Par. 4, 5, 6, 7.)

No lot shall be so reduced that the yards, courts or other open spaces shall be smaller than prescribed by this ordinance. No yards, court or other open space shall at any time be counted as required open space for more than one building.

THIRTY-FIVE FOOT DISTRICTS

SECTION 10. In a 35-foot district:

Height: No building shall exceed 35 feet or two and one-half stories in height. (See, however, Sec. 14, Par. 1.)

Rear Yards: There shall be behind every building other than an accessory building, a rear yard extending across the entire width of the lot and having a minimum depth of 25 feet, provided that on lots not within a residence district the depth may be reduced five feet.

Side Yards: There shall be a side yard on each side of each building or pair of semi-detached buildings in a residence district. The minimum width of any side yard provided in a 35-foot district shall be seven feet, which shall be increased three inches for every 10 feet or fraction thereof that the length of the side yard exceeds 50 feet, provided that where two side yards are provided one such yard may be reduced one foot for every foot that the other is increased in width but no such yard shall be less than four feet wide, and provided further than on no lot held under a separate and distinct ownership from adjacent lots and of record at the time it is placed in a 35-foot district shall the buildable width be reduced by this requirement to less than 24 feet.

If any lot of land of record at the time it is placed in a 35-foot district has a frontage of not more than forty feet, the minimum width of any side yard shall be five feet, provided that where two side yards are provided one such yard may be reduced one foot for every foot that the other is increased in width but no such side yard shall be less than four feet wide.

Courts: Courts shall conform to the regulations prescribed in 40 foot districts. In a residence district no window in a dwelling shall open upon an outer court with a depth exceeding its width or upon any inner court.

Set-back: In a residence district in a 35-foot district on lots on one side of a street between two intersecting streets no building shall hereafter be erected or altered to be within 30 feet of the center of such street or nearer the street line than the average of the set-backs of existing buildings within such limits, subject to the following provisions:

(1) If no building exists on any of such lots at the time of the adoption of this ordinance the first building hereafter erected within such limits shall be not less than 15 feet from the street line.

(2) On a lot between two buildings not more than 60 feet apart the set-back need not exceed the greater of the set-backs of such buildings. Any set-back thus

established shall be included in computing the average set-back.

(3) No set-back need exceed 20 per cent. of the depth of the lot in any case. Any set-back thus established shall be used in computing the average set-back.

In residence districts, between the lines of intersecting streets and a line joining points on such lines 20 feet distant from their point of intersection, no building or structure may be erected and no vegetation may be maintained above a height three and one-half feet above the plane through their curb grades.

In other districts, between the lines of intersecting streets and a line joining points on such lines 15 feet distant from their point of intersection no building or structure may be erected and no vegetation may be maintained above a height of three and one-half feet above the plane through their curb grades.

Building Area: In a single residence district the area of a dwelling shall not exceed 30 per cent. of the area of the lot, and the area of a building other than a dwelling shall not exceed 50 per cent. of the area of the lot. In other use districts the area of a dwelling shall not exceed 35 per cent. of the area of the lot, and the area of a building other than a dwelling shall not exceed 60 per cent. of the area of the lot. (For accessory buildings see Sec. 14, Par. 13.)

Number of Families Housed: No dwelling shall hereafter be erected or altered to accommodate or make provision for more than two families or for more than one family for each 2250 square feet of the area of the lot. In a single residence district no dwelling shall be erected on a lot containing less than 4500 square feet. The limitations imposed by this section shall not, however, prohibit the erection or use of a private dwelling on any lot of record at the time it is placed in a 35-foot district nor the erection or use of a two-family dwelling on any lot containing at the time it is placed in a 35-foot district more than 3000 square feet.

FORTY-FOOT DISTRICTS

SECTION 11. In a 40-foot district:

Height: No building shall exceed 40 feet or three stories in height. (See, however, Sec. 14, Par. 1.)

Rear Yards: There shall be behind every building other than an accessory building a rear yard extend-

ing across the entire width of the lot and having a minimum depth of 20 feet.

Side Yards: There shall be a side yard on each side of every building or attached group of buildings other than accessory buildings unless there is a party wall. The minimum width of any side yard provided in a 40-foot district shall be six feet, which shall be increased three inches for every 10 feet or fraction thereof that the length of the side yard exceeds 50 feet, provided that no lot held under a separate and distinct ownership from adjacent lots and of record at the time of the adoption of this act shall the building width be reduced by this requirement to less than 24 feet.

Courts: No outer court on a lot-line shall be less than seven feet wide, nor less than one-sixth as wide as it is long. No outer court not on a lot-line shall be less than 14 feet wide, nor less than one-third as wide as it is long.

Inner courts shall conform to the regulations prescribed in 60-foot districts. In a residence district, the length or width of no inner court shall be less than its average height.

Set-back: In a residence district in a 40-foot district and in any adjacent 35-foot district on lots on one side of a street between two intersecting streets no building shall hereafter be erected or altered to be within 25 feet of the center of such street or nearer the street line than the average of the set-backs of existing buildings within such limits subject to the following provisions:

(1) On a lot between two buildings not more than 60 feet apart the set-back need not exceed the greater of the set-backs of such buildings. Any set-back thus established shall be included in computing the average set-back.

(2) No set-back need exceed 15 per cent. of the depth of the lot in any case. Any set-back thus established shall be used in computing the average set-back.

Between the lines of intersecting streets and a line joining points on such line 10 feet distant from their point of intersection no building or structure may be erected and no vegetation may be maintained above a height three and one-half feet above the plane through their curb grades.

Building Area: The area of a building shall not exceed 60 per cent of the area of the lot.

Number of Families Housed: No dwelling shall hereafter be erected or altered to accommodate or make provision for more than one family for each 600 square feet of the area of the lot.

SIXTY-FOOT DISTRICTS

SECTION 12. In a 60-foot district:

Height: No building shall exceed 60 feet or five stories in height.

Rear Yards: There shall be behind every building other than an accessory building a rear yard extending across the entire width of the lot and having a minimum depth of 15 feet, which shall be increased by three feet for each additional story of the building above three stories.

Side Yards: Where side yards are provided they shall have a minimum width of five feet, which shall be increased one foot for each additional story of the building above three stories and shall be further increased three inches for every 10 feet or fraction thereof that the length of the side yard exceeds 50 feet.

Courts: No other court on a lot-line shall be less than six feet wide. For each story over three stories in the height of any such court its width shall be increased one foot. No such court shall be less than one-seventh as wide as it is long.

No outer court not on a lot-line shall be less than 12 feet wide. For each story over three stories in the height of any such court its width shall be increased two feet. No such court shall be less than two-sevenths as wide as it is long.

No inner lot-line court shall be less than eight feet wide. For each story over three stories in the height of any such court its width shall be increased by one foot.

No inner court not on a lot-line shall be less than 16 feet wide. For each story over three stories in the height of any such court its width shall be increased by two feet.

Set-back: In a residence district in a 60-foot district and in any adjacent 40-foot or 35-foot district on lots fronting on one side of a street between two intersecting streets no building shall hereafter be erected or altered to be nearer the street line than the average

of the set-backs of existing buildings within such limits, subject to the following provisions:

(1) On a lot between two buildings not more than 60 feet apart the set-back need not exceed the greater of the set-backs of such buildings. Any set-back thus established shall be included in computing the average set-back.

(2) No set-back need exceed 10 per cent. of the depth of the lot in any case. Any set-back thus established shall be used in computing the average set-back.

Between the lines of intersecting streets and a line joining points on such lines five feet distant from their point of intersection no building or structure may be erected and no vegetation may be maintained above a height three and one-half feet above the plane through their curb grades.

Building Area: The area of a building shall not exceed 70 per cent. of the area of the lot.

Number of Families Housed: No dwelling shall hereafter be erected or altered to accommodate or make provision for more than one family for each 350 square feet of the area of the lot.

ONE HUNDRED TWENTY-FIVE FOOT DISTRICTS

SECTION 13. In a 125-foot district:

Height: No building shall exceed 125 feet in height, and no part of a building shall exceed in height twice the horizontal distance from the face of such part to the line of the street on the opposite side. Within 60 feet of the intersection of two streets the height on the narrower street need not be less than that hereby permitted on the wider street. Where not more than 60 feet of a street frontage would otherwise be subjected to a height limit lower than that permitted immediately beyond both ends of such frontage the height limit on such frontage shall be equal to the lesser of such greater limits.

Building Area: The area of a dwelling shall not exceed 80 per cent. of the area of the lot. For other buildings no requirements are herein prescribed.

Number of Families Housed: No dwelling shall hereafter be erected or altered to accommodate or make provision for more than one family for each 250 square feet of the area of the lot.

BULK DISTRICT REGULATIONS AND EXCEPTIONS

SECTION 14. The foregoing requirements in the bulk districts shall be subject to the following exceptions and regulations:

HEIGHT:

(1) In a 35-foot or 40-foot district a single family dwelling or building for recreational use may be built to a height of three and one-half stories but not exceeding 45 feet, and a church, educational, philanthropic or other institutional building or telephone exchange office may be built to a height of five stories, but not exceeding 60 feet, provided in each case the building sets back from every street and lot line, in addition to other yard and set-back requirements, 10 feet plus one foot for each foot of such height in excess of the height limit.

(2) In an industrial district as shown on the Zoning Map all dwellings shall conform to the regulations herein prescribed for dwellings in 40-foot districts.

(3) Chimneys, elevators, tanks, spires, towers and other projections not used for human occupation may extend above the height limitations herein fixed.

AREA:

(4) On a lot less than 100 feet deep the depth of a rear yard for a three-story building may be reduced to one per cent. of the depth required in preceding sections of this ordinance for each foot of lot depth. For each additional story in height the depth of such yard shall be increased as hereinbefore specified.

(5) Where there is a street, alley, railroad right-of-way, public park or cemetery along the rear or side of a lot, the measurement of depth of rear yard and width of side yard may be made to the center of such street, alley, right-of-way, park or cemetery and the building area may be increased 10 per cent.

(Amendment passed October 8, 1929).

"This paragraph shall not apply to garages and other accessory out-buildings."

(6) Where there is a street, alley, railroad right-of-way, public park or cemetery along the side of a lot, for that portion of the lot within 50 feet of such side the depth of rear yard may be reduced six feet.

(7) Where a lot containing 10,000 square feet or less is completely surrounded by streets, alleys, railroad right-of-way, public parks or cemeteries, the build-area may be increased 20 per cent.

(8) A corner of a yard or court may be cut off between walls of the same building provided the length of such cut-off does not exceed six feet.

(9) No part of a yard required for a building in a single or general residence district or in that part of a 35-foot local business district within 20 feet of a single or general residence district or for a dwelling in any district shall be higher in level above the floor of the first story than one foot for each two feet of distance from the building, or for other buildings a similar distance above the second story floor. No yard is required for such other buildings one story high.

(10) Every part of a required yard or court shall be open from its lowest point to the sky unobstructed except for the projections of sky-lights above the bottom of such yard, and except for the ordinary projections of window sills, belt courses, and other ornamental features, to the extent of not more than four inches. Cornices may not extend more than four inches into any court nor more than 18 inches into any yard. Open or lattice-enclosed iron fire escapes, fireproof outside stairways, or solid floored balconies opening upon fire towers shall not project into a side yard but may project into the rear yard a distance of not more than four feet, provided the exact location thereof receives the approval of the inspector of Buildings.

(11) The limitation of building area herein prescribed shall apply in a residence district at the curb grade for a dwelling in any other district at a level not more than two feet above the first story floor; elsewhere not more than two feet above the second story floor; and not more than 20 feet above the mean curb grade in any case.

(12) In measuring building area any court not opening its full width on a street, alley or yard of the required size shall not be included as open space in computing the maximum percentage of area of a lot that may be built upon.

(13) On a lot occupied by a dwelling other than a tenement house a one-story building of accessory use thereto and not more than 15 feet high measured to the mean height of the gable may be located in and

occupy not more than 30 per cent of the rear yard of such dwelling. The area occupied by such a building of accessory use shall not be included as occupied area in computing the percentage of lot occupancy.

(14) Chimneys or flues may be erected within the limits prescribed for yards, provided they do not exceed five square feet in total horizontal area and do not obstruct ventilation.

(15) There shall be in front of every building not fronting on a street a yard not less in depth than the depth required for the rear yard behind the same building.

BOUNDARIES OF DISTRICTS

SECTION 15. Unless otherwise shown, the district boundaries are the center lines of streets, alleys, parkways, or railroad right-of-way or such lines extended. Unless otherwise shown lines within blocks less than 200 feet wide are median lines between their sides; lines within blocks 200 feet or more wide are 100 feet distant from the less restricted side of the block.

ENFORCEMENT: PERMITS

SECTION 16. It shall be the duty of the Building Commissioner to enforce the provisions of this ordinance in manner and form and with powers similar to those practised or provided under the Building Ordinance of the City of Lowell. No permit shall be issued for the use of any premises or for the construction, alteration or moving of any building part thereof unless the plans and intended use indicate that the building and the premises are to conform in all respects to the provisions of this ordinance.

Upon any well founded information in writing from any person aggrieved that the provisions of this ordinance are being violated or upon his own initiative the Building Commissioner shall take immediate steps to enforce the provision of this ordinance by applying for an injunction in the Superior Court, or by any other appropriate legal action.

It shall be unlawful to use or permit the use of any premises, or structure or part thereof hereafter erected or altered wholly or partly in its use or structure, or the yards, courts or other open spaces of which are in any way reduced, until the Building Commissioner shall

have certified on the building permit or in case no permit is issued shall have issued a use permit specifying the use to which the premises or the building upon being sufficiently completed to comply with the provisions and regulations relating thereto, may be put.

BOARD OF APPEAL

SECTION 17. An applicant for a permit under this ordinance, whose application has been refused may appeal therefrom to the Board of Appeal of the Buildings Department in the manner provided in the Building Ordinance. In harmony with and subject to the provisions of Chapter 133 of the Acts of 1924, the board may among other matters require the Building Commissioner to—

(1) Grant a permit where the boundary line of a district divides a lot in a single or joint ownership at the time such district is established for the extension of a building or use authorized on the less restricted portion of such lot to the entire lot in accordance with the provisions herein for the less restricted district, but not for a distance of more than 50 feet.

(2) Grant a permit for the erection of additional buildings or for the enlargement or alteration of existing buildings on the same or an adjacent parcel of land, each in the same single or joint ownership of record at the time it is placed in a use district, for a trade, business, industry or other use prohibited in such district.

(3) Grant a permit for the substantial restoration of reconstruction within 12 months of a non-conforming building damaged by fire, explosion, flood, riot, act of the public enemy or accident of any kind to an extent that the estimated cost of such restoration exceeds 75 per cent. of its fair value immediately prior to such damage and grant a permit for the continuation of a non-conforming use existing in a building so damaged immediately prior thereto.

(4) Grant a permit for a non-conforming temporary building or use incidental to the development of a neighborhood, such permit to be issued for an initial period of not more than two years, and in the case of a building only upon application 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 ordered renewed by the board for successive periods of not more than two years each.

(5) (As Amended May 31, 1935.) Grant permits in residence districts for aviation fields; greenhouses; funeral homes; including services incidental thereto; cemeteries; hospitals; sanatoria; correctional institutions; philanthropic or similar uses.

(6) Grant a permit for a garage, parking area, filling station or stable including services incidental thereto otherwise excluded, provided there are on file with the Board the written consents of the owners of 75 per cent of the frontage of the following property, exclusive of the lot for which the permit is sought and exclusive of all lots used for such a garage, parking area, filling station or stable:

(a) All lots within 120 feet of such lot.

(b) All additional lots abutting on any street or alley to which such garage, parking area, filling station or stable is to have vehicular access as far in both directions as an intersecting street, but in no case more than 400 feet from the lot for which the permit is sought. Where a portion of a lot is within the above limits a length of frontage equal to the width of such portion only shall be included. On a corner lot the longest side abutting on a street to which such garage, parking area, filling station or stable is to have vehicular access only shall be included. In the case of a garage in a residence district the business of repairing shall not be conducted and not more than one commercial automobile shall be stored.

(7) Grant a permit in a general business district for a building or use otherwise excluded, provided such building or use is distinctly incidental and essential to a use of a building, or plan with a series of buildings, permitted in such a district provided not more than 20 per cent. of the total floor area of the building or buildings is to be so occupied provided that not more than 20 per cent. of the employes of the building or plan are to be engaged therein, and provided that no building or use otherwise prohibited in the district is located within 50 feet of any street or lot line unless such line adjoins or faces property in an industrial district.

(8) Grant a permit where the street or alley layout actually on the ground varies from the layout as shown on the Zoning Map.

JURISDICTION; PENALTIES

SECTION 18. The jurisdiction of courts in equity and at law and penalties for violation of any of the provisions of this ordinance shall be as set forth in the aforesaid Building Ordinance for violations thereof.

INTERPRETATION AND APPLICATION

SECTION 19. (As Amended May 31, 1935.) In interpreting and applying the provisions of this ordinance they shall be held to be minimum requirements for the promotion of health, safety, convenience and welfare of the inhabitants, for reducing the danger from fire and for improving the City of Lowell. An ordinance entitled "Zoning Ordinance" and approved by the Mayor September 16, 1922, as amended by an Ordinance approved by the Mayor April 28, 1923, is hereby repealed. This ordinance shall not interfere with, abrogate, annul or repeal any other ordinance, or any rule, regulation or permit previously enacted, adopted or issued, or unless specially permitted therein which shall hereafter be enacted adopted or issued, pursuant to law, relating to the use of buildings or premises, provided however, that unless specially provided where this ordinance imposes a greater restriction upon the use of buildings or requires larger open spaces than imposed or required by such ordinance, rule, regulation or permit, the provisions of this ordinance shall control.

The provisions of this ordinance shall not apply to buildings, structures or land belonging to and occupied by the United States, the Commonwealth of Massachusetts or the City of Lowell.

EXISTING BUILDINGS AND PERMITS

SECTION 20. Nothing herein shall require any change in the plans, construction or intended use of a building for which a building permit has heretofore been issued, and the construction of which shall have been diligently prosecuted within six months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within such six months, and which entire building shall be completed according to such plans as filed within two years from the date this

ordinance takes effect. Nothing herein shall prevent the restoration of a wall or other structural part declared unsafe by the Building Commissioner.

Nothing herein shall prevent the substantial restoration of a building which has been damaged by fire, explosion, flood, riot, act of the public enemy or accident of any kind to an extent that the estimated cost of such restoration does not exceed 75 per cent. of its fair valuation immediately prior to such damage. (For non-conforming buildings damaged to a greater extent see Sec. 17, Par. 3.)

VALIDITY

SECTION 21. The invalidity of any section or provision of this act shall not invalidate any other section or provision thereof.

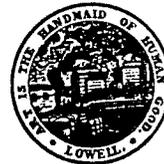
SECTION 22. All matters and things set forth in this ordinance and enclosed in brackets or parentheses shall be considered as merely explanatory matter and not to control the matter of the context when inserted.

WHEN EFFECTIVE

SECTION 23. This act shall take effect upon its passage. Passed, July 6, 1926.
Approved by the Mayor, July 17, 1926.

ORDINANCE
OF THE
CITY OF LOWELL
MASSACHUSETTS

(Section 18 of Buildings Ordinance)



Amending an ordinance "To Provide for the Creation and Organization of the Buildings Department, and to Regulate the Construction, Alteration, Maintenance, Repair and Removal of Buildings within the City of Lowell."

CITY OF LOWELL

ORDINANCE

Amending an ordinance "To Provide for the Creation and Organization of the Buildings Department, and to Regulate the Construction, Alteration, Maintenance, Repair and Removal of Buildings within the City of Lowell."

BE IT ORDAINED, by the City Council of the City of Lowell, as follows:

That Section 18 of an ordinance entitled "An Ordinance to Provide for the Creation and Organization of the Buildings Department and to Regulate the Construction, Alteration, Maintenance, Repair and Removal of Buildings within the City of Lowell," and approved by the Mayor, Aug. 3, 1906, is hereby stricken out and the following new section substituted therefor:

SECTION 18. Appeals.

There shall be a board to be called the Board of Appeal, which shall be appointed by the City Manager, subject to confirmation by the City Council and consisting of three members, including always one architect and one master builder.

The terms of the appointed members shall be such that one expires February 1, 1927, and one annually thereafter.

The City Manager shall likewise, subject to confirmation, as aforesaid, fill all vacancies in said board caused by death, resignation, or removal, for any unexpired term.

Members of said board shall hold office until their successors shall have been appointed and shall have qualified.

No member of said board shall sit on any case in which he is interested. In the event of the disqualification or the absence of a member of the Board of Appeal, the City Engineer or an assistant engineer designated by him shall act during the said period of disqualification or the absence of the member.

The chief clerk of the Buildings Department shall act as clerk of such Board

The members shall serve without pay, but the reasonable expenses of said board, including such clerical assistance and office expenses as shall be approved by the City Manager, shall be paid.

An applicant for a permit whose application has been refused by the Building Commissioner may appeal therefrom within 90 days. A person may appeal from any other decision of the Building Commissioner within 10 days after being notified of such decision by giving the Building Commissioner notice in writing of his appeal. Said notice or a certified copy thereof shall be at once transmitted by the Building Commissioner to the Board of Appeal.

After notice to the appealing party, to the Superintendent, and to such other parties as the board shall order, a hearing shall be had, and said board shall affirm, annul or modify said refusal.

The board may vary the provisions of this ordinance in specific cases in regard to existing buildings where such provisions or a requirement of the Building Commissioner would cause manifest injustice.

Every decision of said board shall be in writing, shall require the assent of two members, except as otherwise provided herein, and shall be filed in the office of the Building Commissioner within 10 days after the hearing. A certified copy shall be sent by mail or otherwise to the applicant, and a copy publicly posted in the office of the Building Commissioner for two weeks thereafter. If the order or the refusal of the Building Commissioner is affirmed, such order or refusal shall have full force and effect. If said order or refusal is modified or annulled, the Building Commissioner shall issue a permit in accordance therewith.

(Amendment passed May 21, 1932).

It shall be the duty of the Board of Appeal to submit to the Mayor on or before the first of December of each year a report giving a summary of all decisions of the board, together with such recommendations of revisions of this ordinance as may seem advisable to them.

In cases where power to estimate the damage to buildings and their roofs is given to the Building Commissioner, as also in questions relating to the security or insecurity of buildings or parts thereof, and in all cases where powers are by this ordinance given to the Building Commissioner, and where persons desiring to introduce materials, appliances and processes of building, the use of which is not recognized in the ordinance, or improvements in the use of materials and processes of appliance mentioned herein, parties believing themselves to be injured or wronged by a decision of the Building Commissioner may appeal therefrom within 10 days after such decision is made.

Such appeal shall be in writing and shall be filed, together with a fee of \$10, with the Building Commissioner, who shall transmit the appeal to the Board at once.

After notice to the appellant, to the inspector and to such other parties as the Board shall order, a hearing shall be had and said Board shall affirm, annul, or modify said decision in harmony with the intent and purpose of this ordinance but not otherwise.

Passed in City Council July 6, 1926.

Approved by the Mayor July 17, 1926.

No variance of the Zoning Ordinance shall be authorized in accordance with the provisions of Chapter 133 of the Acts of 1924, except by the unanimous decision of the entire membership of the board, rendered upon a written petition addressed to the Board and after a public hearing thereon, of which notice shall be mailed, at least seven days prior to the date set for the hearing to the petitioner and to the owners of all the property deemed by the board to be affected thereby as they appear on the most recent local tax list and also advertised in a newspaper published in Lowell.